

1 **..Title**

2 **Department of the Environment** – For the purpose of creating a Department of the Environment,
3 dissolving the Office of Environmental Policy; transferring regulatory authority for Forest
4 Conservation from the Department of Planning and Zoning to the Department of the Environment;
5 consolidating environmental compliance, and inspection responsibilities, under the Department of
6 the Environment; transferring the stormwater management program to the Department of the
7 Environment; assigning the liaison for the Annapolis Conservancy Board to the Department of the
8 Environment; assigning consideration of Title 19 matters to the Environmental Matters
9 Committee; making technical corrections; and generally relating to the Department of the
10 Environment.

11 **..Body**

12 **CITY COUNCIL OF THE**
13 **City of Annapolis**

14 **Ordinance 18-19**

15 **Introduced by: Alderman Savidge**

16
17
18
19 **Referred to**
20 **Planning Commission**
21 **Economic Matters Committee**
22 **Environmental Matters Committee**
23 **Finance Committee**
24 **Housing and Human Welfare Committee**
25 **Rules and City Government Committee**
26 **Transportation Committee**

27
28
29 **AN ORDINANCE** concerning

30 **Department of the Environment**

31
32
33 **FOR** the purpose of creating a Department of the Environment; dissolving the Office of
34 Environmental Policy; transferring regulatory authority for Forest Conservation from the
35 Department of Planning and Zoning to the Department of the Environment; consolidating
36 environmental compliance, and inspection responsibilities, under the Department of the
37 Environment; transferring the stormwater management program to the Department of the
38 Environment; assigning the liaison for the Annapolis Conservancy Board to the
39 Department of the Environment; assigning consideration of Title 19 matters to the
40 Environmental Matters Committee; making technical corrections; and generally relating to
41 the Department of the Environment.

42
43
44

- 1 **BY** repealing and re-enacting with amendments the following portions of the Code of the City
- 2 of Annapolis, 2019 Edition
- 3 2.12.080
- 4 2.16.190
- 5 2.48.350
- 6 2.50.020
- 7 3.08.010
- 8 3.08.030
- 9 6.29.010
- 10 10.12.140
- 11 10.36.010
- 12 17.11.010
- 13 17.11.300
- 14 17.11.350
- 15 17.11.720
- 16 17.11.730
- 17 17.12.050
- 18 17.12.052
- 19 21.24.090
- 20 21.54.060
- 21 21.54.080
- 22 21.54.090
- 23 21.54.170
- 24 22.63.030
- 25 21.63.080
- 26 22.24.040
- 27
- 28
- 29 **BY** repealing the following portions of the Code of the City of Annapolis, 2019 Edition
- 30 Chapter 14.12 - TREES
- 31 Sections 14.12.010 through 14.12.210
- 32
- 33 Chapter 17.04 – DEFINITIONS
- 34 Sections 17.04.010 through 17.04.1010
- 35
- 36 Chapter 17.08 – GRADING, EROSION AND SEDIMENT CONTROL
- 37 Sections 17.08.010 through 17.08.295
- 38
- 39 Chapter 17.09 – TREES IN DEVELOPMENT AREAS
- 40 Sections 17.09.010 through 17.09.140
- 41
- 42 Chapter 17.10 – STORMWATER MANAGEMENT
- 43 Sections 17.10.010 through 17.10.240
- 44
- 45 Chapter 21.71 – FOREST CONSERVATION

1 Sections 21.71.010 through 21.71.200
2
3

4 **BY** adding the following portions to the Code of the City of Annapolis, 2019 Edition

5 TITLE 19 – ENVIRONMENT

6 Chapter 19.04 – DEFINITIONS

7 Sections 19.04.010 through 19-04-1010
8

9 Chapter 19.10 – POLICY

10 Sections 19.10.010 through 19.10.210
11

12 Chapter 19.20 – TREES IN DEVELOPMENT AREAS

13 Sections 19.20.010 through 19.20.140
14

15 Chapter 19.30 – FOREST CONSERVATION

16 Sections 19.30.010 through 19.30.200
17

18 Chapter 19.40 – GRADING, EROSION AND SEDIMENT CONTROL

19 Sections 19.40.010 through 19.40.295
20

21 Chapter 19.50 – STORMWATER MANAGEMENT

22 Sections 19.50.010 through 19.50.240
23
24

25 **WHEREAS**, we want greater innovation and creativity on environmental initiatives that is
26 achieved by ensuring we have a Department with a dedicated mindset focusing on
27 environmental initiatives and policies, and

28 **WHEREAS**, maintaining focus on and preeminence of environmental initiatives in the City is
29 best accomplished with a dedicated Environmental Department with staff, and,

30 **WHEREAS**, we want the City Code to be fully utilized to achieve maximum environmental
31 benefits, and hereby restore Title 19 to centralize our core environmental programs,
32 and,

33 **WHEREAS**, the Forest Conservation program would be best served being implemented by a
34 dedicated environmental department as the City did for over a decade in the past
35 with the Department of Neighborhood & Environmental Programs (DNEP), and

36 **WHEREAS**, the Stormwater Management program would be best served being implemented by
37 a dedicated environmental department as the City did for over a decade in the past
38 with the Department of Neighborhood & Environmental Programs (DNEP), and

39 **WHEREAS**, restoring regulatory authority to an Environmental Department for these programs
40 will allow them to have direct authority to enact the policies and changes we pass,
41 and

42 **WHEREAS**, changing the name from “Office of Environmental Policy” to “Department of the
43 Environment” signifies the enhancement of our environmental focus to be more
44 than simply policy, to include enforcement and review.
45

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

Title 2 - ADMINISTRATION
Chapter 2.12 – MAYOR

2.12.080 - [~~Office of Environmental Policy~~.RESERVED]

~~A. The City of Annapolis shall have an Office of Environmental Policy DEPARTMENT OF THE ENVIRONMENT, and the following programs and activities shall be the responsibility of that office:~~

- ~~1. Urban forestry;~~
- ~~2. Sustainability;~~
- ~~3. Land trust conservancy board;~~
- ~~4. NPDES/MS4/TMDL compliance coordination;~~
- ~~5. Environmental grants;~~
- ~~6. Environmental policy development/initiatives;~~
- ~~7. Activities impacting upon sewer pretreatment, stormwater management and sediment and erosion control; and~~
- ~~8. To educate and inform the public concerning environmental protection, urban forestry and related subjects.~~
- ~~9. TO REVIEW AND COMMENT ON DEVELOPMENT PROJECTS FOR ENVIRONMENTAL COMPLIANCE~~

~~B. In addition to the activities and responsibilities set forth in this section, the Office of Environmental Policy shall administer other duties and responsibilities, as necessary, consistent with the Annapolis Charter and Code.~~

Chapter 2.16 – CITY COUNCIL

2.16.190 - Standing committees.

- A. There are designated the following standing committees of the City Council, which shall review and make recommendations with regard to matters referred to them and shall perform other general duties and responsibilities:
 - 1. Finance Committee. The Finance Committee shall handle all matters relating to the review of the budget and continuous surveillance of the budget. The Finance Committee shall have power to review and make recommendations with regard to the Mayor's annual operating budget and shall submit recommendations with regard to the budget to the City Council not later than the second Monday in May of each year. The Finance Committee shall review all proposed amendments to Title 6 (Revenue and Finance) of this Code.

- 1 2. Public Safety Committee. The Public Safety Committee shall consider matters affecting
2 public safety in the City. The Public Safety Committee shall review all proposed
3 amendments to Title 11 (Public Peace, Morals and Welfare) and Title 12, (Vehicles and
4 Traffic) of this Code.
- 5 3. Rules and City Government Committee. The Rules and City Government Committee
6 shall review and consider all proposed amendments to the Charter and all proposed
7 amendments to Title 1 (General Provisions), Title 2 (Administration), Title 3 (Personnel),
8 Title 4 (Elections), Title 20 (Subdivisions), Title 21 (Planning and Zoning) and Title 22
9 (Adequate Public Facilities) of this Code.
- 10 4. Economic Matters Committee. The Economic Matters Committee shall consider matters
11 affecting the economy of the City; make recommendations to the City Council on issues
12 relating to the operation of the Markethouse and the regulation of the City Dock; study,
13 independently and with private historic preservation organizations, issues concerning
14 historic structures in the City; and study, consider and make recommendations regarding
15 issues of cable television service to the City of Annapolis and its citizens. The Economic
16 Matters Committee shall review all proposed amendments to Title 7 (Business Licenses,
17 Taxes and Regulations) and Title 17 (Buildings and Construction) of this Code.
- 18 5. Housing and Human Welfare Committee. The Housing and Human Welfare Committee
19 shall consider issues of housing and matters affecting the general health, welfare and
20 quality of life of the residents of the City. The Housing and Human Welfare Committee
21 shall review all proposed amendments to Title 8 (Animals), Title 10 (Health and Safety),
22 and Title 18 (Landlord and Tenant Relations) of this Code.
- 23 6. Environmental Matters Committee. The Environmental Matters Committee shall
24 consider matters affecting the natural environment of the City. The Environmental
25 Matters Committee shall review all proposed amendments to Title ~~14 (Streets, Sidewalks
26 and Public Places)~~ 19 (ENVIRONMENT), Title 15 (Harbors and Waterfront Areas), and
27 Title 16 (Public Services) of this Code.
- 28 7. Transportation Committee. The Transportation Committee shall consider matters
29 affecting parking, public transportation, and vehicular traffic. The Transportation
30 Committee shall review all proposed amendments to Title 12 (Vehicles and Traffic), Title
31 14 (Streets, Sidewalks and Public Places), and Title 22 (Adequate Public Facilities) of
32 this Code.
- 33 B. Each of the committees as enumerated in this section shall have other and further duties
34 and responsibilities as are designated to them by the City Council. The Mayor may
35 designate any other standing or special committees as the Mayor deems appropriate from
36 time to time.

39 **Chapter 2.48 – BOARDS, COMMISSIONS AND COMMITTEES**

40 **2.48.350 - Environmental Review Committee.**

- 41
- 42 A. The goal of the City is to lead by example so as to encourage residents and business
43 owners to use reusable and recyclable materials and to purchase goods from companies that
44 practice energy use reduction and sequestration of carbon dioxide.
- 45

1 B. In furtherance of this goal, there is hereby established an Environmental Review
2 Committee within the municipal government. The Committee consists of the Directors of Planning
3 and Zoning, Public Works, Recreation and Parks, ~~Office of Environmental Policy~~ DEPARTMENT
4 OF THE ENVIRONMENT, and the Purchasing Agent. The Director of the ~~Office of~~
5 ~~Environmental Policy~~ DEPARTMENT OF THE ENVIRONMENT shall serve as the chair.

6
7 C. As a minimum, the Committee shall:

- 8
- 9 1. Review existing practices of the City to assure that its policies and procedures foster the
10 use of materials that are compostable, recyclable, and reusable.
 - 11 2. Assess the effectiveness of the voluntary environmental reusable bag program.
 - 12 3. Assess the value of bans and/or fees on materials in furtherance of the City's goals.
 - 13 4. Develop a plan for distribution of re-useable bags as part of and consistent with the City's
14 recycling plan as defined in Chapter 10.18 of the Annapolis City Code.
 - 15 5. Assist the various City offices to ensure that contracting procedures do not discriminate
16 against reusable, recycled, or environmentally preferable products without sufficient
17 justification.
 - 18 6. Evaluate environmentally preferable products to determine the extent to which they may
19 be used by the City and its contractors.
 - 20 7. Review and revise contracting procedures to maximize the specification of designated
21 environmentally preferable products where available.
 - 22 8. Following installation of computer software capable of data gathering for such purposes,
23 facilitate data collection on purchases of designated environmentally preferable products
24 by the City and its contractors and report the data to the City Council by July 31st of each
25 year.
 - 26 9. Prior to fiscal year 2009, the Committee shall:
 - 27 a. Begin issuing to all City organizational elements purchasing specifications that
28 comply with U.S. Environmental Protection Agency Comprehensive Procurement
29 Guidelines for products. Recovered Materials Advisory Notices (RMAN) shall be
30 used as a reference for determining the recycled content specifications for these
31 products. Third party certifications, such as Energy Star, Eco Logo and Green Seal,
32 shall also be acceptable to identify preferred products.
 - 33 b. Monitor the implementation of the following:
 - 34 (1) To the extent available, all printing and copy paper products shall consist of a
35 minimum of thirty percent post-consumer recycled fiber.
 - 36 (2) All janitorial paper products and plastic garbage bags shall consist of a
37 minimum of fifty percent post-consumer content.
 - 38 (3) A ten percent price preference for processed chlorine-free paper shall be
39 applied to (one hundred percent) of photocopy-grade and janitorial paper
40 purchases.
 - 41 (4) Returning used toner cartridges for remanufacture and purchase re-
42 manufactured toner cartridges when practicable.
 - 43 (5) Where available, no janitorial cleaning or disinfecting products shall contain
44 ingredients that are identified by United States Environmental Protection

1 Agency or the National Institute for Occupational Safety and Health as
2 carcinogens, mutagens, or teratogens.

3 (6) Phase out the use of chlorofluorocarbon containing refrigerants, solvents and
4 other products when without risk of voiding manufacturers' warranties on the
5 equipment in which it is applied.

6 (7) All surfactants shall meet EPA standards as "readily biodegradable." No
7 detergents shall contain phosphates.

8 (8) The City shall procure wood products that originate only from managed,
9 recycled or sustainable wood product operations.

10 (9) Purchased or leased electronic equipment including photocopiers, computers,
11 printers, lighting systems, HVAC, kitchen and laundering appliances, and
12 energy management systems must meet U.S. Environmental Protection Agency
13 (EPA) or U.S. Department of Energy (DOE) energy efficiency standards. Where
14 applicable, the energy efficiency function must remain enabled on all energy
15 efficient equipment. As part of any purchase or lease agreement for electronic
16 equipment, a vendor must supply life cycle costs for each item.

17 (10) All motor oil shall contain a minimum twenty-five percent re-refined base
18 stock, and shall be used only when without risk of voiding manufacturers'
19 warranties on the equipment in which it is applied. All re-refined oil must be
20 American Petroleum Institute certified.

21 (11) All motor vehicles operated by the City shall use recycled propylene glycol
22 antifreeze where practicable, and shall be used only when without risk of voiding
23 manufacturers' warranties on the equipment in which it is applied.

24 (12) Paint purchased by the City or its contractors shall contain the minimum
25 amount necessary of volatile organic compounds, and shall contain maximum
26 recycled content where available.

27 (13) The City shall implement an integrated pest management program for pest
28 control. Any chemicals used to eliminate or deter insect pests and undesirable
29 vegetation shall be the most readily and completely biodegradable product
30 available for the given application, and shall be applied in a manner that is least
31 likely to come into contact with humans and any other animals for which
32 treatment is not intended.

33 (14) All construction and renovation at least thirty percent funded by the City shall
34 incorporate Silver LEED "green" building practices.

35 (15) The City shall give preference to products that are produced and are within a
36 reasonable geographic distance such that transportation costs, energy use and
37 carbon dioxide generation do not outweigh the benefits of lower product costs.

38 (16) All departments, offices, and agencies shall ensure that they and their
39 contractors/consultants use double-sided copying. All photocopiers purchased
40 by the City following adoption of this policy are required to be capable of
41 double-sided copying when the equipment has the capability to copy double-
42 sided.

43 (17) The City shall reduce or eliminate its use of products that contribute to the
44 formation of dioxin and furan compounds.

45 D. The following are environmentally preferred products:

- 1 1. Compostable and vegetative products;
- 2 2. Horticultural mulch made with recycled land clearing and other wood debris, but
- 3 avoiding the use of non-sterile mulch which may contain non-native plant species;
- 4 3. Construction materials made with recycled cement concrete, wood, glass or asphalt;
- 5 4. Alternative fuels and vehicles and rolling stock that utilize same including, but not
- 6 limited to, electric, hybrid, compressed natural gas, hydro-diesel, hydrogen, biodiesel and
- 7 ethanol. When comparing costs of alternative vs. conventional fuels and vehicles, the City
- 8 shall give preference to alternative fuels and vehicles if their costs are no more than ten
- 9 percent higher than conventional products;
- 10 5. Cement and asphalt concrete containing glass cullet, recycled fiber or plastic, tire or
- 11 rubber;
- 12 6. Lubricating oil and hydraulic oil with re-refined oil content;
- 13 7. Recycled plastic products;
- 14 8. Remanufactured products made from recycled tire rubber, including rubber mats and
- 15 play field surfaces;
- 16 9. Low wattage/high efficiency lighting fixtures, including but not limited to traffic signals,
- 17 crosswalks, street lights and all interior and exterior building fixtures, including fixed
- 18 ballast fluorescent fixtures and motion sensitive switches;
- 19 10. Solar powered traffic signals, traffic signs, street lights and buildings wherever
- 20 available;
- 21 11. Remanufactured laser printer toner cartridges;
- 22 12. Other products as designated by the Mayor and/or the Mayor's designee, the Task Force
- 23 and/or Coordinator; and
- 24 13. No fertilizer with phosphorous shall be used on any land owned by the City of
- 25 Annapolis, whether such land is located within or outside of the City's boundaries, except
- 26 where a soil test determines that the soil is deficient.
- 27 E. The Environmental Review Committee will formulate a plan by May 31, 2008, to
- 28 promote the use of reusable shopping bags in the City of Annapolis. It will establish a goal of
- 29 a forty percent reduction in the use of plastic and paper checkout bags in large retail chain
- 30 stores by May 31, 2009.
- 31 F. Nothing contained in the policy of this section shall be construed as requiring a
- 32 department or contractor to procure products that do not perform adequately for their intended
- 33 use, exclude adequate competition, or are not available at a reasonable price in a reasonable
- 34 period of time. The City shall give preference to any environmentally preferable products if
- 35 their costs are no more than ten percent higher than conventional products.
- 36 G. One year from adoption of the ordinance codified in this section, the Environmental
- 37 Review Commission will evaluate the effectiveness of the internal and voluntary programs
- 38 for reusable materials and make recommendations in furtherance of these efforts for
- 39 consideration by the Mayor and City Council.
- 40
- 41

42 **CHAPTER 2.50 - ANNAPOLIS CONSERVANCY BOARD**

43 **2.50.020 - Membership.**

44

1 A. The Conservancy Board shall consist of seven members who are residents of the City.
 2 They shall be appointed by the Mayor and confirmed by a majority vote of the City Council. Each
 3 member of the Conservancy Board shall serve for a term of five years or until a qualified successor
 4 is appointed and confirmed, commencing on July 1st of the year in which appointed. The City
 5 Council shall designate the terms of the members of the Conservancy Board so that the terms of
 6 not more than two members of the board shall expire in any one year.

7 B. Each member shall have a demonstrated interest in the preservation and conservation
 8 of land and water resources in the City. Each member shall serve without compensation. In the
 9 event of a vacancy in an unexpired term on the Board, a member shall be appointed in the same
 10 manner as the original appointment was made for the duration of the unexpired term.

11 C. The directors of the ~~Departments of Public Works, Planning and Zoning, and Recreation~~
 12 ~~and Parks Office~~ DEPARTMENT of the Environment shall appoint a staff liaison to the
 13 Conservancy Board.

14 **TITLE 3 – HUMAN RESOURCES**

15 **Chapter 3.08 – Exempt Service**

16 **3.08.010 - Positions included.**

17
 18 The exempt service includes:
 19

- 20 1. All the elected officials;
- 21 2. All department directors;
- 22 3. City Manager;
- 23 4. Communications Officer;
- 24 5. City Attorney;
- 25 6. Assistant City Attorney;
- 26 7. Attorney I;
- 27 8. Attorney II;
- 28 9. Community Engagement Administrator;
- 29 10. Constituent Services Officer;
- 30 11. Administrative Assistant;
- 31 12. Assistant City Manager;
- 32 13. Public Information Officer and Quartermaster;
- 33 14. Executive Office Associate;
- 34 15. Recruitment/Employee Relations Administrator;
- 35 16. Deputy Fire Chiefs;
- 36 17. Police Major and Captains;
- 37 18. Human Resources Manager;
- 38 19. Director of ~~Office of Environmental Policy~~ DEPARTMENT OF
 39 THE ENVIRONMENT;
- 40 20. Economic Development Manager;
- 41 21. Development/Events Specialist; and
- 42 22. Chief of Staff.

43
 44
 45

1 **3.08.030 - Salary.**

2
3
4
5

A. 1. For purposes of setting annual salaries, the following positions in the exempt service are assigned grades in the City's pay plan as indicated:

Position	Grade
Executive Office Associate	A10
Recruitment/Employee Relations Administrator	A15
Communications Officer	A15
Deputy Fire Chief	F18
Human Resources Manager	A18
Director of Transportation	A20
Director of Office of Environmental Policy DEPARTMENT OF THE ENVIRONMENT	A20
Director of Recreation and Parks	A20
City Attorney	A20

6

Assistant City Attorney	A18
Attorney I	A14
Attorney II	A16
Director of Finance	A20
Director of Planning and Zoning	A20
Constituent Services Officer	A14
Community Engagement Administrator	A14
Administrative Assistant	A8
Assistant City Manager	A14
Public Information Officer and Quartermaster	A12
Fire Chief	F20

Police Chief	P20
Police Major	P18
Police Captain	P17
Director of Public Works	A20
Economic Development Manager	A17
Development/Events Specialist	A12
Chief of Staff	A16

- 1
 - 2
 - 3
 - 4
 - 5
 - 6
 - 7
 - 8
 - 9
 - 10
 - 11
 - 12
 - 13
 - 14
 - 15
 - 16
 - 17
 - 18
2. The salary of the Mayor for the term of office commencing on the first Monday in December, 2017, shall be an annual salary of ninety-eight thousand dollars and an entitlement to the benefits afforded to the City's exempt service employees.
 3. The salary of each Alderman and Alderwoman for the term of office commencing on the first Monday in December, 2017, shall be an annual salary of fifteen thousand dollars. Each Alderman and Alderwoman shall be afforded an annual allowance of one thousand five hundred dollars to be used exclusively for education and training. Aldermen and Alderwomen shall participate in the Maryland State Retirement and Pension System.
 4. The salary of the City Manager shall be:
 - i. Salary and Performance Reviews. A base salary for the City Manager ranging from one hundred thirty thousand dollars to one hundred eighty thousand dollars per year, with incremental increases based upon annual performance reviews conducted by the Mayor. The initial base salary shall be fixed within the provided range based upon the City Manager's education and employment experience. The annual performance review shall be based upon criteria established in advance by the Mayor in consultation with the Manager of Human Resources. The base salary and increments shall be subject to cost of living increases (COLAS) every two years, based upon

1 COLAS awarded to other City exempt service employees during the two-year period.
2 The City Manager's compensation shall be subject to reduction to the same extent as
3 other City exempt service employees, including reductions based upon furloughs or
4 similar actions.

5 ii. Benefits. The City Manager is entitled to receive the same benefits as other City
6 exempt service employees, including but not limited to inclusion in the City's health
7 care and retirement plans, in which the City and the employee contribute in the same
8 proportion as other City exempt service employees.

9 iii. Allowances. The City shall provide the City Manager with a City vehicle, or
10 additional compensation to reimburse the use of a personally-owned vehicle.

11 iv. Severance Pay. Three months' severance pay of salary if a City Manager has been
12 removed from the position without cause, but there shall be no severance pay if the
13 removal is for cause. Grounds for removal that constitute cause shall be 1) conviction
14 of a felony or a crime of moral turpitude; or 2) malfeasance or misfeasance in office.

15 B. Salary raises for the list of positions included in the table in Section 3.08.030A.1:

16 1. Shall be justified by a performance evaluation by the City Manager or the Mayor,
17 whichever is the Appointing Authority, that exceeds the minimum requirements for the
18 position and shall be entirely at the City Manager or the Mayor's discretion, with the
19 exception of those positions listed in Subsection (B)(2) of this Section;

20 2. Shall be justified by a performance evaluation by the Department Director that exceeds
21 the minimum requirements for the position for the following positions:

22 i. Deputy Fire Chiefs

23 ii. Police Captains

24 iii. Police Major

25 iv. Recruitment/Employee Relations Administrator

26 v. Assistant City Attorney

27 vi. Attorney I

28 vii. Attorney II

29 viii. Public Information Officer and Quartermaster

30 ix. Economic Development Manager.

31 3. Shall not be awarded to an individual more frequently than once per year;

32 4. Shall not be for an amount exceeding one pay step in the grade range for the position as
33 set in Subsection (A)(1) of this Section;

34 5. Shall not cause an individual's salary to exceed the maximum salary of the assigned
35 grade.

36 C. Longevity salary increases awarded to civil service employees shall not be a benefit of
37 the exempt service.

38 D. A City employee appointed to a position specified in Subsection (A)(1) of this Section
39 shall be assigned to a salary in the new pay grade which is at a minimum five percent higher
40 than the employee's salary prior to promotion or shall be assigned to the minimum of the new
41 grade, whichever is higher. In no case shall the new salary exceed the maximum salary of the
42 new grade.

43 E. The Mayor, City Manager or Department Director, whichever is the Appointing
44 Authority, may make an initial appointment at a salary greater than the first step of the
45 assigned grade for positions that report to them. Appointments to the following positions do

1 not require City Council approval and initial appointments may be made at a salary greater
2 than the first step of the assigned grade subject to the availability of funding:

- 3 1. i. Administrative Assistant
- 4 ii. Assistant City Manager
- 5 iii. Executive Office Associate
- 6 iv. Chief of Staff
- 7 v. Communications Officer
- 8 vi. Constituent Services Officer
- 9 vii. Community Engagement Administrator
- 10 viii. Development/Events Specialist
- 11 ix. ~~Director, Office of Environmental Policy~~
- 12 x. Human Resources Manager
- 13 xi. Deputy Fire Chiefs
- 14 xii. Police Captains
- 15 xiii. Police Major
- 16 xiv. Recruitment/Employee Relations Administrator
- 17 xv. Assistant City Attorney
- 18 xvi. Attorney I
- 19 xvii. Attorney II
- 20 xviii. Public Information Officer and Quartermaster
- 21 xix. Economic Development Manager.

22 F. The appointment and initial salary for the following positions is subject to confirmation
23 by the City Council:

- 24 1. i. City Manager
- 25 ii. City Attorney
- 26 iii. Police Chief
- 27 iv. Fire Chief
- 28 v. Director of Transportation
- 29 vi. Director of Recreation and Parks
- 30 vii. Director of Finance
- 31 viii. Director of Planning and Zoning
- 32 ix. Director of Public Works.

33 X. DIRECTOR OF THE DEPARTMENT OF THE ENVIRONMENT

34
35 G. The Mayor shall report to the City Council on an annual basis the salaries of all positions
36 listed in Subsection A of this Section, and all increases in salary awarded since the prior report.
37
38

39 **TITLE 6 – REVENUE AND FINANCE**

40 **Chapter 6.29 – Establishment of Program to Finance and Encourage Energy Efficiency**
41 **Projects and Renewable Energy Projects**

42
43 **6.29.010 - Establishment of Clean Energy Loan Program.**
44

1 A. A Clean Energy Loan Program ("Program"), as authorized pursuant to the Local
2 Government Article, Sections 1-1101 et seq. of the Annotated Code of Maryland, is hereby
3 established to finance and encourage energy efficiency projects and renewable energy projects
4 with an electric generating capacity of not more than one hundred kilowatts.

5 B. The City may enter into an agreement with a private entity to administer the Clean
6 Energy Loan Program.

7 C. All policies governing the management of the Program shall be determined by the
8 Director of the ~~Office of Environmental Policy~~ DEPARTMENT OF THE ENVIRONMENT in
9 collaboration with the Director of Finance.

10
11
12 **TITLE 10 – HEALTH AND SAFETY**

13 **Chapter 10.12 – FOOD HANDLING ESTABLISHMENTS**

14
15 **10.12.140 - Administration and enforcement.**

16
17 A. The provisions of this chapter shall be administered and enforced by the Department of
18 Planning and Zoning except with regard to those matters administered and enforced by the Health
19 Officer, and except with regard to Section 10.12.160, which matters shall be administered and
20 enforced by the ~~Office of Environmental Policy~~ DEPARTMENT OF THE ENVIRONMENT.

21 B. Violation of or failure to comply with any provision of this chapter is declared to be a
22 municipal infraction punishable by a fine not to exceed one hundred dollars for any single, initial
23 violation, and an additional fine of two hundred dollars for each repeat or continuing violation.

24 C. The Director of Planning and Zoning and the Director of ~~Environmental Policy~~ THE
25 DEPARTMENT OF THE ENVIRONMENT, or their designee, shall have the power to enforce
26 the provisions of this chapter through the issuance of a municipal citation or through any other
27 appropriate action or proceedings at law or equity.

28
29 **Chapter 10.36 – Clean Air Vehicles**

30 **10.36.010 - Purpose and intent.**

31
32 Promotion of low emission vehicles is in the best interest of the health and welfare of the citizens
33 of Annapolis. This chapter is intended to encourage replacement of existing standard emission
34 vehicles with low emission vehicles. The ~~Office of Environmental Policy~~ DEPARTMENT OF
35 THE ENVIRONMENT will gather and provide information on clean air vehicles to those licensed
36 by the City.

37
38
39 **TITLE 14 – STREETS, SIDEWALKS AND PUBLIC PLACES**

40 ~~**Chapter 14.12 – TREES**~~

41 ~~**14.12.010 – Policy.**~~

42 ~~It is the policy of the City to regulate the planting, removal, maintenance and protection of~~
43 ~~trees and shrubs on all public lands subject to its jurisdiction; to eliminate and guard against~~
44 ~~dangerous conditions which may result in injury to persons using public areas, to promote and~~
45 ~~enhance the beauty of the City, to prevent damage to any public sewer or water main, street,~~

1 ~~sidewalk or other public property, to protect trees and shrubs located in public areas from~~
2 ~~undesirable and unsafe practices, and to guard trees and shrubs against the spread of disease or~~
3 ~~pests.~~

4 **14.12.020 – Applicability.**

5 ~~This chapter applies to all trees and shrubs planted in or adjacent to any public areas, and to~~
6 ~~all trees and shrubs planted in or upon any private premises which endanger the life, health or~~
7 ~~safety of persons or property.~~

8 **14.12.030 – Definitions.**

9 As used in this chapter, the following words and phrases have the meanings indicated:

10 A. ~~—"Crown area" means the leafy part of a tree.~~

11 B. ~~—"Cutting" means felling or removal of a tree or any procedure the result of which is to~~
12 ~~cause the death or substantial destruction of a tree. Cutting does not include normal~~
13 ~~pruning or trimming.~~

14 C. ~~—"Department" means the Department of Planning and Zoning.~~

15 D. ~~—"Director of Planning and Zoning" shall be read to include his/her designee.~~

16 E. ~~—"Maintenance" and "protection" include all operations of trimming, pruning, spraying,~~
17 ~~injecting, fertilizing, treating, bracing, doing surgery work, and cutting above or below~~
18 ~~ground.~~

19 F. ~~—"Public area" includes all public ways, public parks and other public lands except those~~
20 ~~owned or leased by the United States of America or by the State.~~

21 G. ~~—"Public way" includes all public streets, roads, boulevards, alleys and sidewalks.~~

22 H. ~~—"Remove" or "removal" means the actual physical removal, or the effective removal~~
23 ~~through damaging, poisoning or other direct or indirect actions resulting in, or likely to~~
24 ~~result in, the death of a tree.~~

25 I. ~~—"Trees" and "shrubs" includes all woody vegetation.~~

26 **14.12.040 – Environmental Commission.**

27 ~~In addition to any other duties assigned by this code, the Environmental Commission shall~~
28 ~~perform the following functions:~~

29 A. ~~Recommend the appointment of a forester;~~

30 B. ~~Study the problems and determine the needs of the City in connection with its tree~~
31 ~~planting, protection and maintenance programs;~~

32 C. ~~Assist in the dissemination of news and information regarding the selection, planting~~
33 ~~and maintenance of trees within the areas subject to the jurisdiction of the City, whether~~
34 ~~the areas are private or public property, and make recommendations for legislation~~
35 ~~concerning the tree program and activities;~~

36 D. ~~Investigate and implement alternative funding sources for the planting and maintenance~~
37 ~~of trees and shrubs on public lands;~~

38 E. ~~Conduct meetings and forums at which the subject of trees is discussed.~~

39 **14.12.050 – Responsibilities of the Director of Planning and Zoning.**

40 A. ~~Implementation, administration and execution of the requirements of this chapter are the~~
41 ~~responsibility of the Department of Planning and Zoning or his or her designee.~~

42 B. ~~The Director of Planning and Zoning or his or her designee shall have the following general~~
43 ~~powers and duties:~~

44 1. ~~To direct, manage, supervise and control the street tree program, including all planting,~~
45 ~~removal, maintenance, and protection of all trees and shrubs on all public areas;~~

1 2.—To guard all trees and shrubs to prevent the spread of disease or pests and to eliminate
2 dangerous conditions which may affect the life, health or safety of persons or property;

3 3.—To perform other related functions as are assigned.

4 **14.12.060 – Damage to trees and shrubs.**

5 No person shall break, injure, mutilate, kill or destroy any tree or shrub in any public area, or
6 permit any animal under that person's control to do so; permit any leak to exist in any gas line
7 within the root zone of any tree or shrub; permit any toxic chemical to seep, drain or be emptied
8 on or about any tree or shrub; or permit electric or communication wires to come in contact with
9 any tree or shrub. During building or construction operations, suitable protective barriers shall be
10 erected around trees and shrubs in public areas which may be subject to injury or destruction.

11 **14.12.070 – Fastening materials to trees and shrubs.**

12 No person shall fasten any sign, rope, wire, or other materials to, around or through any trees
13 or shrubs in any public area without obtaining prior written approval from the department, except
14 in emergencies such as storms or accidents.

15 **14.12.080 – Plant, remove, maintain and protect public trees without permit.**

16 A.—A person neither shall plant trees or shrubs in any public area, nor undertake any maintenance
17 or protection, or otherwise disturb any tree or shrub in any public area, without obtaining prior
18 written approval from the department, except in emergencies such as storms or accidents.
19 Arboricultural specifications and standards of workmanship as set forth in the written approval
20 shall be adhered to in the performance of the work.

21 B.—Subject to the provisions of Chapter 16.12, approval of the department is not required to
22 water trees or shrubs.

23 C.—Any person who violates this section is guilty of a municipal infraction and is subject to a
24 fine as established by resolution of the City Council.

25 **14.12.090 – Power to plant, remove, maintain and protect.**

26 The department may plant, remove, maintain and protect trees and shrubs on or adjacent to all
27 public areas as may be necessary to ensure safety or preserve the symmetry and beauty of the
28 grounds. Appropriate advance written notification shall be made to adjacent property owners of
29 the City's intent to plant or remove trees or shrubs.

30 **14.12.095 – Tree conservation area—Tree removal.**

31 A.—"Tree conservation areas" are established to be the same areas as the legally defined front,
32 side or rear yard setbacks of any residential or commercial property as described in the zoning
33 regulations of the City of Annapolis, which are adjacent to a public right-of-way.

34 B.—Within a tree conservation area, no tree greater than five inches in diameter as measured at
35 four and one-half feet above the ground shall be removed except as provided for in this section.
36 Within a tree conservation area, the property owner may remove trees that are less than five
37 inches in diameter as measured at four and one-half feet above the ground.

38 C.—A permit issued by the Director of Planning and Zoning or his or her designee is required for
39 the removal of any tree greater than five inches in diameter, as measured at four and one-half
40 feet above the ground, located within the tree conservation area. The tree removal permit
41 application fee and permit fee shall be set by resolution of the City Council. Conditions under
42 which such a permit may be issued include but shall not be limited to the following:

43 1.—The tree is dead, dying or diseased, such that fifty percent or more of the crown area is
44 visibly dead;

45 2.—The tree is damaged or injured to the extent that it is likely to die or become diseased;

3. ~~The removal of the tree will serve the purposes of this chapter or will enhance the health of the remaining trees in the conservation area;~~

4. ~~The removal of the tree will avoid or alleviate, mitigate, or reduce a substantial hardship or damage to the property or any structure located thereon; or~~

5. ~~The removal of the tree is consistent with good forestry practices.~~

D. ~~A permit shall not be required for public utilities to remove trees situated in proximity to overhead or underground facilities or in case of any emergency in which failure to remove a tree is likely to cause imminent damage to public or private property, as used herein, the term "public utilities" means any "public service company" as defined in the Public Utilities Article, Section 1-101, of the Annotated Code of Maryland, or its successor statutes; or in case of any emergency in which failure to remove a tree is likely to cause imminent damage to public or private property.~~

E. ~~In issuing a permit, the Director of Planning and Zoning or his or her designee may, in its discretion, require that replacement tree(s) be planted. The size, location and variety of any replacement tree may be required by the Director of Planning and Zoning or his or her designee, solely at his or her discretion, to reestablish the visual character and environmental benefits afforded by the trees which were removed. Replacement as follows shall be deemed conclusively to be a reasonable exercise of such discretion:~~

Removed tree	Replacement Tree(s)
5—10" Diameter breast height (dbh)	1 tree
10.1—20" Diameter breast height (dbh)	2 trees
Greater than 20"	3 trees

~~If the tree conservation area is insufficient in size to accommodate more than one replacement tree or if it is undesirable to plant appropriate replacement trees (as determined by the Department of Planning and Zoning, in its sole discretion), then the issuance of the permit shall be conditioned upon the approval by the Director of Planning and Zoning of a planting plan, developed by the owner, to plant replacement trees in another location approved by the Department of Planning and Zoning.~~

F. ~~The tree conservation area shall be the first priority for replacement of removed trees as required under the preceding subsection. Alternate planting sites, in order of preference, are:~~

1. ~~An area on the property adjacent to any public right of way other than the tree conservation area;~~

2. ~~An area within any adjacent public right of way;~~

3. ~~Any other public property;~~

4. ~~Any property with a conservation designation (e.g.: property reserved as part of the subdivision process; property within the critical area; etc.);~~

5. ~~Any other appropriate area.~~

~~If no alternative planting site can be located, a fee equivalent to the in-ground cost of planting replacement trees shall be paid by the permit applicant to the City, which shall plant an equivalent number of trees in an appropriate location within one year.~~

G. ~~A property owner shall replace any tree removed without a permit according to the replacement standard in Subsections (E) and (F) of this section. The site, location and variety~~

1 of such replacement trees shall be reviewed and approved by the Director of Planning and
2 Zoning or his or her designee in accordance with the standards set forth herein.

3 ~~H.— Violation of this section shall be a municipal infraction punishable by a fine as established
4 by resolution of the City Council for each tree greater than five inches in diameter at 4.5 feet
5 above the ground removed from the tree conservation area without a permit. In addition, the
6 Director of Planning and Zoning or his or her designee may revoke any permit issued under
7 this section and/or issue an order stopping further tree removal whenever the director or
8 designee determines that such action is necessary to accomplish the purpose of this section.
9 Enforcement of this section shall be the responsibility of the Department of Planning and
10 Zoning. All fines must be paid in full before any work can continue.~~

11 ~~I.— Where this section and any other Federal, State or local law regarding tree removal and/or
12 replacement apply to a given circumstance, the more restrictive law shall control.~~

13 **~~14.12.100 – Master street tree plan.~~**

14 ~~A.— The department shall formulate a master street tree plan with the advice of the Environmental
15 Commission. The master street tree plan shall specify the species of trees to be planted on
16 each of the streets or other public sites of the City. After approval by the Historic District
17 Commission of the portions of the plan affecting the historic district, and following the
18 adoption of the plan by the City Council, all planting shall conform to the plan.~~

19 ~~B.— In preparing the master street tree plan, the department shall evaluate all space and site factors
20 which will aid in the determination of the tree species best suited to a particular planting site
21 before recommending a specific species.~~

22 ~~C.— The department shall recommend revisions of the master street tree plan when advisable.~~

23 **~~14.12.110 – Rules and regulations.~~**

24 ~~The department shall recommend rules and regulations for the arboricultural specifications
25 and standards of practice governing the planting, maintenance, removal, fertilization, pruning and
26 bracing of trees in all public areas. All arboricultural practices shall follow the National Arborist
27 Association standards and shall take effect upon adoption by the City Council.~~

28 **~~14.12.120 – Species and varieties.~~**

29 ~~A.— The department shall prepare lists of trees acceptable for planting in the public areas.
30 Undesirable trees shall not be recommended for general planting, and their use, if any, shall
31 be restricted to special locations where, because of certain characteristics of adaptability or
32 landscape effect, they can be used to advantage.~~

33 ~~B.— Only desirable trees of good appearance, beauty, adaptability, and generally free from
34 injurious insects or disease shall be planted in public areas.~~

35 ~~C.— Where street blocks have been assigned a particular species or variety on the master street
36 tree plan, only that species or variety shall be planted, subject to revisions by the Director of
37 Public Works or his or her designee.~~

38 **~~14.12.130 – Size.~~**

39 ~~A.— Unless otherwise specified by the department, all deciduous tree species and their cultivars
40 and varieties shall conform to American Association of Nurserymen standards and be at least
41 one and three fourths inches in diameter six inches above ground level, and at least eight to
42 ten feet in height when planted. The crown shall be in good balance with the trunk.~~

43 ~~B.— Unless otherwise allowed for specific reasons, all trees shall have comparatively straight
44 trunks, well-developed leaders and tops, and roots characteristic of the species, cultivar or~~

1 ~~variety showing evidence of proper nursery pruning. All trees must be free of insects, diseases,~~
2 ~~mechanical injuries, and other objectionable features at the time of planting.~~

3 **14.12.140 – Location.**

4 ~~A.— Where a tree is requested by an owner of private property adjacent to public property, and~~
5 ~~the location is determined to be desirable, and no appropriate public property is available, an~~
6 ~~easement or other legal agreement may be sought to plant on the private property that is in~~
7 ~~proximity to public property. The legal agreement may contain provisions granting the City~~
8 ~~permission to select and plant trees under the direction of the Director of Planning and Zoning.~~
9 ~~The legal agreement shall contain provisions defining the City's absence of liability in the~~
10 ~~event of personal injury or damage caused during, or as a result of, planting on private~~
11 ~~property. Appropriate advance written notification shall be made to the adjacent property~~
12 ~~owners of the City's intent to plant trees.~~

13 ~~B.— Trees shall be planted at least thirty feet from the street intersections and at least fifteen feet~~
14 ~~from driveways and alleys.~~

15 ~~C.— No tree shall be planted closer than ten feet to a utility pole or fire hydrant.~~

16 ~~D.— Spacing of trees shall be determined by the department according to local conditions, the~~
17 ~~species, cultivars or varieties used, their mature height, spread and form. Generally, all trees~~
18 ~~shall be planted twenty five to fifty feet on center. The exact planting location of each tree~~
19 ~~and shrub shall be determined by the Director of Planning and Zoning.~~

20 ~~E.— All planting on unpaved streets without curbs shall have the approval of the department. The~~
21 ~~trees shall be located so that they will not be injured or destroyed when the street is curbed~~
22 ~~and paved.~~

23 **14.12.150 – Pruning and removal of trees.**

24 ~~A.— No topping or dehorning of trees shall be permitted, except upon prior written approval of~~
25 ~~the department.~~

26 ~~B.— All large, established trees shall be pruned to sufficient height to allow free passage for~~
27 ~~pedestrian and vehicular traffic, which shall be ten feet over a sidewalk and twelve feet over~~
28 ~~a street, except a street subject to truck traffic which, at the discretion of the department may~~
29 ~~have clearance of fifteen feet. The department may waive the provisions of this section for a~~
30 ~~newly planted tree upon a determination that the tree does not interfere with public travel,~~
31 ~~obstruct the light of any street light, or endanger public safety.~~

32 ~~C.— All dead wood, stubs, broken branches, badly formed branches, disease infected and insect-~~
33 ~~infested branches, and branches interfering with public travel, lighting, existing buildings and~~
34 ~~traffic signs shall be removed during the trimming operation, with consideration given to the~~
35 ~~symmetry and beauty of the tree or shrub.~~

36 ~~D.— All trees and shrubs in public areas which are marked for removal shall be removed~~
37 ~~completely from the growing site and disposed of in an authorized manner. The stump shall~~
38 ~~be removed to a depth suitable for future planting of trees or turf.~~

39 ~~E.— Any person who violates this section is guilty of a municipal infraction and is subject to a~~
40 ~~fine as established by resolution of the City Council.~~

41 **14.12.160 – Right of entry.**

42 ~~The department, after giving reasonable advance notice to the owner or tenant having charge,~~
43 ~~may enter upon private premises at reasonable times for the purpose of examining or inspecting~~
44 ~~any suspected nuisance tree or shrub. All nuisance trees and shrubs to be removed or to be worked~~
45 ~~upon may be marked appropriately by the department.~~

1 **~~14.12.170 – Cost of planting, removing, maintaining and protecting.~~**

2 A.— ~~The cost of planting trees on public rights of way shall be financed jointly by the adjacent~~
3 ~~property owner and the City. When a street tree is requested by an adjacent property owner,~~
4 ~~that adjacent property owner shall pay to the City the sum of thirty dollars per tree. The City~~
5 ~~shall assume the remaining costs for the purchase and planting of the tree.~~

6 B.— ~~A special annual assessment on property owners not to exceed five cents per linear foot of~~
7 ~~street frontage may be imposed by the City Council. The funds generated by the imposition~~
8 ~~of the assessment shall be used only for the planting, maintenance and removal of trees and~~
9 ~~shrubs in public areas.~~

10 **~~14.12.180 – Interference with department.~~**

11 ~~No person shall prevent, delay, or interfere with the department in the execution or~~
12 ~~enforcement of the provisions of this chapter.~~

13 **~~14.12.190 – Nuisance – Designated.~~**

14 ~~Any tree or shrub or part of a tree or shrub growing upon private or public property which is~~
15 ~~interfering with the use of any public area, infested with an infectious plant disease, infested with~~
16 ~~injurious insects, injurious to public improvements, or endangering the life, health or safety of~~
17 ~~persons or property is a public nuisance.~~

18 **~~14.12.200 – Nuisance – Abatement.~~**

19 A.— ~~If the department determines, upon inspection or examination, that any nuisance tree or shrub~~
20 ~~exists in or upon any public area, the department immediately shall cause the tree or shrub to~~
21 ~~be treated, trimmed, removed or otherwise abated to eliminate or prevent the spread of the~~
22 ~~nuisance. The manner in which the nuisance is abated shall be determined by the department.~~

23 B.— ~~If the department determines, upon inspection or examination, that any nuisance tree or shrub~~
24 ~~exists in or upon any private property, the owner or tenant having charge of the premises shall~~
25 ~~be given written notice describing the nuisance tree or shrub and the necessary corrective~~
26 ~~action. Within thirty days after the issuance of the notice, the person shall undertake the~~
27 ~~corrective action specified in the notice unless, in the opinion of the department, an emergency~~
28 ~~exists, in which case the department immediately shall cause the tree or shrub to be treated,~~
29 ~~trimmed, removed or otherwise abated to prevent the spread of the nuisance. If the owner or~~
30 ~~tenant refuses or neglects to comply with the terms of the written notice within thirty days~~
31 ~~after receiving it, the department shall abate the nuisance and the expense of abatement shall~~
32 ~~be a charge and lien upon the real property on which the tree or shrub is located, to be collected~~
33 ~~in the same manner, and bear the same interest and priority as real property taxes.~~

34 **~~14.12.210 – Appeals.~~**

35 ~~A person aggrieved by an order from the department may appeal to the Building Board of~~
36 ~~Appeals within fifteen calendar days of receipt of the order, per Section 17.12.130. The petition~~
37 ~~for appeal shall be in writing and shall state the grounds for appeal. The scheduling of the hearing~~
38 ~~and the rendering of the decision shall be expedited if warranted by the circumstances. The board~~
39 ~~may affirm, rescind or modify the order, in its discretion, to conform the order to the intent of this~~
40 ~~chapter.~~

41
42
43 **TITLE 17 – BUILDINGS AND CONSTRUCTION**

44
45 **Chapter 17.08 – GRADING, EROSION AND SEDIMENT CONTROL**

1 **17.08.010 – Purpose.**

2 A.— ~~The purpose of this chapter is to protect, maintain, and enhance the public health, safety, and~~
3 ~~general welfare by establishing minimum requirements and procedures to control the adverse~~
4 ~~impacts associated with land disturbances. The goal is to minimize soil erosion and prevent~~
5 ~~off-site sedimentation by using soil erosion and sediment control practices designed in~~
6 ~~accordance with the Code of Maryland Regulations (COMAR) 26.17.01, the 2011 Maryland~~
7 ~~Standards and Specifications (Standards and Specifications) and the Stormwater Management~~
8 ~~Act of 2007 (Act) or its successors. This chapter will help reduce the negative impacts of land~~
9 ~~development on water resources, maintain the chemical, physical, and biological integrity of~~
10 ~~streams, and minimize damage to public and private property.~~

11 B.— ~~The provisions of this chapter are minimum requirements. They shall be conformed to in~~
12 ~~addition to, rather than in lieu of, all other legal requirements, and shall be construed liberally~~
13 ~~to accomplish the purposes set forth. No person shall allow and no landowner shall permit any~~
14 ~~work to be performed which violates this chapter.~~

15 C.— ~~The provisions of this chapter are adopted pursuant to Annotated Code of Maryland,~~
16 ~~Environment Article, Title 4, Subtitle 1 (or its successors), as well as the authority of the City~~
17 ~~Charter and the City Code and shall apply to all grading occurring within the City.~~

18 **17.08.020 – Liability for damages.**

19 ~~The issuance of a permit under the provisions of this chapter or compliance with the provisions~~
20 ~~of this chapter does not relieve a person from responsibility for damage to persons or property~~
21 ~~otherwise imposed by law, or impose liability on the City for damages.~~

22 **17.08.030 – Grading permit – Required application.**

23 A.— ~~Except as set forth in Section 17.08.040, no person shall do and no owner allow, any grading~~
24 ~~of land without first having obtained a grading permit from the Director. Each permit shall~~
25 ~~authorize only the improvements set forth in the application and accompanying drawings, but~~
26 ~~each permit may cover any number of contiguous lots.~~

27 B.— ~~The application shall be filed with the Director or designee. Both the owner of the property~~
28 ~~and the contractor engaged to do the work are responsible equally for obtaining the required~~
29 ~~grading permit.~~

30 C.— ~~Each application for a grading permit shall be supported by the following:~~

31 ~~1.— Plans and specifications in accordance with Section 17.08.060;~~

32 ~~2.— The required fees in accordance with Section 17.08.080;~~

33 ~~3.— The written approval of appropriate State and Federal agencies, where applicable;~~

34 ~~4.— A right of entry to the City for periodic inspection for compliance with this title;~~

35 ~~5.— A bond in accordance with Section 17.08.092;~~

36 ~~6.— Payment to the City Finance Director of all applicable school impact fees assessed by~~
37 ~~Anne Arundel County, or proof that the project is not subject to the County's school~~
38 ~~impact fees.~~

1 ~~17.08.040 – Grading permit – Exemptions.~~

2 ~~No person shall disturb land without implementing soil erosion and sediment controls in~~
3 ~~accordance with the requirements of this chapter and the standards and specifications except as~~
4 ~~provided within this section.~~

5 ~~A. — A grading permit is not required for the following limitations as set forth by the Anne~~
6 ~~Arundel Soil Conservation District's most recent standard sediment and erosion control~~
7 ~~plan limitations, provided that the other provisions of this chapter and of applicable State~~
8 ~~law are satisfied:~~

9 ~~Land on which the following exist:~~

10 ~~1. — Agricultural land management practices and agricultural BMPs.~~

11 ~~2. — The lot where the work is to be performed is on a paved, graveled or publicly~~
12 ~~maintained street where storm drains are in operation and roadside ditches are~~
13 ~~stabilized.~~

14 ~~3. — Not more than five thousand square feet of ground shall be disturbed; no more than~~
15 ~~two thousand square feet for waterfront lots.~~

16 ~~4. — Cuts and fills shall not exceed ten feet in depth or height and shall not exceed one~~
17 ~~hundred cubic yards in volume.~~

18 ~~5. — Slopes with a grade of fifteen percent or greater shall not be disturbed and slopes~~
19 ~~steeper than 3:1 may not be created.~~

20 ~~6. — Highly erodible soils shall not be disturbed.~~

21 ~~7. — No earth disturbance shall occur within the following with the exception of shoreline~~
22 ~~stabilization projects and retaining wall replacements in kind:~~

23 ~~a. — The limits of the one hundred year floodplain of any stream;~~

24 ~~b. — One hundred feet of any perennial stream or water body;~~

25 ~~c. — One hundred feet landward of the mean high water line of any water body~~
26 ~~affected by tidal action (subject to variance procedures in Title 21 of the City~~
27 ~~Code);~~

28 ~~d. — One hundred feet from any tidal wetland or bog; or~~

29 ~~e. — Twenty five feet of any non tidal wetland except for an approved buffer~~
30 ~~management plan approved by the City for clearing less than five thousand~~
31 ~~square feet of vegetation.~~

32 ~~8. — The owner, builder or developer is not the same owner, builder or developer of any~~
33 ~~contiguous lots undergoing development.~~

34 ~~9. — The proposed construction is not a single family dwelling or an addition or~~
35 ~~modification that is classified as a substantial improvement to an existing single~~
36 ~~family dwelling as determined in accordance with City Of Annapolis Code.~~

1 10. ~~Any proposed grading will not impair existing surface drainage, constitute a~~
2 ~~potential erosion hazard or act as a source of sedimentation to adjacent land or water~~
3 ~~resource or impact an erosion and sediment control plan previously approved by the~~
4 ~~Anne Arundel Soil Conservation District or the City of Annapolis.~~

5 11. ~~The site conditions must be such that it is possible to satisfy the required erosion~~
6 ~~and sediment control requirements by the use of reinforced silt fence, a stabilized~~
7 ~~construction entrance and vegetative stabilization.~~

8 12. ~~The applicant has submitted a site plan adequately showing the property lines, site~~
9 ~~conditions, and the proposed work which is attached hereto and made a part thereof.~~

10 13. ~~For work in the critical area, the applicant has submitted a critical area worksheet~~
11 ~~detailing existing, and proposed lot coverage and impervious cover.~~

12 14. ~~The proposed work does not require a state waterway or wetland permit except~~
13 ~~where the project is a shoreline stabilization project.~~

14 B. ~~Land disturbing activities that are subject exclusively to State approval and enforcement~~
15 ~~under State law and regulations.~~

16 C. ~~If a grading permit is not required under Subsection A., a standard sediment and erosion~~
17 ~~control plan shall be issued.~~

18 D. ~~Notwithstanding the provisions of Subsection A. and Subsection C., a grading permit shall~~
19 ~~be required for removal of multiple trees having a combined diameter at breast height (dbh)~~
20 ~~of sixty inches or greater on lots of forty thousand square feet or greater.~~

21 ~~**17.08.050 – Variances – Erosion and sediment control plan.**~~

22 A. ~~The Director, based on written recommendations from the Anne Arundel Soil Conservation~~
23 ~~District, may grant a variance from the requirements of the Standards and Specifications, if~~
24 ~~strict adherence to the specifications will result in exceptional hardship and not fulfill the~~
25 ~~intent of this chapter. The developer shall submit a written request for a variance to the~~
26 ~~Director and the Anne Arundel Soil Conservation District. The request shall state the specific~~
27 ~~variances sought and reasons for requesting the variance. The Director shall not grant a~~
28 ~~variance unless and until sufficient specific reasons justifying the variance are provided by~~
29 ~~the owner/developer to the satisfaction of the Anne Arundel Soil Conservation District and~~
30 ~~the Director.~~

31 B. ~~The granting of a variance as noted in this section does not in any way exempt the applicant~~
32 ~~from compliance with the other requirements of this chapter.~~

33 ~~**17.08.060 – Permit – Plans and specifications.**~~

34 A. ~~An applicant is responsible for submitting erosion and sediment control plans that meet the~~
35 ~~requirements of the Anne Arundel Soil Conservation District, this chapter of the City Code,~~
36 ~~Chapter 17.10 of the City Code, the Standards and Specifications, and the Act. The plans shall~~
37 ~~include sufficient information to evaluate the environmental characteristics of the affected~~
38 ~~areas, the potential impacts of the proposed grading on water resources, and the effectiveness~~
39 ~~and acceptability of measures proposed to minimize soil erosion and off site sedimentation.~~

- 1 ~~B.—At a minimum, an applicant shall submit the following information:~~
- 2 ~~1.—A letter of transmittal and/or application;~~
- 3 ~~2.—Name, address, and telephone number of:~~
- 4 ~~a.—The owner of the property where the grading is proposed;~~
- 5 ~~b.—The developer; and~~
- 6 ~~c.—The applicant;~~
- 7 ~~3.—A vicinity map indicating north arrow, scale, site location, and other information~~
- 8 ~~necessary to easily locate the property;~~
- 9 ~~4.—Drainage area map(s) at a 1" = 200' minimum scale showing existing, interim, and~~
- 10 ~~proposed topography, proposed improvements, standard symbols for proposed sediment~~
- 11 ~~control features, and pertinent drainage information including provisions to protect~~
- 12 ~~downstream areas from erosion for a minimum of two hundred feet downstream or to the~~
- 13 ~~next conveyance system;~~
- 14 ~~5.—The location of natural resources, wetlands, floodplains, highly erodible soils, slopes~~
- 15 ~~fifteen percent and steeper, and any other sensitive areas;~~
- 16 ~~6.—A general description of the predominant soil types on the site, as described by the~~
- 17 ~~appropriate soil survey information available through the local soil conservation district~~
- 18 ~~or the USDA Natural Resources Soil Conservation Service;~~
- 19 ~~7.—Proposed stormwater management practices;~~
- 20 ~~8.—Erosion and sediment control plans including:~~
- 21 ~~a.—The existing topography and improvements as well as proposed topography and~~
- 22 ~~improvements at a scale between 1" = 10' and 1" = 50' with two foot contours or~~
- 23 ~~other approved contour interval. For projects with more than minor grading, interim~~
- 24 ~~contours may also be required;~~
- 25 ~~b.—Scale, project and sheet title, and north arrow on each plan sheet;~~
- 26 ~~c.—The limit of disturbance (LOD) including:~~
- 27 ~~i.—Limit of grading (grading units, if applicable); and~~
- 28 ~~ii.—Initial, interim, and final phases;~~
- 29 ~~d.—The proposed grading and earth disturbance including:~~
- 30 ~~i.—Total disturbed area;~~
- 31 ~~ii.—Volume of cut and fill quantities; and~~
- 32 ~~iii.—Volume of borrow and spoil quantities;~~
- 33 ~~e.—Storm drainage features, including:~~
- 34 ~~i.—Existing and proposed bridges, storm drains, culverts, outfalls, etc.;~~

- 1 ii. ~~Velocities and peak flow rates at outfalls for the two year and ten year~~
2 ~~frequency storm events; and~~
- 3 iii. ~~Site conditions around points of all surface water discharge from the site;~~
- 4 iv. ~~Drainage area map and, where applicable, subdrainage area boundaries, on a~~
5 ~~scale of not less than one inch to two hundred feet;~~
- 6 v. ~~Hydrologic and hydraulic studies, as required by the Department; and~~
- 7 vi. ~~Requirements as stated in Chapter 17.10, Stormwater Management, of the City~~
8 ~~Code;~~
- 9 f. ~~Erosion and sediment control practices to minimize on-site erosion and prevent off-~~
10 ~~site sedimentation including:~~
 - 11 i. ~~The salvage and reuse of topsoil;~~
 - 12 ii. ~~Phased construction and implementation of grading unit(s) to minimize~~
13 ~~disturbances, both in extent and duration;~~
 - 14 iii. ~~Location and type of all proposed sediment control practices;~~
 - 15 iv. ~~Design details and data for all erosion and sediment control practices; and~~
 - 16 v. ~~Specifications for temporary and permanent stabilization measures including,~~
17 ~~at a minimum:~~
 - 18 (A) ~~The "standard stabilization note" on the plan stating: "Following initial~~
19 ~~soil disturbance or re-disturbance, permanent or temporary stabilization~~
20 ~~must be completed within:~~
 - 21 (I) ~~Three calendar days as to the surface of all perimeter dikes, swales,~~
22 ~~ditches, perimeter slopes, and all slopes steeper than 3 horizontal to 1~~
23 ~~vertical (3:1); and~~
 - 24 (II) ~~Seven calendar days as to all other disturbed or graded areas on the~~
25 ~~project site not under active grading."~~
 - 26 (B) ~~Details for areas requiring accelerated stabilization; and~~
 - 27 (C) ~~Maintenance requirements as defined in the standards and specifications;~~
 - 28 (D) ~~The "vertical stabilization note" on the plan stating: "Building~~
29 ~~construction may not proceed past the ground floor until the foundation has~~
30 ~~been backfilled and all remaining disturbed areas have been permanently or~~
31 ~~temporarily stabilized. Once the site is stabilized, with the Department's~~
32 ~~approval, framing may commence above the ground floor. During building~~
33 ~~construction beyond the ground floor, all disturbed areas must be stabilized~~
34 ~~at the end of each business day;"~~
- 35 g. ~~A sequence of construction describing the relationship between the implementation~~
36 ~~and maintenance of controls, including permanent and temporary stabilization, and~~
37 ~~the various stages or phases of earth disturbance and construction. Any changes or~~
38 ~~revisions to the sequence of construction must be approved by the Anne Arundel Soil~~

1 ~~Conservation District or the Department prior to proceeding with construction. The~~
2 ~~sequence of construction, at a minimum, must include the following:~~

3 ~~i. Request for a pre-construction meeting with the appropriate enforcement~~
4 ~~authority;~~

5 ~~ii. Clearing and grubbing as necessary for the installation of perimeter controls;~~

6 ~~iii. Construction and stabilization of perimeter controls;~~

7 ~~iv. Remaining clearing and grubbing within installed perimeter controls;~~

8 ~~v. Road grading;~~

9 ~~vi. Grading for the remainder of the site;~~

10 ~~vii. Utility installation and connection to existing structures;~~

11 ~~viii. Construction of buildings, roads, and other construction;~~

12 ~~iv. Final grading, landscaping, and stabilization;~~

13 ~~x. Installation of stormwater management measures;~~

14 ~~xi. Approval of the sediment control inspector prior to removal of sediment~~
15 ~~controls; and~~

16 ~~xii. Removal of controls and stabilization of areas that are disturbed by removal~~
17 ~~of sediment controls;~~

18 ~~h. A statement requiring the owner/developer or representative to contact the~~
19 ~~Department at the following stages of the project or in accordance with the approved~~
20 ~~erosion and sediment control plan, grading permit, or building permit:~~

21 ~~i. Forty eight hours prior to the start of earth disturbance;~~

22 ~~ii. Upon completion of the installation of perimeter erosion and sediment controls,~~
23 ~~but before proceeding with any other earth disturbance or grading;~~

24 ~~iii. Prior to the start of another phase of construction or opening of another grading~~
25 ~~unit; and~~

26 ~~iv. Prior to the removal of sediment control practices;~~

27 ~~i. Requirements as stated in Chapter 17.11, Floodplain Management, of the City Code;~~

28 ~~j. Requirements as stated in Chapter 17.09, Trees in Development Areas, of the City~~
29 ~~Code;~~

30 ~~k. An engineer's certification where determined to be necessary by the Department;~~

31 ~~l. Supplemental reports, data or additional information as the Department may require~~
32 ~~to the adequacy of the proposed plan. this information may include, but is not limited~~
33 ~~to:~~

34 ~~i. A record of field observations;~~

35 ~~ii. Field or laboratory test data;~~

1 iii.— ~~An outfall survey that documents the pre construction and post construction~~
2 ~~conditions of the development site's drainage area outfall, and which may~~
3 ~~include a topographical or bathymetric survey, vegetation description,~~
4 ~~photographic or video documentation, and soil survey. monitoring devices may~~
5 ~~be required;~~

6 m.— ~~The Department may waive the filing of particular information wherever in its~~
7 ~~judgment the information will serve no useful purpose for the particular project and~~
8 ~~the waiver does not contravene the purposes of this title;~~

9 n.— ~~Certification by the owner/developer that any clearing, grading, construction, or~~
10 ~~development will be done pursuant to the approved erosion and sediment control~~
11 ~~plan. The certification must also require that the responsible personnel involved in~~
12 ~~the construction project have a certificate of training at a Maryland Department of~~
13 ~~the Environment (MDE) approved training program for the control of erosion and~~
14 ~~sediment prior to beginning the project. The certificate of training for responsible~~
15 ~~personnel may be waived by the Anne Arundel Soil Conservation District on any~~
16 ~~project involving four or fewer residential lots. Additionally, the owner/developer~~
17 ~~shall allow right of entry for periodic on site evaluation by the Anne Arundel Soil~~
18 ~~Conservation District, the Department, and/or MDE;~~

19 o.— ~~Certification by a professional engineer, land surveyor, landscape architect,~~
20 ~~architect, or forester (for forest harvest operations only) registered in the state that~~
21 ~~the plans have been designed in accordance with erosion and sediment control laws,~~
22 ~~regulations, and standards, if required by the Anne Arundel Soil Conservation~~
23 ~~District, the Department, or the Maryland Department of the Environment;~~

24 p.— ~~Any additional information or data deemed appropriate by the Department.~~

25 **~~17.08.065 – Review and approval of erosion and sediment control plans.~~**

26 A.— ~~A person may not grade land without an erosion and sediment control plan approved by the~~
27 ~~Anne Arundel Soil Conservation District and the Department.~~

28 B.— ~~The Anne Arundel Soil Conservation District and the Department shall review erosion and~~
29 ~~sediment control plans to determine compliance with this chapter and the standards and~~
30 ~~specifications prior to approval. In approving the plan, the Anne Arundel Soil Conservation~~
31 ~~District and the Department may impose such conditions that may be deemed necessary to~~
32 ~~ensure compliance with the provisions of this chapter, COMAR 26.17.01, the standards and~~
33 ~~specifications, and the preservation of public health and safety.~~

34 C.— ~~The review and approval process shall be in accordance with the comprehensive and~~
35 ~~integrated plan approval process described in the Standards and Specifications, Chapter 17.10~~
36 ~~of the City Code.~~

37 D.— ~~At a minimum, a concept plan must include the mapping of natural resources and sensitive~~
38 ~~areas including highly erodible soils and slopes greater than fifteen percent, water resources,~~
39 ~~as well as information required under Chapter 17.10 of the City Code, or any other information~~
40 ~~required by the Department. These areas are to remain undisturbed or an explanation must be~~

1 ~~included with either the concept or site development plan describing enhanced protection~~
2 ~~strategies for these areas during construction.~~

3 ~~E.— A site development plan submittal must include all concept plan information and indicate~~
4 ~~how proposed erosion and sediment control practices will be integrated with proposed~~
5 ~~stormwater management practices. The latter is to be done through a narrative and an overlay~~
6 ~~plan showing both ESD and erosion and sediment control practices. An initial sequence of~~
7 ~~construction and proposed project phasing to achieve the grading unit restriction shall be~~
8 ~~submitted at this time.~~

9 ~~F.— An applicant shall submit a final erosion and sediment control plan to the Department for~~
10 ~~review and approval. The plan must include all of the information required by the concept and~~
11 ~~site development plans as well as any information in Section 17.08.060 of the City Code not~~
12 ~~already submitted, and any other information required by the Department.~~

13 ~~G.— A final erosion and sediment control plan shall not be considered approved without the~~
14 ~~inclusion of the signature and date of the Anne Arundel Soil Conservation District on the plan.~~

15 ~~H.— Approved plans remain valid for two years from the date of approval unless extended or~~
16 ~~renewed by the Anne Arundel Soil Conservation District and the Department.~~

17 ~~I.— Grandfathering of approved sediment and erosion control plans:~~

18 ~~1.— Any plans that receive final approval after January 9, 2013 must be in compliance with~~
19 ~~the requirements of this ordinance and the standards and specifications.~~

20 ~~2.— A plan that receives final approval by January 9, 2013 may be reapproved under its~~
21 ~~existing conditions if grading activities have begun on the site by January 9, 2015, with~~
22 ~~the exception of stabilization requirements.~~

23 ~~3.— Stabilization practices on all sites must be in compliance with the requirements of this~~
24 ~~chapter and the standards and specifications by January 9, 2013 regardless of when an~~
25 ~~approved erosion and sediment control plan was approved.~~

26 ~~**17.08.070 – Permit Approvals.**~~

27 ~~No grading permit shall be issued unless:~~

28 ~~A.— The Department has reviewed and approved all site plans and specifications, and verified~~
29 ~~the estimated costs; and~~

30 ~~B.— An erosion and sediment control plan has been approved by the Anne Arundel Soil~~
31 ~~Conservation District. The approved plan shall include the signature and date of approval~~
32 ~~by the approval agency; and~~

33 ~~C.— All plans have received written approval by the appropriate State and Federal agencies,~~
34 ~~where applicable; and~~

35 ~~D.— Special exception or subdivision approval, as appropriate, has been obtained for land~~
36 ~~development projects; and~~

1 E. ~~For a use which is designated under Title 21 as a permitted use subject to standards, the~~
2 ~~project first has been approved by the Department of Planning and Zoning in accordance~~
3 ~~with Chapter 21.64 of the Code; and~~

4 F. ~~All other provisions within the Code have been satisfied, as required. The Department~~
5 ~~may impose such conditions as may be determined to be necessary to ensure compliance~~
6 ~~with the provisions of this title, the State sediment control regulations, COMAR 26.17.01,~~
7 ~~the Standards and Specifications, or for the preservation of public health and safety.~~

8 **~~17.08.080 – Grading permit Fees Reinspection.~~**

9 A. ~~The fee for a grading permit shall be based upon the estimated cost of site work proposed,~~
10 ~~and includes the cost of materials and labor for installation and construction of such items as~~
11 ~~earthmoving, sediment control measures, storm drainage systems and stormwater~~
12 ~~management facilities, and roadways. Estimated costs and quantities shall be submitted to the~~
13 ~~Department. The fee shall be established by resolution of the City Council.~~

14 1. ~~The application fee will not be refundable for any reason except if the permit application~~
15 ~~has been denied. The application fee will be applied to the final cost of the grading permit~~
16 ~~at the time of issuance per the procedures as established by the Department of Public~~
17 ~~Works.~~

18 B. ~~Reinspection Fee. A fee as established by resolution of the City Council must be paid before~~
19 ~~another inspection is made if, for the original inspection, one or more of the following~~
20 ~~occurred:~~

21 1. ~~Requesting party called for inspection, but work was not ready;~~

22 2. ~~Requesting party was not on site;~~

23 3. ~~Building was locked;~~

24 4. ~~Safety features not on site;~~

25 5. ~~Approved drawings not on site;~~

26 6. ~~Permit not posted on site.~~

27 **~~17.08.090 – Bonding Purpose.~~**

28 ~~The purpose of the bond is to guarantee and insure, in the event of failure, that all work~~
29 ~~authorized by the permit will be completed satisfactorily, and that the site will be restored to a~~
30 ~~condition meeting the minimum requirements of this chapter.~~

31 **~~17.08.092 – Bonding Required.~~**

32 A. ~~A performance bond shall be a prerequisite to obtaining a grading permit when:~~

33 1. ~~Greater than five thousand square feet is disturbed; or~~

34 2. ~~More than one hundred cubic yards are graded; or~~

35 3. ~~Any public facility or stormwater management facility is proposed.~~

1 ~~B.— The bond amount shall be based upon the total estimated cost of labor and materials for~~
2 ~~construction and installation of:~~

- 3 ~~1.— Earthmoving;~~
- 4 ~~2.— Erosion and sediment control measures;~~
- 5 ~~3.— Vegetative stabilization;~~
- 6 ~~4.— Stormwater management systems and facilities;~~
- 7 ~~5.— Public sanitary sewers and water mains;~~
- 8 ~~6.— Roadways and roadway improvements; and~~
- 9 ~~7.— Any other public improvements.~~

10 ~~C.— A maintenance bond shall be required upon satisfactory completion of all requirements set~~
11 ~~forth in the grading permit. The maintenance bond shall represent a minimum of ten percent~~
12 ~~of the performance bond and is in effect for a minimum of one year. The Director or his or~~
13 ~~her designee may make adjustments based on current estimates or site conditions.~~

14 ~~D.— Bonding estimates shall be certified by a registered engineer or land surveyor.~~

15 ~~E.— Before acceptance, all bonds shall be approved by the Director or his or her designee and the~~
16 ~~City Attorney.~~

17 ~~F.— In lieu of a bond, a cash deposit, certified check or an irrevocable letter of credit from a local~~
18 ~~bank or other accredited institution in like amount, may be filed with the Department subject~~
19 ~~to the same terms and conditions as applicable to a performance bond. All bonds and letters~~
20 ~~of credit shall be submitted in City format.~~

21 ~~G.— If a corporation bond is offered, it shall be executed by a surety or guaranty company~~
22 ~~qualified to transact business in the State, and if a cash bond is offered, it is to be deposited~~
23 ~~with the Director of Finance, who shall give an official receipt stipulating that the cash has~~
24 ~~been deposited in compliance with, and subject to, the provisions of this section.~~

25 ~~H.— If all work of the permit is not completed within the time specified in Section 17.08.140, or~~
26 ~~if any portion of the work violates any other terms or conditions, the cash deposit shall be~~
27 ~~forfeited, or if a bond or letter of credit has been posted, payment in full to the City will be~~
28 ~~ordered. The funds so received shall be used by the City for defraying the cost of contracting,~~
29 ~~including engineering and administration, for the restoration of the site to meet the minimum~~
30 ~~requirements of this chapter, with particular emphasis on stabilization, safety, drainage and~~
31 ~~erosion control. If those costs exceed that amount of deposit or bond or letter of credit, the~~
32 ~~excess constitutes a lien on the property, and the permittee continues to be bound firmly under~~
33 ~~a continuing obligation for payment of any and all costs and expenses of any nature incurred~~
34 ~~by the City. Any unused portion of moneys forfeited shall be returned. No money shall be~~
35 ~~returned to any surety or guaranty company if such funds were acquired, obtained or paid~~
36 ~~pursuant to a court order or judgment.~~

37 **~~17.08.100 – Permit – Bond provisions.~~**

38 ~~The bond or letter of credit shall include the following provisions:~~

1 ~~A.— The applicant shall comply with Section 17.09.092, this section and all other applicable~~
2 ~~laws and ordinances.~~

3 ~~B.— The applicant shall comply with all of the terms and conditions of the grading permit.~~

4 ~~C.— Any extension of completion time pursuant to the provisions of Section 17.08.140 shall~~
5 ~~not release the applicant.~~

6 ~~D.— Upon default, the applicant shall continue to be bound firmly under a continuing~~
7 ~~obligation for payment of one of the following, at the election of the surety:~~

8 ~~1.— All costs and expenses necessary to complete the work in accordance with the~~
9 ~~approved plans and specifications or any approved modification to the approved~~
10 ~~plans or specifications; or~~

11 ~~2.— All necessary costs and expenses or liabilities which may be incurred to stabilize in~~
12 ~~accordance with the stabilization plan for erosion control presented by the applicant~~
13 ~~to and approved by the City; or~~

14 ~~3.— Payment to the City in cash or by certified check in a sufficient amount to equal the~~
15 ~~cost of performing the necessary work. If the cost for restoration of a site to meet the~~
16 ~~minimum requirements of this section (with particular emphasis on stability, safety,~~
17 ~~drainage and erosion control) exceeds the amount of the cash or certified check, the~~
18 ~~permittee shall continue to be bound under a continuing obligation for payment of~~
19 ~~all excess costs and expenses incurred by the City.~~

20 ~~E.— The security shall remain in full force and effect until a certificate of completion has been~~
21 ~~issued by the Department of Planning and Zoning certifying that the work has been performed~~
22 ~~in accordance with the plans and specifications, or certifying that the permit has been unused;~~
23 ~~provided, however, that the Director may increase or reduce security based on current~~
24 ~~estimates or site conditions. Upon issuance of this certificate, any unused portion of any cash~~
25 ~~or certified check shall be returned to the applicant, and the applicant and his/her surety shall~~
26 ~~be released from all further obligations under this section (provided default has not occurred).~~
27 ~~The certificate of completion shall be issued within sixty days from the date the Department~~
28 ~~receives written notice of completion, provided that during the sixty day period, the~~
29 ~~Department inspects the work performed and is satisfied that the permittee has complied with~~
30 ~~the provisions of this section.~~

31 **~~17.08.110 – Permit – Denial.~~**

32 ~~A.— No permit authorizing grading shall be issued by the Director if it is found that the work~~
33 ~~proposed by the applicant is likely to endanger any property or public way, to pollute any~~
34 ~~water, or to damage wetlands or marine habitat. Factors to be considered by the Director~~
35 ~~include, but are not limited to, possible saturation by rains, earth movement, surface water~~
36 ~~runoff, soil erosion, sedimentation, siltation and subsurface conditions such as the~~
37 ~~stratification and faulting of rock, and the nature and type of soil and rock.~~

38 ~~B.— Failure of the Director or his or her designee to observe or recognize hazardous conditions~~
39 ~~or failure to deny the grading permit shall not relieve the owner or the owner's agent from~~

1 responsibility for the conditions or damages resulting from the failures, and shall not result in
2 the City or its officers or agents being responsible for the damages resulting from the failures.

3 ~~C.— No permits shall be issued to any applicant who has outstanding permit or code violations on
4 other projects and activities within the City until those violations have been resolved
5 satisfactorily as determined by the Director or his or her designee.~~

6 **~~17.08.120 – Permit – Suspension or revocation.~~**

7 ~~The director may suspend or revoke any grading or building permits after providing written
8 notification to the permittee based on any of the following reasons:~~

9 ~~A.— Any violation(s) of the terms or conditions of the approved erosion and sediment control
10 plan or permits;~~

11 ~~B.— Noncompliance with violation notice(s) or stop work order(s);~~

12 ~~C.— Changes in site characteristics upon which plan approval and permit issuance were
13 based; or~~

14 ~~D.— Any violation(s) of this chapter or any rules and regulations adopted under it.~~

15 ~~E.— Any violation(s) of the procedures set forth in the standards and specifications.~~

16 **~~17.08.130 – Plan modification.~~**

17 ~~A.— The Anne Arundel Soil Conservation District may revise approved plans as necessary.
18 Modifications may be requested by the owner/developer or department in accordance with the
19 Anne Arundel Soil Conservation District's "major/minor change list for approved sediment
20 and erosion control plans." The director may make minor changes to approved sediment and
21 erosion control plans as listed on the Anne Arundel Soil Conservation District resolution
22 titled, "Major/Minor Change List for Approved Sediment and Erosion Control Plans." Major
23 changes must be approved by the Anne Arundel Soil Conservation District.~~

24 **~~17.08.140 – Expiration, renewal, deadline extension and nontransferability.~~**

25 ~~A.— The applicant has thirty calendar days after the Department's verbal or written notification of
26 permit approval to claim the approved grading permit for issuance, otherwise the permit will
27 be considered void.~~

28 ~~B.— A grading permit expires if no work is commenced within ninety days after issuance. A one-
29 time renewal is permitted within a period of six months after the date of expiration if the
30 conditions under which the permit was issued originally have remained unchanged, except
31 that the construction phase time schedule must be revised. An application for permit renewal
32 shall be made at least two months prior to the permit expiration date, and must be renewed by
33 the Department and Anne Arundel Soil Conservation District. A permit may not be renewed
34 more than once.~~

35 ~~C.— A grading permit and the approved erosion and sediment control plan shall be valid for two
36 years from the date of issuance, unless a shorter time period is designated by the Director or
37 designee.~~

1 ~~D.— If the applicant is unable to complete the work within the time specified in the approved~~
2 ~~application, the applicant shall present a written request for extension to the Director or~~
3 ~~designee within thirty days before the expiration of the permit. The extension request shall set~~
4 ~~forth the reasons for the extension. Where, in the sole discretion of the Director or designee,~~
5 ~~the extension is warranted, the Director may allow additional time as may be necessary to~~
6 ~~complete the approved work.~~

7 ~~E.— No permit issued under this title is transferable without the concurrence of the Director or~~
8 ~~designee. A written request for the transfer shall be submitted by the original applicant and~~
9 ~~the transferee shall acknowledge acceptance of the conditions under which the original permit~~
10 ~~was issued.~~

11 ~~**17.08.150— Floodplain.**~~

12 ~~Grading within the nontidal one hundred year floodplain within open drainage ways shall not~~
13 ~~be permitted, except at the discretion of the Director and only after approval by the appropriate~~
14 ~~State and Federal agencies. Grading within the tidal one hundred year floodplain shall comply~~
15 ~~with all provisions of this chapter and Chapter 17.11, Floodplain Management.~~

16 ~~**17.08.160— Erosion and sediment control— General requirements.**~~

17 ~~A.— Effective control of soil to prevent erosion shall include the following:~~

18 ~~1.— Development shall be fitted to the topography and soils to create the least erosion~~
19 ~~potential.~~

20 ~~2.— Natural vegetation shall be retained wherever possible.~~

21 ~~3.— The smallest practical area of land shall be exposed at any one period during development~~
22 ~~for the shortest practical period of time in order to reduce the amount of land area and the~~
23 ~~duration of soil exposure.~~

24 ~~4.— Temporary vegetation or mulching shall be used to protect soils exposed during the time~~
25 ~~of development.~~

26 ~~5.— Erosion control practices consistent with Standards and Specifications shall be installed~~
27 ~~to minimize soil and water losses.~~

28 ~~6.— During and after development, provisions shall be made to accommodate in an effective~~
29 ~~manner the increased water runoff caused by changes in soil and surface conditions and~~
30 ~~to avoid siltation of receiving streams.~~

31 ~~7.— Satisfactory cover shall be maintained during the life of the project and is subject to~~
32 ~~inspection.~~

33 ~~8.— Roads and streets shall be placed as close to the pre-existing contour as possible in order~~
34 ~~to minimize cutting or filling.~~

35 ~~9.— All graded surfaces, erosion control measures, vegetative covers and other protective~~
36 ~~measures disturbed or destroyed during the course of operations shall be repaired,~~
37 ~~restored and maintained promptly in accordance with the approved plans and~~
38 ~~specifications until permanent measures are accepted by the Department.~~

1 ~~10.—The owner must provide contact information for a person(s) whom is responsible for~~
2 ~~the maintenance of the sediment and erosion control measures, whom is available twenty-~~
3 ~~four hours a day and seven days a week, and whom can respond immediately to resolve~~
4 ~~any emergency or necessary field correction. If said person(s) is unreachable via the~~
5 ~~submitted contact information during an emergency, or unable to perform required~~
6 ~~corrective actions, the owner and/or contractor may be issued a citation.~~

7 ~~B.—The Department shall investigate complaints or accept complaints from any interested party~~
8 ~~and apply their enforcement procedure when violations are confirmed. Any erosion and~~
9 ~~sediment control complaint received shall be acted upon, routinely with three working days,~~
10 ~~and the complainant shall be notified of any action or proposed action routinely within seven~~
11 ~~working days after receipt of the complaint.~~

12 **~~17.08.180—Prohibited discharges and prohibited use of coal tar pavement products.~~**

13 ~~A.—No debris, sediment, wastewater, landscaping/yard waste, refuse, or other pollutant shall be~~
14 ~~deposited in floodplains, water resources, public streets, highways, sidewalks, storm drains,~~
15 ~~or other public thoroughfares per this chapter of the City Code, Maryland Environment Title~~
16 ~~4 as may be amended from time to time, COMAR 26.08.04, unless otherwise permitted by~~
17 ~~the City of Annapolis or the Maryland Department of the Environment. Such materials shall~~
18 ~~be stored properly to minimize any threat of discharge.~~

19 ~~B.—the following applies to all public and private uses of coal tar:~~

20 ~~1.—A person may not sell, offer for sale, use, or permit the use of a coal tar pavement product~~
21 ~~in the City. A property owner who knowingly permits the application of a product~~
22 ~~containing coal tar pavement product on their property shall be in violation of this Section~~
23 ~~and may be cited, in addition to the applicator of the product, pursuant to subsection~~
24 ~~(B)(3).~~

25 ~~2.—The Director shall publish, update as needed, and maintain on its website, a list of~~
26 ~~alternative products for use on asphalt and concrete that do not contain a coal tar~~
27 ~~pavement product.~~

28 ~~3.—Violators of this Section shall be required to remediate the surface of the coal tar~~
29 ~~pavement product. A violation of this Section shall be a municipal infraction and subject~~
30 ~~to a fine as established by resolution of the City Council. Each day that a violation occurs~~
31 ~~shall be considered a separate offense. The penalties set forth in this Section are in~~
32 ~~addition to any other remedies and penalties provided under federal, state, county, or local~~
33 ~~law.~~

34 **~~17.08.200—State and Federal standards for erosion and sediment control.~~**

35 ~~The Standards and Specifications established by the Maryland Department of the~~
36 ~~Environment and any other standards and procedures established by the Anne Arundel Soil~~
37 ~~Conservation District supplement this chapter and establish minimum standards for the control of~~
38 ~~soil erosion and sediment. Failure to comply with these standards is considered a violation of this~~
39 ~~chapter and may lead to revocation of a grading permit in accordance with Section 17.08.110 of~~
40 ~~the City Code.~~

1 **17.08.210—Drainage.**

2 ~~A.—Surface water runoff shall be disposed of or conveyed in accordance with the provisions of~~
3 ~~this section.~~

4 ~~B.—Drainage facilities shall be designed to prevent erosion, uncontrolled overflow, and ponding~~
5 ~~when ponding is not an integral part of the design and function of the drainage facility. The~~
6 ~~water shall be conveyed to an acceptable outlet in accordance with the design criteria,~~
7 ~~standards and procedures required by the Department. The ponding of water is not permitted~~
8 ~~above a cut or fill slope. Adequate drainage facilities shall be provided to prevent ponding~~
9 ~~above a cut or fill slope.~~

10 ~~C.—Surface water or groundwater may not damage the face of a cut or fill. Each slope shall be~~
11 ~~protected from surface water runoff by a berm or swale. Suitable underdrains shall be installed~~
12 ~~to intercept and carry ground water seepage to an acceptable outlet.~~

13 ~~D.—Each area shall be graded to provide for positive drainage away from the building and toward~~
14 ~~the approved disposal area.~~

15 ~~E.—The construction of all structures shall be preceded by the installation of storm drainage~~
16 ~~systems and stabilization measures.~~

17 ~~F.—Stormwater management designs shall comply with Chapter 17.10, Stormwater Management,~~
18 ~~and Chapter 17.11, Floodplain Management.~~

19 **17.08.220—Inspections.**

20 ~~A.—The permittee shall be responsible for maintaining a copy of the approved erosion and~~
21 ~~sediment control plans, and other approved site plans on site.~~

22 ~~B.—The Director or designee may make additional inspections as he or she determines to be~~
23 ~~appropriate. No work approved in accordance with this chapter shall proceed beyond any one~~
24 ~~stage until the Director inspects the site and approves the work previously completed. Upon~~
25 ~~notification from the permittee the inspector shall inspect the site and notify the permittee of~~
26 ~~approval or rejection within forty eight hours (exclusive of Saturdays, Sundays and legal~~
27 ~~holidays). If the inspector does not make an inspection within the specified time period, work~~
28 ~~may proceed. However, it will be without presumption of approval and at the sole risk of the~~
29 ~~permittee.~~

30 ~~C.—Every active site having an approved erosion and sediment control plan should be inspected~~
31 ~~for compliance with the plan on the average of once every two weeks.~~

32 ~~D.—A written report shall be prepared by the Department after every inspection. The report shall~~
33 ~~describe:~~

34 ~~1.—The date and location of the site inspection;~~

35 ~~2.—Whether the approved plan has been properly implemented and maintained;~~

36 ~~3.—Practice deficiencies or erosion and sediment control plan deficiencies;~~

37 ~~4.—If a violation exists, the type of enforcement action taken; and~~

1 ~~5.—If applicable, a description of any modifications to the plan.~~

2 ~~E.—The Director shall notify the on-site personnel, and the owner/developer in writing, when~~
3 ~~violations are observed, describing:~~

4 ~~1.—The nature of the violation;~~

5 ~~2.—The required corrective action; and~~

6 ~~3.—The time period in which to have the violation corrected.~~

7 ~~F.—Department inspection notification is the responsibility of the permittee prior to the~~
8 ~~installation of any public improvements or stormwater management facilities.~~

9 ~~G.—It is a condition of each grading permit that the City, its authorized agents have the right of~~
10 ~~entry to the site in order to inspect periodically for compliance with the approved plan and~~
11 ~~this title.~~

12 ~~H.—In the event of a valid complaint concerning erosion and sediment control, an investigative~~
13 ~~inspection shall be made by the Department within three days of the complaint. A response to~~
14 ~~the complaint shall be made within seven days of the complaint.~~

15 **~~17.08.230 – Supplemental testing and inspections.~~**

16 ~~A.—When required by the Director or his or her designee, inspections and testing shall be~~
17 ~~performed under the direction of a professional engineer who shall certify all inspection~~
18 ~~reports and test results. The reports shall include certification by an engineer of the adequacy~~
19 ~~of:~~

20 ~~1.—Cleared areas and benched or keyed surfaces prepared to receive fills; and~~

21 ~~2.—Removal of unsuitable materials; and~~

22 ~~3.—Construction of erosion control or drainage devices, buttress fills, underdrains, retaining~~
23 ~~walls, and other grading appurtenances; and~~

24 ~~4.—The degree of compaction where tests are performed.~~

25 ~~B.—All certified inspection reports and certified test results shall be submitted periodically to the~~
26 ~~Director during the performance of the work.~~

27 **~~17.08.240 – Existing hazards.~~**

28 ~~Whenever the Director or his or her designee determines that any existing grade, excavation,~~
29 ~~embankment or fill endangers or adversely affects the safety, use or stability of any public or~~
30 ~~private property, or water resource, the owner of the property upon which the condition exists, or~~
31 ~~other person or agent in control of the property, upon receipt of notice in writing from the Director~~
32 ~~or his or her designee, within the period specified in the notice, shall repair or eliminate the~~
33 ~~conditions in order to eradicate the hazard.~~

34 **~~17.08.250 – Appeals.~~**

35 ~~A.—A person aggrieved by an order from the Director or the Director's designee made pursuant~~
36 ~~to this chapter, other than the issuance of a municipal citation or the charging of a~~

1 ~~misdemeanor, may appeal to the Building Board of Appeals within fifteen calendar days of~~
2 ~~the date of the order. The petition for appeal shall be in writing stating the grounds for appeal~~
3 ~~and shall be filed with the Department of Planning and Zoning along with a nonrefundable~~
4 ~~fee in an amount established by the City Council. Any right to appeal shall be waived if not~~
5 ~~timely filed.~~

6 ~~B.— The Building Board of Appeals shall consider the appeal based upon the information~~
7 ~~provided to the Department of Planning and Zoning at the time of the order from which the~~
8 ~~appeal is taking. If the Board finds that the order was in error or contrary to the provisions of~~
9 ~~this code or other applicable law, the Board may reverse or modify the order. The decision of~~
10 ~~the Board on all appeals shall be in writing and shall contain the factual findings of the Board~~
11 ~~and the reasons for the decision.~~

12 ~~C.— A person aggrieved by a decision of the Building Board of Appeals made pursuant to this~~
13 ~~section may appeal that decision to the circuit court for Anne Arundel County pursuant to~~
14 ~~Maryland Rule Title 7, Chapter 200 or its successor. For purposes of this subsection, a person~~
15 ~~shall not be considered aggrieved by a decision of the Board unless the person has appeared~~
16 ~~as a party at the hearing before the Board. An appeal under this section shall be taken within~~
17 ~~thirty days of the date of the decision appealed and shall be the exclusive remedy of the~~
18 ~~aggrieved party from that decision.~~

19 **~~17.08.260 – Enforcement and noncompliance.~~**

20 ~~A.— Whenever a violation of this title is found on any site, whether or not a permit has been~~
21 ~~issued, the Department, or its authorized agent, shall notify the on-site personnel and the~~
22 ~~permittee of the violation, and describe the required corrective action and the time period in~~
23 ~~which to have the violation corrected.~~

24 ~~B.— If the violation persists after the date specified by the Department for corrective action, then~~
25 ~~the Department shall issue a stop work order to on-site personnel and place a stop work order~~
26 ~~on the property.~~

27 ~~C.— Within seven calendar days after the stop work order is issued or placed on site as described~~
28 ~~in this section, a copy of the order shall be sent by certified mail to the permittee and the~~
29 ~~owner. The Department shall determine the extent to which work is stopped, which may~~
30 ~~include all work on the site except that work necessary to correct a violation.~~

31 ~~D.— If, in the judgment of the Department, remedial action has not taken place within the required~~
32 ~~time specified in the certified notification described in this section, the permittee and the~~
33 ~~owner shall be guilty of a municipal infraction and shall be subject to a fine as set by resolution~~
34 ~~of the city council. Each day after the deadline stated in the certified notification shall~~
35 ~~constitute a separate offense.~~

36 ~~E.— The City shall pursue violations that affect secured work as follows:~~

37 ~~1.— Whenever secured work does not comply with or conform to a permit or approved plans~~
38 ~~and specifications and if the City desires to obtain the security posted, a written notice of~~
39 ~~noncompliance shall be sent by certified mail to the permittee and the surety.~~

- 1 ~~2.—The notice shall set forth the nature of the corrections required and the time within which~~
2 ~~the corrections shall be made. If the permittee does not act on the notice within the time~~
3 ~~set forth, a stop work notice shall be posted on the site and except as permitted by the~~
4 ~~Director, no further work is permitted on the site.~~
- 5 ~~3.—If the corrections are not commenced and pursued in a diligent manner within the time~~
6 ~~specified in the notice, the permittee is considered to be in default of the obligations~~
7 ~~imposed by this title, and the City may take immediate action to obtain the security~~
8 ~~posted.~~
- 9 ~~F.—The Department may seek an injunction against any person who violates or threatens to~~
10 ~~violate any provision of this chapter.~~
- 11 ~~G.—In addition to any other sanction under this chapter, a person who fails to install or to maintain~~
12 ~~erosion and sediment controls in accordance with an approved erosion and sediment control~~
13 ~~plan is, under Section 4-116 of the Environment Article, Annotated Code of Maryland, guilty~~
14 ~~of a misdemeanor, and upon conviction in a court of competent jurisdiction is subject to a fine~~
15 ~~not exceeding ten thousand dollars or imprisonment not exceeding one year or both for each~~
16 ~~violation with costs imposed in the discretion of the court. Further, the City may bring a civil~~
17 ~~action against a person for a violation of this chapter, in an amount equal to double the cost of~~
18 ~~installing or maintaining the controls or of any restoration of damage caused to the~~
19 ~~environment.~~
- 20 ~~H.—Any governing authority that recovers damages in accordance with this subsection shall~~
21 ~~deposit them in a special fund, to be used solely for:~~
- 22 ~~1.—Correcting, to the extent possible, the failure to implement or maintain erosion and~~
23 ~~sediment controls, and~~
- 24 ~~2.—Administration of the sediment control program.~~
- 25 ~~I.—Failure to obtain a permit as required in this chapter shall result in a stop work order until the~~
26 ~~appropriate permits have been approved. All work, except for the installation of erosion and~~
27 ~~sediment control measures necessary to contain and stabilize the site, shall cease in~~
28 ~~compliance with the stop work order.~~
- 29 ~~J.—It shall be the responsibility of the owner, contractor or authorized agent to maintain erosion~~
30 ~~and sediment controls at all times during demolition, grading, construction and vacant land~~
31 ~~after hours, weekends and holidays.~~
- 32 ~~K.—Any step in the enforcement process can be taken at any time, depending on the severity of~~
33 ~~the violation.~~
- 34 ~~L.—A person who fails to comply with any or all of the requirements or provisions of this chapter~~
35 ~~or any order or requirement of the Director or any other authorized employee of the City is~~
36 ~~guilty of a municipal infraction and is subject to a fine as established by resolution of the City~~
37 ~~Council for each repeat or continuing violation. Each day after the expiration of the allowed~~
38 ~~remedial work period shall constitute a separate offense. In addition, no other inspections shall~~
39 ~~be made by the Department for the project in question until remedial action has been~~
40 ~~satisfactorily completed and the subject fine has been paid in full.~~

1 ~~17.08.270 – Emergencies.~~

2 A.—Whenever, in the judgment of the Director or his or her designee, an emergency exists which
3 requires immediate action to protect the public health, safety, property or general welfare, an
4 order may be issued without notice, conference or hearing, directing the owner, occupant,
5 operator or agent to take that action appropriate or necessary to correct or abate the emergency.
6 If circumstances warrant, the Director or his or her designee may act to correct or abate the
7 emergency.

8 B.—The owner, occupant, operator or agent shall be granted a conference on the matter upon his
9 or her request as soon as practicable, but the conference shall not stay the abatement or
10 correction of the emergency.

11 ~~17.08.280 – Records and as-built drawings.~~

12 Upon completion of work for which a grading permit was issued, the Department shall require
13 the following:

14 A.—As built drawings;

15 B.—Certification by the owner or the permittee, or, upon request by the Director, by a
16 registered professional, on the as built drawings that grading, drainage structures,
17 utilities, roadways, systems and erosion and sediment control practices, including
18 facilities and vegetative measures, have been completed in conformance with the
19 approved plans and specifications; and

20 C.—Upon request of the Director or his or her designee, a report summarizing the inspection
21 reports, field and laboratory tests, and locations of test and field observations.

22 D.—Surety will not be released until the as-built drawings have been reviewed and approved
23 by the City.

24 ~~17.08.290 – Severability.~~

25 If any portion, section, subsection, sentence, clause or phrase of this title is held invalid or
26 unconstitutional for any reason by any court of competent jurisdiction, that portion shall be
27 considered to be a separate, distinct and independent provision and the holding shall not affect the
28 validity of the remaining portion of this title, it being the intent of the City that this title shall stand,
29 notwithstanding the invalidity of any portion, section, subsection, sentence, clause or phrase.

30 ~~17.08.295 – Grading, erosion, sediment control.~~

31 Unless noted otherwise, any person who violates any section of this chapter shall be guilty of
32 a municipal infraction and is subject to a fine as established by resolution of the City Council. All
33 fines must be paid in full prior to any continuation of work or prior to any further inspections. If a
34 person or entity is found to have violated this section at one or more discrete sites within the City
35 two or more times in any two-year period, such violation shall constitute a repeat violation.

36
37
38 ~~Chapter 17.09 – TREES IN DEVELOPMENT AREAS~~

1 **17.09.010 – Findings.**

2 A. ~~Trees in the landscape provide a productive land use with significant water quality and~~
3 ~~wildlife habitat benefits. Trees also diminish air pollution, reduce noise, moderate temperature~~
4 ~~extremes, and increase property values, but can be affected adversely by indiscriminate~~
5 ~~development.~~

6 B. ~~Inadequate attention during development to the ecologic function of trees can result in~~
7 ~~measurable environmental and economic damage to property.~~

8 C. ~~The City of Annapolis is committed to the coordination of controlled development with~~
9 ~~certain environmental objectives, in compliance with the Chesapeake Bay critical areas~~
10 ~~program as required by Annotated Code of Maryland, Natural Resources Article, Title 8,~~
11 ~~Subtitle 18, (or its successors), and as stated throughout the City Charter and City Code. The~~
12 ~~presence of trees in the landscape helps to achieve these goals.~~

13 **17.09.020 – Purpose.**

14 ~~The purpose of this chapter is to protect and promote the public health, safety, property and~~
15 ~~general welfare by establishing standards of practice for the preservation of trees and the~~
16 ~~environmental design of landscapes in development areas in order to better control soil erosion~~
17 ~~and the transport of sediment, improve the environmental quality of surface and groundwaters,~~
18 ~~screen noise, and preserve, protect and enhance wildlife habitat. This chapter establishes guidelines~~
19 ~~that will permit development while minimizing impact to existing woodland communities and~~
20 ~~encourages reforestation with species native to the area.~~

21 **17.09.025 – Applicability.**

22 A. ~~The requirements of this chapter shall apply for any application for a building and grading~~
23 ~~permit, or any application for a development project requiring site design plan review in~~
24 ~~accordance with the requirements of Chapter 21.22.~~

25 B. ~~Chapter 21.71 of the City Code shall apply to any public or private subdivision plan, or~~
26 ~~application for a grading permit, or any application for a development project requiring site~~
27 ~~design review, or any application for a special exception on areas forty thousand square feet~~
28 ~~or greater, except as provided in Annotated Code of Maryland, Natural Resources Article,~~
29 ~~Section 5-1602(b) (or its successors). Where any provision of the Forest Conservation Act~~
30 ~~and a provision of the City Code both apply, the more restrictive requirements may be~~
31 ~~employed.~~

32 **17.09.030 – Landscape plan.**

33 A. ~~Landscape Plan. Any application for a building or grading permit submitted in accordance~~
34 ~~with the requirements of this title, or any application for a development project requiring site~~
35 ~~design plan review in accordance with the requirements of Chapter 21.22 include a landscape~~
36 ~~plan at a scale of one inch to forty feet. The landscape plan shall be considered a part of the~~
37 ~~permit or site plan design review application and shall be subject to the review requirements~~
38 ~~and administrative procedures of this title or Chapter 21.22, whichever shall apply.~~

39 B. ~~Submittal Requirements. A landscape plan submitted in accordance with this chapter shall~~
40 ~~include:~~

- 41 1. ~~Limits of Disturbance (LOD). Within the limits of disturbance and within fifteen feet of~~
42 ~~the LOD, the location, diameter at breast height (DBH), and species of all existing trees~~
43 ~~equal to or greater than five inches DBH. If the size of the parcel and the number of~~
44 ~~affected trees renders the individual identification of all trees unreasonable, as mutually~~
45 ~~determined by the applicant and the Department of Planning and Zoning, accepted~~

1 ~~methods of forest cruising may be substituted, although all individual trees in excess of~~
2 ~~twelve inches DBH must be individually identified;~~

3 ~~2. Limits of Project Development. Depict building footprints, access drives, parking areas,~~
4 ~~public streets, existing and proposed utilities and stormwater management structures,~~
5 ~~proposed finished grades, and sediment and erosion control structures;~~

6 ~~3. All trees, regardless of size, or tree areas within the legal boundaries of the property~~
7 ~~which are to be preserved for incorporation into the proposed site design, noting all tree~~
8 ~~driplines;~~

9 ~~4. Tree preservation details, in accordance with Sections 17.09.040 and 17.09.050 of this~~
10 ~~chapter;~~

11 ~~5. Locations of trees to be replaced under Section 17.09.070 of this chapter, and areas~~
12 ~~proposed for additional landscaping. The plan shall show:~~

13 ~~a. The tree name, both botanical and common;~~

14 ~~b. Quantity of each species used in the plan;~~

15 ~~c. Caliper measured six inches above ground;~~

16 ~~d. Type of rootstock, and~~

17 ~~e. Typical planting detail;~~

18 ~~6. Proposed and required buffer areas;~~

19 ~~7. Substantive agreement with the site design plan review as required by Chapter 21.22 of~~
20 ~~this code;~~

21 ~~8. Conformance with all applicable sections of this chapter;~~

22 ~~9. Other relevant information as may be required by the Department of Planning and~~
23 ~~Zoning.~~

24 ~~C. Guidelines for Selecting Trees for Preservation. In determining which trees shall be preserved~~
25 ~~in the development process, consideration shall be given to preserving those which:~~

26 ~~1. Complement the project design, including the enhancement of building architecture and~~
27 ~~streetscape appearance;~~

28 ~~2. Exhibit strong branching and rooting capabilities and are disease and insect resistant;~~

29 ~~3. Are tolerant of environmental change, e.g., increased sunlight, heat, wind, alteration of~~
30 ~~water regime;~~

31 ~~4. Provide a good source of food, cover or nesting sites for wildlife, or act as a wildlife~~
32 ~~corridor;~~

33 ~~5. Exist in natural groupings, including islands of trees and wildlife corridors;~~

34 ~~6. Complement stormwater management designs;~~

35 ~~7. Augment or do not conflict with sedimentation and erosion control designs;~~

36 ~~8. Do not conflict with existing utilities or proposed utility installation;~~

37 ~~9. Do not have proposed structures, sidewalks, roads, parking lots etc. within driplines;~~

38 ~~10. Are specimens for the particular species or have recognized significance;~~

39 ~~11. Are within proposed buffer areas;~~

40 ~~12. Are recommended for preservation by Maryland Forest, Parks and Wildlife Service (or~~
41 ~~its successor agencies); or~~

42 ~~13. Are recommended for preservation by the Department of Planning and Zoning for some~~
43 ~~other reason demonstrated to be in furtherance of the purposes of this chapter as set forth~~
44 ~~in Section 17.09.020.~~

1 ~~D.— Conflicting Criteria. In the event that two or more conflicting guidelines are present in the~~
2 ~~evaluation of the preservation of trees on a site, consideration shall be given to those criteria~~
3 ~~most relevant to the planned use of the proposed development.~~

4 ~~E.— Applicability. No cutting, clearing, digging or grading may be undertaken within a~~
5 ~~development area until a landscaping plan has been approved. Neither may any landscaping~~
6 ~~be undertaken until approval of the permit application and subsequent issuance of the permit.~~

7 ~~F.— Replacement Value of Removed/Damaged Trees. Any trees which have been designated for~~
8 ~~preservation on the landscaping plan, or are outside the limits of development, and~~
9 ~~subsequently have been removed or damaged within the boundaries of the property under~~
10 ~~development, or any adjacent properties, shall be replaced consistent with the mitigation~~
11 ~~requirements in Section 17.09.070(C).~~

12 ~~G.— Exceptions:~~

13 ~~1.— A landscape plan shall not be required under the terms of this chapter where the applicant~~
14 ~~can demonstrate clearly that there are no existing trees or tree areas within the proposed~~
15 ~~limits of development.~~

16 ~~2.— A landscaping plan shall not be required for the regular maintenance of existing public~~
17 ~~utilities or the approved installation of public utilities, nor shall a replacement value be~~
18 ~~required or assessed.~~

19 ~~3.— The provisions of this chapter do not apply to projects which were granted special~~
20 ~~exception approval, or building or grading permit approval prior to November 15, 1988,~~
21 ~~provided that they are in conformance with all other approved plans and conditions.~~

22 **~~17.09.040 — Protection of trees before construction.~~**

23 ~~A.— Trees or tree areas that are to be preserved shall be marked visibly in the field prior to clearing~~
24 ~~or construction.~~

25 ~~B.— Protection devices shall be installed prior to clearing or construction, as specified by the~~
26 ~~Department of Planning and Zoning, and shall be shown on the approved plan. Devices may~~
27 ~~include, but not be limited to snow fencing, board fencing, silt fencing, posts, string and~~
28 ~~flagging, water based paint. Protective devices shall be evident and effective. Construction~~
29 ~~personnel shall be notified of the purpose and presence of the protection devices.~~

30 ~~C.— All clearing limits and protective devices are to be inspected and approved by the Department~~
31 ~~of Planning and Zoning prior to commencing clearing and construction. The developer shall~~
32 ~~arrange an on-site inspection prior to commencing grading or clearing.~~

33 **~~17.09.050 — Protection of trees during construction.~~**

34 ~~A.— Grading or filling shall not take place inside the dripline of trees to be preserved, unless~~
35 ~~approved by the Department of Planning and Zoning.~~

36 ~~B.— If grading or filling is proposed inside the dripline of trees to be preserved, root aeration~~
37 ~~practices and/or tree wells or walls shall be used, the design of which shall be approved by the~~
38 ~~Department of Planning and Zoning.~~

39 ~~C.— Trenching and/or tunneling should take place outside of the dripline of trees to be retained.~~

40 ~~D.— Trenching and/or tunneling proposed inside the dripline of trees to be preserved shall be~~
41 ~~accomplished according to procedures which minimize root damage, and must be approved~~
42 ~~by the Department of Planning and Zoning.~~

43 ~~E.— Temporary storage of any construction materials, including fill, gravel, felled trees,~~
44 ~~construction supplies or equipment, within the driplines of protected trees shall be prohibited.~~

1 ~~F.—The routing of heavy equipment, including cars, trucks and bulldozers, and construction~~
2 ~~trailers within the driplines of protected trees shall be prohibited without the consent of the~~
3 ~~Department of Planning and Zoning.~~

4 ~~G.—All sediment and erosion control silt fencing or straw bales shall be placed at the limits of~~
5 ~~grading or in those locations where deposition of sediment is minimized within the driplines~~
6 ~~of trees to be preserved.~~

7 ~~H.—Where a cut is approved within the dripline of trees to be preserved, exposed and/or damaged~~
8 ~~roots are to be trimmed cleanly and covered temporarily with moist peat moss, burlap or other~~
9 ~~suitable material to keep them from drying out.~~

10 ~~I.—Where a fill is approved within the dripline of trees to be preserved, all organic matter is to be~~
11 ~~removed and fertilizer is to be spread according to the Department of Planning and Zoning~~
12 ~~specifications prior to raising the grade.~~

13 ~~J.—No protective devices, signs, utility poles or other objects shall be nailed to any trees which~~
14 ~~are to be preserved.~~

15 ~~K.—Any other action within the dripline of protected trees which may result in the severing of~~
16 ~~roots, compaction of soil or the placing of any substance within the dripline which impedes~~
17 ~~the free access of air and water to tree roots is prohibited without the consent of the~~
18 ~~Department of Planning and Zoning.~~

19 ~~L.—The Department of Planning and Zoning may require other tree protection practices as on-~~
20 ~~site circumstances may dictate.~~

21 ~~M.—If it becomes necessary subsequent to clearing to remove additional trees which were shown~~
22 ~~on the plan to be preserved, the Department of Planning and Zoning shall be notified and must~~
23 ~~grant approval prior to performing any additional clearing.~~

24 **~~17.09.060 – Protection of trees after construction.~~**

25 ~~A.—After construction is completed, temporary barriers, surplus materials and all debris shall be~~
26 ~~removed from protected tree areas.~~

27 ~~B.—Any damage to the crown, trunk or root system of trees remaining on site shall be repaired~~
28 ~~immediately.~~

29 ~~C.—Trees wounded during construction shall have their wounds cleaned, torn bark cut, and the~~
30 ~~wounds properly shaped for healing.~~

31 ~~D.—Any dead or damaged branches are to be removed in a proper manner, as well as any noxious~~
32 ~~vines. Selective pruning may be necessary if cutting, filling, trenching or tunneling was~~
33 ~~undertaken within a tree's dripline, thereby reducing the healthy root area.~~

34 ~~E.—Fertilization may be required where topsoil or surface litter within a tree's dripline has been~~
35 ~~removed, or a tree's root area has been reduced. Any fertilization shall be accomplished~~
36 ~~according to specifications provided by the Department of Planning and Zoning.~~

37 ~~F.—The developer shall arrange an on-site inspection by the Department of Planning and Zoning.~~
38 ~~Approval of post construction tree protection practices shall be required prior to the issuance~~
39 ~~of any use or occupancy permits.~~

40 ~~17.09.070 – Replacement value – Mitigation – Fee in lieu – Exceptions.~~

41 ~~A.—Replacement Trees. It is the intent of this section to ensure that landscaping proposed in~~
42 ~~association with development will reflect the density and species of those trees necessarily~~
43 ~~removed for development. Therefore, trees removed for development shall be replaced~~
44 ~~according to the following requirements:~~

45 ~~1.—The number of trees to be replaced are contained in the following table:~~

1 **Table 17.09.070**
2 **Tree Replacement Requirements**

Plant Material Size	Number to be replaced for number removed: Outside Critical Areas	Number to be replaced for number removed: Intensely Developed Areas	Number to be replaced for number removed: Limited Development Areas	Number to be replaced for number removed: Resource Conservation Areas	Number to be replaced for number removed: 100-foot Buffer Critical Area
Scrub shrub-sapling <1" DBH	no replacement	1 for every 20 square feet	1 for every 40 square feet	Area basis for area basis	*
Trees 1 to <4" DBH	no replacement	1 for 1	1 for 1	Area basis for area basis	*
Trees 4 to <12" DBH	1 for 2	2 for 1	1 for 1	Area basis for area basis	*
Trees 12 to <18" DBH	1 for 1	3 for 1	2 for 1	Area basis for area basis	*
Trees 18 to 24" DBH	2 for 1	4 for 1	3 for 1	Area basis for area basis	*
Trees >24" DBH	3 for 1	6 for 1	4 for 1	Area basis for area basis	*
Additional requirements found in Section	17.09.070	17.09.070 (G)(1-2)	17.09.070 (H)(1-5)	17.09.070 (I)(1-2)	17.09.070 (J)(1-8)

- 3 -
- 4 * Must obtain approved buffer management plan from the Department of Planning and Zoning
- 5 2. ~~One or more trees may be transplanted as replacement trees from areas designated to be~~
- 6 ~~cleared on a development site; however transplanted trees shall only be used when a~~
- 7 ~~professional nursery, landscape contractor, or similar professional qualified to do this~~
- 8 ~~work, is employed to transplant the trees. This professional shall meet with City staff~~
- 9 ~~prior to moving any trees to ensure that the trees to be moved are healthy and suitable for~~
- 10 ~~transplanting.~~
- 11 3. ~~Replacement trees shall be a species native to Maryland and shall be healthy, free of~~
- 12 ~~pests or disease and in good condition. Deciduous species shall be a minimum of two~~
- 13 ~~inches in caliper measured six inches from the ground. Coniferous trees shall be a~~
- 14 ~~minimum of five feet in height. Transplanted trees shall be, at a minimum, of the~~
- 15 ~~approximate size as nursery stock and shall be healthy, free of pests or disease and in~~
- 16 ~~good condition.~~
- 17 4. ~~Any landscaping requirements imposed under other sections of this code shall include~~
- 18 ~~any and all replacement trees.~~

1 ~~5.— Any waiver or modification to these requirements shall be made in accordance with~~
2 ~~Section 17.09.130 of this chapter.~~

3 ~~B.— Mitigation. If the number of trees to be planted, as determined by the tree replacement~~
4 ~~requirements, exceeds the number of trees which can be accommodated practically on site as~~
5 ~~determined by the Department of Planning and Zoning, off site planting may be requested at~~
6 ~~locations as determined by the developer and the Department of Planning and Zoning, or a fee~~
7 ~~in lieu of off site planting may be required as provided in subsection C of this section. Trees~~
8 ~~removed for development within the critical area must be replaced within the critical area.~~

9 ~~C.— Fee in Lieu. Where, pursuant to subsection A of this section, replacement on site is not~~
10 ~~practical and an off site location cannot be determined and agreed upon by the developer and~~
11 ~~the Department of Planning and Zoning, a fee in lieu as set by resolution of the City Council~~
12 ~~may be assessed which is adequate to ensure an equivalent tree replacement as required by~~
13 ~~subsection A of this section. All funds collected by this process will be expended exclusively~~
14 ~~for tree planting and tree maintenance within the City under the auspices of the urban forestry~~
15 ~~program and, wherever possible, within reasonable proximity to the development from which~~
16 ~~fees are collected for planting. Fees in lieu collected for trees removed within the critical area~~
17 ~~shall be expended exclusively for tree planting and tree maintenance within the critical area,~~
18 ~~and if possible within the same creek watershed.~~

19 ~~1.— All funds collected by this process will be expended exclusively for tree planting and~~
20 ~~tree maintenance within the City under the auspices of the urban forestry program and,~~
21 ~~wherever possible, within reasonable proximity to the development from which fees are~~
22 ~~collected for planting.~~

23 ~~2.— Fees in lieu collected for trees removed within the critical area shall be expended~~
24 ~~exclusively for tree planting and tree maintenance within the critical area, and if possible~~
25 ~~within the same creek watershed.~~

26 ~~D.— Exceptions. The following trees removed for development are not subject to the requirements~~
27 ~~of Subsections A, B and C of this section:~~

28 ~~1.— Trees removed for the construction of approved roads and the installation or maintenance~~
29 ~~of public utilities:~~

30 ~~a.— Approved roads include City required public roads and fire lanes, but does not~~
31 ~~include any portion of a parking lot.~~

32 ~~b.— Public utilities include gas, electric, water and sewer main transmission lines, and~~
33 ~~stormwater management structures within required easements.~~

34 ~~2.— Trees which have been confirmed by the Department of Planning and Zoning to be~~
35 ~~hazardous, dead, dying or diseased;~~

36 ~~3.— Trees transplanted from one part of a development site to another.~~

37 ~~E.— General Applicability. Except as provided by Subsection D of this section, the requirements~~
38 ~~of this section apply to all development and construction undertaken pursuant to any grading~~
39 ~~permit or pursuant to any building permit for construction which may involve the disturbance~~
40 ~~of land but for which a grading permit previously was not required.~~

41 ~~F.— Minimum Standards. Afforestation and reforestation as required by the Maryland Forest~~
42 ~~Conservation Act, Annotated Code of Maryland, Natural Resources Article, Title 5, Subtitle~~
43 ~~16 (or its successors) shall be a minimum standard for the replacement and planting of trees~~
44 ~~where Chapter 17.09 of this code applies, regardless of the square footage of the area~~
45 ~~disturbed.~~

1 ~~G.—The locations of intensely developed areas, limited development areas, resource conservation~~
2 ~~areas and the critical area buffer are shown on the approved critical areas map for the City of~~
3 ~~Annapolis and its amendments. Proposed development shall be consistent with the approved~~
4 ~~critical areas plan for the City of Annapolis.~~

5 ~~H.—Additional Standards for Limited Development Areas.~~

6 ~~1.—Under normal circumstances, no more than twenty percent of any forest or woodland~~
7 ~~may be removed from forest use, except as permitted in Subsection (C)(3) of this section.~~
8 ~~The remaining eighty percent shall be maintained through recorded, restrictive covenants~~
9 ~~or similar instruments.~~

10 ~~2.—A developer may clear or develop up to thirty percent of any forest or woodland, provided~~
11 ~~that the afforested area shall be one and one half times the total surface acreage of the~~
12 ~~disturbed forest or developed woodland. The remaining seventy percent shall be~~
13 ~~maintained through recorded, restrictive covenants or other similar instruments.~~

14 ~~3.—If no forest is established on proposed development sites, these sites shall be planted to~~
15 ~~provide a forest or developed woodland cover of at least fifteen percent of the total surface~~
16 ~~area of the site.~~

17 ~~4.—Forests which have been cleared before obtaining a grading permit, or that exceed the~~
18 ~~maximum area allowed in Subsection (C)(3) of this section shall be planted at three times~~
19 ~~the areal extent of the cleared forest.~~

20 ~~5.—The developer shall consider the recommendations of the Maryland Forest, Parks and~~
21 ~~Wildlife Service when planning development on forested lands.~~

22 ~~I.—Additional Standards for Resource Conservation Areas.~~

23 ~~1.—In addition to the requirements of Subsection H of this section, the overall acreage of~~
24 ~~forest and woodland within the resource conservation area may not be decreased.~~

25 ~~2.—Any development within a resource conservation area that requires the cutting or clearing~~
26 ~~of trees must replace the trees on a not less than an equal area basis, except where trees~~
27 ~~are removed according to Subparagraphs 4, 6 and 8 of Subsection J of this section.~~

28 ~~J.—Additional Standards for the Critical Area Buffer.~~

29 ~~1.—A one hundred foot buffer is established landward from the mean high water line of tidal~~
30 ~~waters, tributary streams, and tidal wetlands which is a protected area.~~

31 ~~2.—New development activities, including structures, roads, parking areas and other~~
32 ~~impervious surfaces, mining or related facilities, or septic systems, may not be permitted~~
33 ~~in the buffer, except for those necessarily associated with water dependent facilities.~~

34 ~~3.—The buffer shall be maintained in natural vegetation, but may include planted vegetation~~
35 ~~as approved by the Department of Planning and Zoning where necessary to protect,~~
36 ~~stabilize or enhance the shoreline.~~

37 ~~4.—Cutting of trees or removal of natural vegetation may be permitted where necessary to~~
38 ~~provide access to private piers, or to install and construct a shore erosion protection device~~
39 ~~or measure, or a water dependent facility, provided the device, measure or facility has~~
40 ~~received all necessary City, State, and Federal permits.~~

41 ~~5.—With the concurrence of the Department of Planning and Zoning, individual trees may~~
42 ~~be cut for personal use providing that this cutting does not impair the water quality or~~
43 ~~existing habitat value or other functions of the buffer, and provided that the trees are~~
44 ~~replaced on an equal area basis for each tree cut.~~

1 6. ~~With the concurrence of the Department of Planning and Zoning, individual trees may~~
2 ~~be removed which are in danger of falling and causing damage to dwellings or other~~
3 ~~structures, or which are in danger of falling and therefore causing the blockage of streams,~~
4 ~~or resulting in accelerated shore erosion.~~

5 7. ~~Horticultural practices shall be used to maintain the health of individual trees.~~

6 8. ~~Other cutting techniques may be permitted within the one hundred foot buffer and under~~
7 ~~the advice and guidance of the Department of Planning and Zoning, if necessary to~~
8 ~~preserve the forest from extensive pest or disease infestation or threat from fire.~~

9 K. ~~Forest Preservation Plan. The forest preservation plan as described within the approved~~
10 ~~critical areas program for the City of Annapolis shall be consistent with the provisions of this~~
11 ~~chapter.~~

12 L. ~~Forest Undeveloped Wood Land. Where forests or developed woodland occur within the City~~
13 ~~of Annapolis, local policies and programs for tree cultural operations in the critical area shall~~
14 ~~be consistent with the critical area program of the City of Annapolis.~~

15 M. ~~Applicability. The requirements of this section are in addition to, and not in lieu of, any and~~
16 ~~all requisites of this chapter.~~

17 N. ~~Restrictions. The requirements of this section do not restrict the removal of hazardous, dead,~~
18 ~~dying or diseased trees, although replacement may be required as determined by the~~
19 ~~Department of Planning and Zoning, nor are accepted horticultural practices restricted.~~

20 O. ~~Variance Procedures. Variance procedures shall be in accordance with the approved critical~~
21 ~~areas plan of the City of Annapolis.~~

22 P. ~~Minimum Standards. The provisions of the Maryland Forest Conservation Act, Annotated~~
23 ~~Code of Maryland, Natural Resources Article, Title 5, Subtitle 16, (or its successors) do not~~
24 ~~apply to the critical area, except that afforestation and reforestation as required by the Act~~
25 ~~shall be a minimum standard for the replacement and planting of trees.~~

26 **17.09.080 – Critical area.**

27 **17.09.090 – Natural and landscaped buffers.**

28 A. ~~Guidelines for the Design of Areas Designated as Natural or Landscaped Buffers. The criteria~~
29 ~~set forth in this section shall be taken into consideration in the design of all buffer areas shown~~
30 ~~on the landscaping plan required by Section 17.09.030, including all buffers included to satisfy~~
31 ~~the requirements of Section 21.62.030 of this code.~~

32 1. ~~The primary purpose of the buffer shall be defined on the landscaping plan and the natural~~
33 ~~or landscaped buffer shall reflect that definition. The purpose of a buffer may include, but~~
34 ~~not be limited to, urban streetscape beautification, enhancement of building architecture,~~
35 ~~visual shielding, noise reduction, wildlife habitat enhancement, and water quality~~
36 ~~management.~~

37 2. ~~A defined buffer shall comply with the standards for tree preservation as defined in~~
38 ~~Section 17.09.030(B).~~

39 3. ~~Within the critical area, the buffer shall be consistent with the requisites for habitat~~
40 ~~protection areas in the critical area (Section 17.09.080(E) of this chapter).~~

41 4. ~~The buffer shall have vertical stratification, i.e., canopy layer, understory and shrub layer,~~
42 ~~as needed to reflect the stated purpose of the buffer.~~

43 5. ~~The buffer shall have continuous plantings and/or existing vegetation within the~~
44 ~~designated buffer area, as needed to reflect the stated purpose of the buffer.~~

- 1 6. ~~The buffer shall be designed in full cognizance of any utility plans, stormwater~~
2 ~~management plans, sedimentation and erosion control plans, and grading plans. Wherever~~
3 ~~architecturally or engineeringly possible, interference with designated buffer areas is to~~
4 ~~be avoided.~~
- 5 7. ~~Plantings within the buffer area shall not impair access to utilities for their maintenance~~
6 ~~and repair.~~
- 7 8. ~~Plantings may not be within or atop any stormwater management structures, but shall be~~
8 ~~placed to complement their function, if possible.~~
- 9 9. ~~Where a designated buffer area adjoins other landscaped or natural areas, the developer~~
10 ~~shall blend the proposed buffer with existing adjacent conditions, with particular attention~~
11 ~~to the necessity to provide wildlife corridors.~~
- 12 10. ~~Any landscaping of the designated buffer area shall occur after the placement of~~
13 ~~sidewalks, roads, driveways, utilities and stormwater management structures which may~~
14 ~~affect the buffer, and after final grade has been established.~~
- 15 11. ~~Trees required to be replaced on-site according to Section 17.09.070(A) and (B) shall~~
16 ~~be placed, as a first priority, within designated buffer areas if additional planting in the~~
17 ~~buffer is stipulated.~~
- 18 12. ~~Any changes made in the field to a designated buffer area must first be approved by the~~
19 ~~Department of Planning and Zoning.~~
- 20 13. ~~Natural and landscaped buffers within the critical area shall be subject to the requisites~~
21 ~~of Sections 17.09.080 in addition to the requisites of this section. If there are any~~
22 ~~inconsistencies between these sections, the more restrictive shall apply.~~

23 **17.09.100 – Landscape standards.**

- 24 A. ~~All designated buffer areas, as well as all other on-site natural or landscaped areas, shall be~~
25 ~~consistent with Chapter 14.12, and Sections 20.24.160 and 21.62.120 where applicable. If~~
26 ~~there are any inconsistencies between these sections, the more restrictive shall prevail.~~
- 27 B. ~~The developer/owner is responsible for the purchase, planting, care and maintenance of all~~
28 ~~trees planted in accordance with this chapter, except for the care and maintenance of trees~~
29 ~~planted off-site pursuant to Section 17.09.070(B). Additionally, the developer/owner is not~~
30 ~~responsible for the care and maintenance of trees and shrubs planted for a single family or~~
31 ~~two family attached or detached home after sale of the home by the builder or developer to~~
32 ~~the initial consumer. All trees of nursery stock installed according to the requisites of this~~
33 ~~chapter must be listed on the State and/or City recommended tree list and shall meet American~~
34 ~~Association of Nurserymen standards for nursery stock.~~
- 35 C. ~~The Department of Planning and Zoning may require that the installation of all improvements~~
36 ~~as noted on the approved landscape plan be bonded, including those trees designated for~~
37 ~~preservation, and excluding those trees transplanted from one location on-site to another, and~~
38 ~~excepting those trees to be planted off-site pursuant to Section 17.09.070(B). On the~~
39 ~~satisfactory completion of the improvements as noted on the approved landscape plan, the~~
40 ~~security described in this section shall be released; provided, however, that a one year~~
41 ~~maintenance bond or other appropriate security be substituted in an amount to be determined~~
42 ~~by the Director, which amount shall be not more than ten percent of the cost of installation of~~
43 ~~the improvements. The amount of this bond or other security shall be reduced to reflect the~~
44 ~~portion attributable to those trees on a lot with a single family or two family attached or~~
45 ~~detached home after the sale of that home by the developer or building to the initial consumer.~~

1 Any waiver or modification to these requirements shall be made in accordance with Section
2 17.09.130 of this chapter.

3 **17.09.110 – Easements.**

4 In the case of new development, easements may be sought for use as buffer or landscaped
5 areas and are subject to the intent of this chapter. These easements shall be indicated on the plat of
6 record and granted to all property owners within the development area, and shall require property
7 owners to maintain the buffer and/or landscaped area in accordance with the approved landscape
8 plan.

9 **17.09.120 – Landscaping plans – Approvals – Inspections.**

10 A. Plans. In accordance with Section 17.09.030 of this chapter, landscaping plans shall be
11 submitted for review to the Department of Planning and Zoning.

12 B. Approvals.

13 1. No cutting, clearing, digging or grading may be undertaken until a landscape plan has
14 been approved. No landscaping may be undertaken until the approval of the landscape
15 plan.

16 2. Where development is proposed within the critical area, all plans must be consistent with
17 the approved critical area program for the City of Annapolis.

18 3. Plan approvals or disapprovals shall be made in writing by the City of Annapolis
19 Department of Planning and Zoning to the applicant.

20 C. Inspections.

21 1. Work which may affect tree areas designated for preservation may not proceed to the
22 next phase of construction until the Department of Planning and Zoning approves tree
23 protection measures pursuant to Sections 17.09.040, 17.09.050 and 17.09.060.

24 2. Areas designated as buffers shall be inspected by the Department of Planning and Zoning
25 for agreement with the approved buffer site plan. Occupancy and/or use permit approvals
26 shall be contingent upon the favorable inspection of buffer areas.

27 3. The project site shall be inspected by the Department of Planning and Zoning for
28 agreement with the approved landscape plan. Occupancy and/or use permit approvals
29 shall be contingent upon the favorable inspection of the project site.

30 4. Any bonds required by the City of Annapolis for landscaping will be reduced upon the
31 final inspections by the Department of Planning and Zoning, or at that time that the
32 landscape requirements are met by the developer/applicant.

33 **17.09.130 – Waiver or modification.**

34 A. The Director of Planning and Zoning, may waive or modify the minimum requirements set
35 forth in this chapter if it can be demonstrated by the applicant that:

36 1. Special practices may be undertaken which will meet the intent of this chapter but not
37 the minimum requirements as strictly interpreted; or

38 2. Special circumstances exist which prevent the applicant from meeting the minimum
39 requirements as strictly interpreted.

40 B. The Director of Planning and Zoning may not waive or modify, under the provisions of this
41 section, any existing City or State requirements.

42 C. Any applicant aggrieved by refusal to grant a waiver or modification of any of the
43 requirements of this chapter by the Director of Planning and Zoning may appeal the decision
44 to the Building Board of Appeals within fifteen working days of the decision.

45 **17.09.140 – Enforcement – Violation – Penalties.**

- 1 ~~A.— Enforcement. The administration and enforcement of this chapter shall be the responsibility~~
2 ~~of the Department of Planning and Zoning.~~
- 3 ~~B.— Violation. Violation of this chapter may be cause for the developer to be required to stop~~
4 ~~work until a satisfactory resolution is established by the Department of Planning and Zoning~~
5 ~~and the developer.~~
- 6 ~~C.— Penalties. Any developer who violates this chapter is guilty of a municipal infraction and is~~
7 ~~subject to a fine as established by resolution of the City Council. The unapproved removal of~~
8 ~~a single tree constitutes a single violation and each day a violation continues without~~
9 ~~abatement or mitigation will be considered a separate violation with fines as established by~~
10 ~~resolution of the City Council. If any trees shown to be preserved on the approved plan~~
11 ~~subsequently are removed or are dead or dying because of acts of negligence by a developer,~~
12 ~~this shall be considered a violation and fines shall be assessed. The trees shall be replaced by~~
13 ~~the developer, or the developer shall be assessed a fee in lieu. The size, species and quantity~~
14 ~~of replacement trees or fee in lieu shall be specified by the Department of Planning and Zoning~~
15 ~~and shall be consistent with Section 17.09.070(C). If necessary, off-site locations identified~~
16 ~~by the Department may be utilized if there are constraints on the site. Replacement shall be~~
17 ~~within a time frame specified by the Department of Planning and Zoning.~~
- 18 ~~D.— Replacement Trees. In addition to any other penalty or requirement that may be imposed~~
19 ~~under this section, if any trees shown to be preserved on the approved plan subsequently are~~
20 ~~removed or are dead or dying because of acts of negligence by a developer, they shall be~~
21 ~~replaced by the developer. The size, species and quantity of replacement trees shall be~~
22 ~~specified by the Department of Planning and Zoning based upon Section 17.09.070(C). The~~
23 ~~quantity shall be dictated by the constraints of the site. Replacement shall be within a time~~
24 ~~frame specified by the Department of Planning and Zoning.~~
- 25 ~~E.— Appeals. The Building Board of Appeals shall consider appeals from the provisions of this~~
26 ~~chapter from the determination of the Director of Planning and Zoning in the manner specified~~
27 ~~in the Building Code. The Board may make determinations of alternative methods, standards~~
28 ~~or materials when, in its opinion, strict compliance with this chapter is unnecessary. The~~
29 ~~provisions of this subsection shall not apply to any municipal citation issued pursuant to~~
30 ~~section.~~

31 ~~Chapter 17.10 – STORMWATER MANAGEMENT~~

32 ~~17.10.010 – Purpose, application and authority.~~

- 33 ~~A.— The purpose of this chapter is to protect and promote the public health, safety and general~~
34 ~~welfare through the management of stormwater, to protect public and private property from~~
35 ~~damage, to reduce the effects of land use changes on stream channel erosion, to maintain and~~
36 ~~assist in the improvement of water quality, and to preserve and enhance the environmental~~
37 ~~quality of streams and stream valleys. It is the expressed intent of this chapter to require that~~
38 ~~stormwater management, as it addresses water quality, be provided for all developed land~~
39 ~~within the City. The provisions of this chapter are adopted pursuant to Annotated Code of~~
40 ~~Maryland, Environment Article, Title 4, Subtitle 2, (or its successors) and the Charter of the~~
41 ~~City of Annapolis and shall apply to all development occurring within the corporate limits of~~
42 ~~the City of Annapolis.~~
- 43
- 44

1 ~~B.—The application of this chapter and the requirements set forth herein shall be the minimum~~
2 ~~stormwater management requirements applicable in the City and shall not be deemed a~~
3 ~~limitation or repeal of any other powers granted by State statute.~~

4 ~~C.—The City of Annapolis, Department of Public Works shall be responsible for the~~
5 ~~administration and enforcement of the provisions of this chapter.~~

6 ~~D.—This chapter applies to all new and redevelopment projects that have not received final~~
7 ~~approval for erosion and sediment control and stormwater management plans by May 4, 2010.~~

8 ~~**17.10.020 – Department of Public Works – Duties.**~~

9 ~~The Department of Public Works shall be responsible for the enforcement of the provisions~~
10 ~~of this chapter.~~

11 ~~**17.10.030 – Director of Public Works – Authority.**~~

12 ~~In addition to such other authority as may be assigned to the Director Public of Works,~~
13 ~~pursuant to this chapter, all stormwater management plans required by this chapter are subject to~~
14 ~~the approval of the Director. The Director of Public Works may include in the approval of such~~
15 ~~plans, any recommendation of the Anne Arundel Soil Conservation District that the Director of~~
16 ~~Public Works determines to be appropriate.~~

17 ~~**17.10.040 – Guide for stormwater management.**~~

18 ~~The 2000 Maryland Stormwater Design Manual, Volumes I & II (Maryland Department of~~
19 ~~the Environment, April 2000) and all subsequent revisions, and the USDA Natural Resources~~
20 ~~Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000)~~
21 ~~shall serve as the guide for stormwater management principles, methods, and practices in the City~~
22 ~~of Annapolis.~~

23 ~~**17.10.050 – Definitions.**~~

24 ~~For the purpose of this chapter, the following terms shall have the definitions indicated:~~

25 ~~A.—"Administration" means the Maryland Department of the Environment (MDE) Water~~
26 ~~Management Administration (WMA).~~

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

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

- 1 D. ~~"Applicant" means any person, firm, or governmental agency that executes the necessary~~
2 ~~forms to procure official approval of a project or of a permit to carry out construction of~~
3 ~~a project.~~
- 4 E. ~~"Approving agency" means the entity responsible for the review and approval of~~
5 ~~stormwater management plans.~~
- 6 F. ~~"Aquifer" means a porous water bearing geologic formation generally restricted to~~
7 ~~materials capable of yielding an appreciable supply of water.~~
- 8 G. ~~"Best management practices" (BMP) means a structural or nonstructural practice~~
9 ~~designed to temporarily store or treat stormwater runoff in order to mitigate flooding,~~
10 ~~reduce pollution, and provide other amenities.~~
- 11 H. ~~"Channel protection storage volume (CPV)" means the volume used to design structural~~
12 ~~management practices to control stream channel erosion. Methods for calculating the~~
13 ~~channel protection storage volume are specified in the 2000 Maryland Stormwater Design~~
14 ~~Manual, Volumes I & II.~~
- 15 I. ~~"Clearing" means the removal of trees and brush from the land but shall not include the~~
16 ~~ordinary mowing of grass.~~
- 17 J. ~~"Design manual" means the 2000 Maryland Stormwater Design Manual Volumes I & II~~
18 ~~(Maryland Department of the Environment, April 2000), and all subsequent revisions,~~
19 ~~that serves as the official guide for stormwater management principles, methods, and~~
20 ~~practices.~~
- 21 K. ~~"Detention structure" means a permanent structure for the temporary storage of runoff,~~
22 ~~which is designed so as not to create a permanent pool of water.~~
- 23 L. ~~"Develop land" means to change the runoff characteristics of a parcel of land in~~
24 ~~conjunction with residential, commercial, industrial, or institutional construction or~~
25 ~~alteration.~~
- 26 M. ~~"Direct discharge" means the concentrated release of stormwater to tidal waters or~~
27 ~~vegetated tidal wetlands from new development or redevelopment projects in the Critical~~
28 ~~Area.~~
- 29 N. ~~"Drainage area" means that area contributing runoff to a single point measured in a~~
30 ~~horizontal plane, which is enclosed by a ridgeline.~~
- 31 O. ~~"Easement" means a grant or reservation by the owner of land for the use of such land~~
32 ~~by others for a specific purpose or purposes, and which must be included in the~~
33 ~~conveyance of land affected by such easement.~~
- 34 P. ~~"Environmental site design (ESD)" means using small-scale stormwater management~~
35 ~~practices, nonstructural techniques, and better site planning to mimic natural hydrologic~~
36 ~~runoff characteristics and minimize the impact of land development on water resources.~~
37 ~~Methods for designing ESD practices are specified in the Design Manual.~~
- 38 Q. ~~"Exemption" means those land development activities that are not subject to the~~
39 ~~stormwater management requirements contained in this chapter.~~

- 1 R.—~~"Extended detention" means a stormwater design feature that provides gradual release~~
2 ~~of a volume of water in order to increase settling of pollutants and protect downstream~~
3 ~~channels from frequent storm events. Methods for designing extended detention BMP's~~
4 ~~are specified in the Design Manual.~~
- 5 S.—~~"Extreme flood volume (Q_f)" means the storage volume required controlling those~~
6 ~~infrequent but large storm events in which overbank flows reach or exceed the boundaries~~
7 ~~of the one hundred-year floodplain.~~
- 8 T.—~~"Final stormwater management plan" means the last of three required plan approvals that~~
9 ~~includes all required information to allow all approvals and permits to be issued by the~~
10 ~~approving agency.~~
- 11 U.—~~"Flow attenuation" means prolonging the flow time of runoff to reduce the peak~~
12 ~~discharge.~~
- 13 V.—~~"Grading," means any act by which soil is cleared, stripped, stockpiled, excavated,~~
14 ~~scarified, filled or any combination thereof.~~
- 15 W.—~~"Impervious area" means any surface that does not allow stormwater to infiltrate into~~
16 ~~the ground.~~
- 17 X.—~~"Infiltration" means the passage or movement of water into the soil surface.~~
- 18 Y.—~~"Maximum extent practicable (MEP)" means designing stormwater management~~
19 ~~systems so that all reasonable opportunities for using ESD planning techniques and~~
20 ~~treatment practices are exhausted and only where absolutely necessary, a structural BMP~~
21 ~~is implemented.~~
- 22 Z.—~~"Modification" means the change to the minimum stormwater management requirements~~
23 ~~for specific circumstances granted by the Director of Public Works based upon a showing~~
24 ~~by the applicant that strict adherence to the requirements would result in an unreasonable~~
25 ~~necessary hardship and not fulfill the intent of this chapter.~~
- 26 AA.—~~"New development" means any construction, alteration, or improvement exceeding~~
27 ~~five thousand square feet of land disturbance performed on sites where existing land use~~
28 ~~is rural, agricultural or single family residential or any site with impervious coverage of~~
29 ~~less than forty percent imperviousness.~~
- 30 BB.—~~"Off-site stormwater management" means the design and construction of a stormwater~~
31 ~~management facility necessary to control stormwater from more than one development.~~
- 32 CC.—~~"On-site stormwater water management" means the design and construction of~~
33 ~~facilities necessary to control stormwater within a site.~~
- 34 DD.—~~"Overbank flood protection volume (Q_p)" means the volume controlled by structural~~
35 ~~practices to prevent an increase in the frequency of out of bank flooding generated by~~
36 ~~development. Methods for calculating the overbank flood protection volume are specified~~
37 ~~in the design manual.~~
- 38 EE.—~~"Person" means the Federal government, the State, any county, municipal corporation,~~
39 ~~or other political subdivision of the State, or any of their units, or an individual receiver,~~

- 1 trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any
2 partnership, firm, association, public or private corporation, or any other entity.
- 3 ~~FF. "Planning techniques" means a combination of strategies employed early in project
4 design to reduce the impact from development and to incorporate nature features into a
5 stormwater management plan.~~
- 6 ~~GG. "Recharge volume (Rev)" means that portion of the water quality volume used to
7 maintain groundwater recharge rates at development sites. Methods for calculating the
8 recharge volume are specified in the Design Manual.~~
- 9 ~~HH. "Redevelopment" means any construction, alteration, or improvement exceeding five
10 thousand square feet of land disturbance performed on sites where existing land use is
11 commercial, industrial, institutional, multifamily residential and existing site impervious
12 area exceeds forty percent.~~
- 13 ~~H. "Regional stormwater management facility" means a stormwater management facility
14 intended to control stormwater runoff from several separately owned parcels or
15 developments within a watershed. "Regional stormwater management facility" does not
16 include multi lot stormwater management facilities, subdivision facilities or other
17 stormwater management facilities constructed in connection with development or
18 redevelopment, whether concurrently or in phases, of a site, or contiguous sites, by a
19 single owner or a single owner's successor in title.~~
- 20 ~~JJ. "Retention structure" means a permanent structure that provides for the storage of runoff
21 by means of a permanent pool of water.~~
- 22 ~~KK. "Retrofitting" means the implementation of ESD practices, the construction of a
23 structural BMP in a previously developed area, the modification of an existing structural
24 BMP, or the implementation of a nonstructural practice to improve water quality over
25 current conditions.~~
- 26 ~~LL. "Sediment" means soils or other surficial materials transported or deposited by the
27 action of wind, water, ice, or gravity as a product of erosion.~~
- 28 ~~MM. "Site" means any tract, lot, or parcel of land, or combination of tracts, lots, parcels of
29 land that are in one ownership, or are contiguous and in diverse ownership, where
30 development is to be performed as part of a unity, subdivision, or project.~~
- 31 ~~NN. "Site development plan" means the second of three required plan approvals that
32 includes the information necessary to allow a detailed evaluation of a proposed project.~~
- 33 ~~OO. "Stabilization" means the prevention of soil movement by any of various vegetative
34 and/or structural means.~~
- 35 ~~PP. "Stormwater" means water that originates from a precipitation event.~~
- 36 ~~QQ. "Stormwater management system" means natural areas, ESD practices, stormwater
37 management measures, and any other structure through which stormwater flows,
38 infiltrates, or discharges from a site.~~
- 39 ~~RR. "Stripping" means any activity that removes the vegetative surface cover including tree
40 removal, clearing, grubbing and storage or removal of topsoil.~~

1 ~~SS. "Waiver" means the relinquishment from stormwater management requirements by the~~
2 ~~Director of Public Works for a specific development on a case-by-case review basis.~~

3 ~~1. "Qualitative stormwater management waiver" means a reduction of water quality~~
4 ~~volume and recharge volume parameters.~~

5 ~~2. "Quantitative stormwater management waiver" means a reduction of channel~~
6 ~~protection storage volume, overbank flood protection volume, and extreme flood~~
7 ~~volume design parameter.~~

8 ~~TT. "Watercourse" means any natural or artificial stream, river, creek, ditch, channel, canal,~~
9 ~~conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent~~
10 ~~area that is subject to inundation from overflow or flood water.~~

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

12 ~~VV. "Water quality volume (WQv)" means the volume needed to capture and treat the~~
13 ~~runoff from ninety percent of the average annual rainfall at a development site. Methods~~
14 ~~for calculating the water quality volume are specified in the design manual.~~

15 ~~**17.10.060 - Application.**~~

16 ~~A. Scope. No person shall develop any land for residential, commercial, industrial, or~~
17 ~~institutional uses without having provided stormwater management measures that control or~~
18 ~~manage runoff from such development, except as provided within this chapter. The~~
19 ~~stormwater management measures shall be designed consistent with the design manual and~~
20 ~~shall be constructed according to: (i) for new development, the policies stated in Section~~
21 ~~17.10.080(A), or (ii) for redevelopment, the policies stated in Section 17.10.080(B).~~

22 ~~B. Application Required.~~

23 ~~1. Preliminary approval may not be granted for any subdivision plat unless an applicant~~
24 ~~includes preliminary stormwater management plans and designs as required by the~~
25 ~~Director of Public Works for the proposed on-site development and for related off-site~~
26 ~~stormwater controls according to the provisions of this chapter.~~

27 ~~2. Final approval may not be granted for a subdivision plat unless an applicant includes~~
28 ~~stormwater management plans and designs for the proposed development in sufficient~~
29 ~~detail as required by the Director of Public Works according to the provisions of this~~
30 ~~chapter. Easements shall be platted and recorded for all stormwater management facilities~~
31 ~~as required by the Director of Public Works. Stormwater management facilities shall be~~
32 ~~publicly owned and maintained upon the request of the Director of Public Works and in~~
33 ~~accordance with the City's watershed management program.~~

34 ~~3. An application for a building or grading permit shall include a stormwater water~~
35 ~~management plan in accordance with the provisions of this chapter providing for~~
36 ~~stormwater management of the applicant's proposed development or redevelopment. No~~
37 ~~building or grading permit may be issued unless a stormwater management plan for the~~
38 ~~development or redevelopment has been approved by the Director of Public Works~~
39 ~~according to the provisions of this chapter. Construction of the development or~~

1 redevelopment shall be in accordance with the stormwater management plan approved
2 by the Director.

3 **17.10.070 – Exemptions.**

4 The following development activities are exempt from the provisions of this chapter and are
5 not required to provide stormwater management:

6 A. — Agricultural land management activities;

7 B. — An addition or modification to an existing single family detached residential structure
8 provided the addition or modification complies with Subsection C or D of this section;

9 C. — Development on a non-waterfront lot that does not disturb more than five thousand
10 square feet of land area except in the case of a new single family dwelling which is not
11 exempted from the requirements of this chapter regardless of the extent of the area of
12 disturbance;

13 D. — Development on a waterfront lot that does not disturb more than two thousand square
14 feet of land area and does not require a grading permit, except in the case of a new single
15 family dwelling which is not exempted from the requirements of this chapter regardless
16 of the extent of the area of disturbance;

17 E. — Any land development activity that the Administration determines is regulated by
18 specific State laws governing the management of stormwater runoff.

19 **17.10.080 – Stormwater management criteria.**

20 A. — The minimum control requirements established in this section and the Design Manual are as
21 follows:

22 1. — The Department of Public Works requires that the planning techniques, nonstructural
23 practices, and design methods specified in the Design Manual are to be used to implement
24 ESD to the MEP. The use of ESD planning techniques and treatment practices must be
25 exhausted before any structural BMP is implemented. Stormwater management plans for
26 development projects subject to this Ordinance shall be designed using ESD sizing
27 criteria, recharge volume, water quality volume, and channel protection storage volume
28 criteria according to the Design Manual. The MEP standard is met when channel stability
29 is maintained, predevelopment groundwater recharge is replicated, nonpoint source
30 pollution is minimized, and structural stormwater management practices are used only if
31 determined to be absolutely necessary.

32 2. — Control of the two and ten year frequency storm event shall be required according to the
33 design manual if the Department of Public Works determines that historical flooding
34 problems exist and impact existing downstream floodplain development.

35 3. — The Director of the Department of Public Works may require more than the minimum
36 control requirements specified in this section if hydrologic or topographic conditions
37 warrant or if flooding, stream channel erosion, or water quality problems exist
38 downstream from a proposed project.

1 ~~4.—Alternative minimum control requirements may be adopted subject to Administration~~
2 ~~approval. The Administration shall require a demonstration that alternative requirements~~
3 ~~will implement ESD to the MEP and control flood damages, accelerated stream erosion,~~
4 ~~water quality, and sedimentation. Comprehensive watershed studies may also be required.~~

5 ~~5.—Stormwater management and development plans where applicable, shall be consistent~~
6 ~~with adopted and approved watershed management plans or flood management plans as~~
7 ~~approved by the Maryland Department of the Environment in accordance with the Flood~~
8 ~~Hazard Management Act of 1976.~~

9 ~~B.—In the case of redevelopment, every stormwater management plan shall satisfy the following~~
10 ~~requirements:~~

11 ~~1.—The stormwater management plan shall be consistent with the Design Manual.~~

12 ~~2.—The stormwater management plan shall reduce existing site impervious areas by at least~~
13 ~~fifty percent. Where site conditions prevent the reduction of impervious area by fifty~~
14 ~~percent, the stormwater management plan shall provide qualitative control for at least~~
15 ~~fifty percent of the site's existing impervious area. When a combination of impervious~~
16 ~~area reduction and stormwater practice implementation is used, the combined area shall~~
17 ~~equal or exceed fifty percent of the site's impervious area. Any permit application legally~~
18 ~~submitted prior to April 9, 2007, shall meet the requirements of the unamended~~
19 ~~regulation.~~

20 ~~3.—Upon application by the owner or his or her agent, the Director of Public Works may~~
21 ~~waive the requirements of the preceding paragraph if hydrologic and hydraulic design~~
22 ~~conditions prevent impervious area reduction or on site stormwater management.~~
23 ~~Waivers shall be consistent with Section 17.10.120 of this Code. In granting such a~~
24 ~~waiver, the Director shall direct the applicant to the following practical alternatives:~~

25 ~~a.—Off-site BMP implementation for a drainage area at least one and one-half times the~~
26 ~~size and percent imperviousness to that of the project;~~

27 ~~b.—Watershed or stream restoration;~~

28 ~~c.—Retrofitting; and/or~~

29 ~~d.—Other practices to reduce impervious surfaces or the impact of stormwater runoff not~~
30 ~~inconsistent with the purposes of this chapter.~~

31 ~~4.—The Department of Public Works may develop separate policies for providing water~~
32 ~~quality treatment for redevelopment projects. Any separate redevelopment policy shall~~
33 ~~be reviewed and approved by the Administration and may include, but not be limited to:~~

34 ~~a.—A combination of ESD and an on-site or off-site structural BMP;~~

35 ~~b.—Retrofitting including existing BMP upgrades, filtering practices, and off-site ESD~~
36 ~~implementation;~~

37 ~~c.—Participation in a stream restoration project;~~

38 ~~d.—Pollution trading with another entity;~~

39 ~~e.—Payment of a fee in lieu; or~~

1 f. ~~A partial waiver of the treatment requirements if ESD is not practicable.~~

2 5. ~~The determination of what alternatives will be available may be made by the Department~~
3 ~~of Public Works at the appropriate point in the development review process. The~~
4 ~~Department shall consider the prioritization of alternatives in Section~~
5 ~~17.10.08[0].B.4. of this Code after it has been determined that it is not practicable to meet~~
6 ~~the 2009 regulatory requirements using ESD. In deciding what alternatives may be~~
7 ~~required, the Department may consider factors including, but not limited to:~~

8 a. ~~Whether the project is in an area targeted for development incentives such as a~~
9 ~~Priority Funding Area, a designated Transit Oriented Development area, or a~~
10 ~~designated Base Realignment and Closure Revitalization and Incentive Zone;~~

11 b. ~~Whether the project is necessary to accommodate growth consistent with~~
12 ~~comprehensive plans; or~~

13 c. ~~Whether bonding and financing have already been secured based on an approved~~
14 ~~development plan.~~

15 **~~17.10.085 – Stormwater management measures.~~**

16 ~~The ESD planning techniques and practices and structural and nonstructural stormwater~~
17 ~~management measures established in this section shall be used, either alone or in a combination,~~
18 ~~in developing a stormwater management plan.~~

19 1. ~~ESD Planning Techniques and Practices.~~

20 a. ~~The following planning techniques shall be applied according to the Design Manual~~
21 ~~to satisfy the applicable minimum control requirements established in 17.10.080 of~~
22 ~~this Ordinance:~~

23 i. ~~Preserving and protecting natural resources;~~

24 ii. ~~Conserving natural drainage patterns;~~

25 iii. ~~Minimizing impervious area;~~

26 iv. ~~Reducing runoff volume;~~

27 v. ~~Using ESD practices to maintain one hundred percent of the annual~~
28 ~~predevelopment groundwater recharge volume;~~

29 vi. ~~Using green roofs, permeable pavement, reinforced turf, and other alternative~~
30 ~~surfaces;~~

31 vii. ~~Limiting soil disturbance, mass grading, and compaction;~~

32 viii. ~~Clustering development; and~~

33 ix. ~~Any practices approved by the Administration.~~

34 b. ~~The following ESD treatment practices shall be designed according to the Design~~
35 ~~Manual to satisfy the applicable minimum control requirements established in~~
36 ~~Section 17.10.080 of this Ordinance:~~

37 i. ~~Disconnection of rooftop runoff;~~

- 1 ii.— ~~Disconnection of non-rooftop runoff;~~
- 2 iii.— ~~Sheetflow to conservation areas;~~
- 3 iv.— ~~Rainwater harvesting;~~
- 4 v.— ~~Submerged gravel wetlands;~~
- 5 vi.— ~~Landscape infiltration;~~
- 6 vii.— ~~Infiltration berms;~~
- 7 viii.— ~~Dry wells~~
- 8 ix.— ~~Micro-bioretenion;~~
- 9 x.— ~~Rain gardens;~~
- 10 xi.— ~~Swales;~~
- 11 xii.— ~~Enhanced filters; and~~
- 12 xiii.— ~~Any practices approved by the administration.~~

13 e.— ~~The use of ESD planning techniques and treatment practices specified in this section shall not conflict with existing State law or local ordinances, regulations, or policies. The City shall modify Departments Planning and Zoning ordinances and Public Works codes to eliminate any impediments to implementing ESD to the MEP according to the Design Manual.~~

18 2.— ~~Structural Stormwater Management Measures.~~

19 a.— ~~The following structural stormwater management practices shall be designed according to the design manual to satisfy the applicable minimum control requirements established in Section 17.10.080(A) of this Code.~~

- 22 i.— ~~Stormwater management ponds;~~
- 23 ii.— ~~Stormwater management wetlands;~~
- 24 iii.— ~~Stormwater management infiltration;~~
- 25 iv.— ~~Stormwater management filtering systems; and~~
- 26 v.— ~~Stormwater management open channel systems.~~

27 b.— ~~The performance criteria specified in the design manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance shall be considered when selecting structural stormwater management practices.~~

31 c.— ~~Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the State.~~

33 3.— ~~ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in Section 17.10.080 of this Ordinance must be recorded in the land records of Anne Arundel County and remain unaltered by subsequent property owners, unless prior approval from the Department of~~

1 ~~Public Works shall be obtained before any stormwater management practice is altered or~~
2 ~~removed.~~

3 ~~4. Alternative ESD planning techniques and treatment practices and structural stormwater~~
4 ~~measures may be used for new development runoff control if they meet the performance~~
5 ~~criteria established in the Design Manual and all subsequent revisions and are approved~~
6 ~~by the Administration. Practices used for redevelopment projects shall be approved by~~
7 ~~the Department of Public Works.~~

8 ~~5. For the purposes of modifying the minimum control requirements or design criteria, the~~
9 ~~owner/developer shall submit to the Department of Public Works an analysis of the~~
10 ~~impacts of stormwater flows downstream in the watershed. The analysis shall include~~
11 ~~hydrologic and hydraulic calculations necessary to determine the impact of hydrograph~~
12 ~~timing modifications of the proposed development upon a dam, highway, structure, or~~
13 ~~natural point of restricted streamflow. The point of investigation is to be established with~~
14 ~~the concurrence of the Department of Public Works, downstream of the first downstream~~
15 ~~tributary whose drainage area equals or exceeds the contributing area to the project or~~
16 ~~stormwater management facility.~~

17 ~~6. Incorporation of green roofs as part of the site design is encouraged. Applicant must show~~
18 ~~the quantity of storage for the design proposed which will be considered as an offset for~~
19 ~~the overall stormwater management requirement.~~

20 ~~7. Alternative structural and nonstructural stormwater management practices may be used~~
21 ~~for new development water quality control if they meet the performance criteria~~
22 ~~established in the design manual and approved by the administration. Practices used for~~
23 ~~redevelopment projects shall be approved by the Department of Public Works.~~

24 ~~8. For the purposes of modifying the minimum control requirements or design criteria, the~~
25 ~~owner/developer shall submit to the Department of Public Works an analysis of the~~
26 ~~impacts of stormwater flows downstream in the watershed. The analysis shall include~~
27 ~~hydrologic and hydraulic calculations necessary to determine the impact of hydrograph~~
28 ~~timing modifications of the proposed development upon any downstream area and any~~
29 ~~downstream appurtenances, structure, obstructions and hydraulically significant natural~~
30 ~~features. The points of investigation are to be established with the concurrence of the~~
31 ~~Department of Public Works.~~

32 ~~9. Stormwater management and development plans where applicable, shall be consistent~~
33 ~~with adopted and approved watershed management plans, flood management or~~
34 ~~floodplain management plans as approved by the Maryland Department of the~~
35 ~~Environment in accordance with the Flood Hazard Management Act of 1976 and any~~
36 ~~subsequent revisions.~~

37 ~~**17.10.090 – Specific design criteria and analytical methods.**~~

38 ~~A. Stormwater management design criteria, methodologies, and construction specifications~~
39 ~~shall be subject to the approval of the Department of Public Works, and shall satisfy the~~
40 ~~requirements of the of the design manual.~~

1 ~~B.—Wherever possible, the applicant shall incorporate and enhance existing natural topography~~
2 ~~and land cover such as wetlands, ponds, natural swales, and depressions into the proposed~~
3 ~~development design.~~

4 ~~C.—Stormwater management practices shall be designed for water quality enhancement and to~~
5 ~~facilitate maintenance of the stormwater management facility.~~

6 ~~D.—All retention and detention basins shall contain forebays to facilitate the maintenance of the~~
7 ~~basins. The forebays shall accommodate an approved percentage of the total volume of the~~
8 ~~basin, based on accepted engineering practices.~~

9 ~~E.—Wherever possible and feasible, the stormwater management design will mimic pre-~~
10 ~~development hydrology.~~

11 **~~17.10.100—Stormwater management plans.~~**

12 **~~A.—Review and Approval of Stormwater Management Plans.~~**

13 ~~1.—Unless otherwise exempted, for any proposed development, the owner or his/her agent~~
14 ~~shall submit to the Department of Public Works for review and approval, phased~~
15 ~~stormwater management plans or waiver application as part of the grading permit~~
16 ~~application. At a minimum, plans shall be submitted for the concept, site development,~~
17 ~~and final stormwater management construct phases of project design. The stormwater~~
18 ~~management plan shall contain supporting computations, drawings, and sufficient~~
19 ~~information describing the manner, location, and type of measures in which stormwater~~
20 ~~runoff from the entire development will be managed, and shall be consistent with the~~
21 ~~requirement of the Design Manual. The Department of Public Works shall review the~~
22 ~~plans to determine compliance with the requirements of this chapter prior to approval.~~
23 ~~The plans shall serve as the basis for all subsequent construction.~~

24 ~~2.—The Department of Public Works shall perform a comprehensive review of the~~
25 ~~stormwater management plans for each phase of site design. Coordinated comments will~~
26 ~~be provided for each plan phase that reflects input from all appropriate agencies including,~~
27 ~~but not limited to, the Anne Arundel County Soil Conservation District (SCD) and the~~
28 ~~Departments of Planning and Zoning. All comments from other appropriate agencies~~
29 ~~shall be addressed and approval received at each phase of project design before~~
30 ~~subsequent submissions.~~

31 ~~3.—Issuance of the grading permit shall constitute approval of the Stormwater Management~~
32 ~~Plan for construction.~~

33 **~~B.—Contents and Submission of the Stormwater Management Plan.~~**

34 ~~1.—The owner/developer shall submit a concept plan that provides sufficient information for~~
35 ~~an initial assessment of the proposed project and whether stormwater management can be~~
36 ~~provided according to Section 17.10.080 of this Ordinance and the Design Manual. Plans~~
37 ~~submitted for concept approval shall include, but are not limited to:~~

38 ~~a.—A map at a scale specified by the Department of Public Works showing site location,~~
39 ~~existing natural features, water and other sensitive resources, topography, and natural~~
40 ~~drainage patterns at a scale of 1:10, 1:20 or 1:50;~~

- 1 a. ~~Geotechnical investigations including soil maps, borings, site specific~~
2 ~~recommendations, and any additional information necessary for the final stormwater~~
3 ~~management design;~~
- 4 b. ~~Drainage area maps depicting predevelopment and post-development runoff flow~~
5 ~~path segmentation and land use;~~
- 6 c. ~~Hydrologic computations of the applicable ESD and unified sizing criteria according~~
7 ~~to the Design Manual for all points of discharge from the site;~~
- 8 d. ~~Hydraulic and structural computations for all ESD practices and structural~~
9 ~~stormwater management measures to be used;~~
- 10 e. ~~A narrative that supports the final stormwater management design; and~~
- 11 f. ~~Any other information required by the Department of Public Works.~~
- 12 5. ~~Construction drawings submitted for final stormwater management plan approval shall~~
13 ~~include, but are not limited to:~~
- 14 a. ~~A vicinity map;~~
- 15 b. ~~Existing and proposed topography and proposed drainage areas, including areas~~
16 ~~necessary to determine downstream analysis for proposed stormwater management~~
17 ~~facilities;~~
- 18 c. ~~Any proposed improvements including location of buildings or other structures,~~
19 ~~impervious surfaces, storm drainage facilities, and all grading;~~
- 20 d. ~~The location of existing and proposed structures and utilities;~~
- 21 e. ~~Any easements and rights of way;~~
- 22 f. ~~The delineation, if applicable, of the one hundred year floodplain, on-site wetlands~~
23 ~~or Critical Area designation and one hundred foot buffer;~~
- 24 g. ~~Structural and construction details including representative cross sections for all~~
25 ~~components of the proposed drainage system or systems, and stormwater~~
26 ~~management facilities;~~
- 27 h. ~~All necessary construction specifications;~~
- 28 i. ~~A sequence of construction;~~
- 29 j. ~~Data for total site area, disturbed area, new impervious area, and total impervious~~
30 ~~area;~~
- 31 k. ~~A table showing ESD and unified sizing criteria volumes required in the Design~~
32 ~~Manual;~~
- 33 l. ~~A table of materials to be used for stormwater management facility planting;~~
- 34 m. ~~All soil borings logs and locations;~~
- 35 n. ~~An inspection and maintenance schedule;~~

1 ~~o.—Certification by the owner/developer that all stormwater management construction~~
2 ~~will be done according to this plan;~~

3 ~~p.—An as-built certification signature block to be executed after project completion; and~~

4 ~~q.—Any other information required by the Department of Public Works.~~

5 ~~C.—Preparation of the Stormwater Management Plan.~~

6 ~~1.—The stormwater management plan shall be prepared under the general supervision of a~~
7 ~~professional engineer registered to practice in the State of Maryland. The professional~~
8 ~~engineer and any other design professional involved in the preparation of any stormwater~~
9 ~~management plan submitted to the Department of Public Works, shall sign and seal the~~
10 ~~plan.~~

11 ~~2.—If a stormwater management plan requires either a dam safety permit from the Maryland~~
12 ~~Department of Environment or a small pond approval from the Anne Arundel Soil~~
13 ~~Conservation District, then the dam and/or pond design shall be prepared, signed and~~
14 ~~sealed by a professional engineer registered to practice in the State of Maryland.~~

15 ~~D.—Design Requirements.~~

16 ~~1.—Stormwater management facilities shall be designed to minimize the need of~~
17 ~~maintenance, to provide access for maintenance purposes and to be structurally sound.~~
18 ~~Additionally, a stormwater management facility shall be designed in accordance with~~
19 ~~standard construction specifications and details established and promulgated by the~~
20 ~~Department of Public Works.~~

21 ~~2.—Prior to approval of a stormwater management design, the applicant shall submit a~~
22 ~~proposed staged inspection and construction control schedule. The schedule shall provide~~
23 ~~for regular inspections by a registered professional engineer to be conducted during~~
24 ~~construction of stormwater management systems in accordance with accepted~~
25 ~~engineering practices.~~

26 ~~3.—The permittee shall notify the Department of Public Works before commencing any work~~
27 ~~to implement the stormwater management plan and upon completion of the work.~~

28 ~~4.—No stage of work involving the installation of stormwater management facilities shall~~
29 ~~proceed until the work previously completed is inspected and approved by the~~
30 ~~Department of Public Works.~~

31 ~~5.—Any portion of the work that does not comply with the stormwater management plan~~
32 ~~shall be corrected promptly by the permittee.~~

33 ~~6.—A final inspection shall be conducted by the Department of Public Works upon~~
34 ~~completion of the stormwater management facility to determine if the completed work is~~
35 ~~constructed in accordance with the approved stormwater management plan. The final~~
36 ~~inspection by the Department of Public Works does not relieve the permittee of any of~~
37 ~~requirement imposed on the permittee by this chapter.~~

38 ~~E.—Construction Compliance. Archive able and reproducible as-built plans of the stormwater~~
39 ~~management facility shall be forwarded to the Department of Public Works upon completion~~
40 ~~of the stormwater management facility and final inspection by the Department of Public~~

1 ~~Works The permittee's professional engineer shall certify that the stormwater management~~
2 ~~facility has been constructed as shown on the as built plans and that the stormwater~~
3 ~~management facility meets the approved stormwater management plan's design and~~
4 ~~specifications.~~

5 ~~F.—Electronic Documentation. The Director of Public Works may require the permittee and~~
6 ~~his/her engineer to submit all of the documents associated with the grading permit in an~~
7 ~~electronic format for archiving purposes. The documents shall be submitted in the format~~
8 ~~required by the Director of Public Works.~~

9 ~~G.—Release of Security. The performance bond shall not be reduced nor released until all aspects~~
10 ~~of the stormwater management plan are completed, including, but not limited to:~~

11 ~~1.—The submission and acceptance of "as built drawings" in accordance with Subsection E~~
12 ~~of this section;~~

13 ~~2.—The completion of all forms required by the administration, and~~

14 ~~3.—The stormwater management facility has been in operation for a minimum of one year~~
15 ~~without failure.~~

16 **~~17.10.110 – Right to discharge.~~**

17 ~~A.—If a stormwater management plan involves conveyance of runoff from a site, the applicant~~
18 ~~shall:~~

19 ~~1.—Provide written notification to all property owners within five hundred feet downstream~~
20 ~~of the proposed terminus point at which runoff will be discharged of the intended~~
21 ~~stormwater management plan; and~~

22 ~~2.—Obtain from property owners adjacent to the intended terminus point at which runoff will~~
23 ~~be discharged any necessary right to discharge or other property interests required to~~
24 ~~authorize the flowage of water.~~

25 ~~B.—Approval of a stormwater management plan shall not be construed to create or affect any real~~
26 ~~property rights.~~

27 **~~17.10.120 – Waivers.~~**

28 ~~A.—Except as provided in Section 17.10.120.D. of this code, The Department of Public Works~~
29 ~~shall grant stormwater management quantitative control waivers only to those projects within~~
30 ~~areas where watershed management plans have been developed consistent with Section~~
31 ~~17.10.075F of this Ordinance. Written requests for quantitative stormwater management~~
32 ~~wavers shall be submitted that contain sufficient descriptions, drawings, and any other~~
33 ~~information that is necessary to demonstrate that ESD has been implemented to the MEP. A~~
34 ~~separate written waiver request shall be required in accordance with the provisions of this~~
35 ~~section if there are subsequent additions, extensions, or modifications to a development~~
36 ~~receiving a waiver.~~

37 ~~B.—Except as provided in Section 17.10.120D of this code, if watershed management plans~~
38 ~~consistent with Section 17.10.075F of this code have not been developed, stormwater~~

1 ~~management quantitative control waivers may be granted to the following projects provided~~
2 ~~that it has been demonstrated that ESD has been implements to the MEP:~~

3 ~~1.— That have direct discharges to tidally influenced receiving waters;~~

4 ~~2.— That are in-fill development located in a Priority Funding Area where the economic~~
5 ~~feasibility of the project is tied to the planned density, and where implementation of the~~
6 ~~2009 regulatory requirements would result in a loss of the planned development density~~
7 ~~provided that:~~

8 ~~a.— Public water and sewer and stormwater conveyance exist;~~

9 ~~b.— The quantitative waiver is applied to the project for the impervious cover that~~
10 ~~previously existed on the site only;~~

11 ~~c.— ESD to the MEP is used to the meet the full water quality treatment requirements for~~
12 ~~the entire development; and ESD to the MEP is used to provide full quantity control~~
13 ~~for all new impervious surfaces; or~~

14 ~~3.— When the approving agency determines that circumstances exist that prevent the~~
15 ~~reasonable implementation of quantity control practices.~~

16 ~~C.— Except as provided in Section 17.10.120D of this code, stormwater management qualitative~~
17 ~~control waivers apply only to:~~

18 ~~1.— In-fill development projects where ESD has been implemented to the MEP and it has~~
19 ~~been demonstrated that other BMPs are not feasible;~~

20 ~~2.— Redevelopment projects if the requirements of Section 17.10.085 of this Ordinance are~~
21 ~~satisfied; or~~

22 ~~3.— Sites where the approving agency determines that circumstances exist that prevent the~~
23 ~~reasonable implementation of ESD to the MEP.~~

24 ~~D.— Stormwater management quantitative and qualitative control waivers may be granted for~~
25 ~~phased development projects if a system designed to meet the 2009 regulatory requirements~~
26 ~~and the Department of Public Works requirements for multiple phases has been constructed~~
27 ~~by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases~~
28 ~~constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must~~
29 ~~be demonstrated.~~

30 ~~E.— Waivers shall only be granted when it has been demonstrated that ESD has been implemented~~
31 ~~to the MEP and must:~~

32 ~~1.— Be on a case-by-case basis;~~

33 ~~2.— Consider the cumulative effects the Department of Public Works waiver policy; and~~

34 ~~3.— Reasonable ensure the development will not adversely impact stream quality.~~

35 ~~F.— If the Department of Public Works has established an overall watershed management plan~~
36 ~~for a specific watershed, the Department may develop quantitative waiver and redevelopment~~
37 ~~provisions that differ from Section 17.10.120 of this Ordinance.~~

1 ~~G.— A watershed management plan developed for the purpose of implementing different~~
2 ~~stormwater management policies for waivers and redevelopment shall:~~

3 ~~1.— Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;~~

4 ~~2.— Evaluate both quantity and quality management and opportunities for ESD~~
5 ~~implementation;~~

6 ~~3.— Include a cumulative impact assessment of current and proposed watershed development;~~

7 ~~4.— Identify existing flooding and receiving stream channel conditions;~~

8 ~~5.— Be conducted at a reasonable scale;~~

9 ~~6.— Specify where on site or off site quantitative and qualitative stormwater management~~
10 ~~practices are to be implemented;~~

11 ~~7.— Be consistent with the General Performance Standards for Stormwater Management in~~
12 ~~Maryland found in the Design Manual; and~~

13 ~~8.— Be approved by the Administration.~~

14 ~~H.— If the Director of Public Works determines that a waiver is appropriate under this section but~~
15 ~~that the construction of the proposed alternative to on site stormwater quantity or quality~~
16 ~~management is not in the City's interest, the Director of Public Works may require the~~
17 ~~applicant to make a monetary contribution to the stormwater utility or to an identified City~~
18 ~~capital project intended to provide water quantity and/or quality improvements to the drainage~~
19 ~~basin in which the proposed development site is located. The amount of the contribution shall~~
20 ~~not exceed the cost of constructing an effective on site stormwater management facility,~~
21 ~~including the value of the land that would be required to construct the stormwater management~~
22 ~~facility, as well as the cost of constructing, landscaping and perpetually maintaining the~~
23 ~~facility. The cost of perpetually maintaining the stormwater management facility is presumed~~
24 ~~to equal to the cost of constructing the stormwater management facility.~~

25 **~~17.10.130 – Grandfathering.~~**

26 ~~A.— In this section, the following terms shall have the meanings indicated:~~

27 ~~1.— Administrative waiver means a decision by the Department of Public Works pursuant to~~
28 ~~this code to allow the construction of a development to be governed by the stormwater~~
29 ~~management requirements in effect as of May 4, 2009, in the local jurisdiction where the~~
30 ~~project will be located.~~

31 ~~a.— An administrative waiver is distinct from a waiver granted pursuant to Section~~
32 ~~17.10.120 of this code.~~

33 ~~2.— Approval means a documented action by the Department of Public Works following a~~
34 ~~review to determine and acknowledge the sufficiency of submitted material to meet the~~
35 ~~requirements of a specified stage in a local development review process.~~

36 ~~a.— An approval does not mean an acknowledgement by the Department of Public Works~~
37 ~~that submitted material has been received for review.~~

1 ~~3.— Final project approval means approval of the final stormwater management plan and~~
2 ~~erosion and sediment control plan required to construct a project's stormwater~~
3 ~~management facilities.~~

4 ~~a.— A final project approval also includes securing bonding or financing for final~~
5 ~~development plans if either is required as a prerequisite for approval.~~

6 ~~4.— Preliminary project approval means an approval as part of a local preliminary~~
7 ~~development or planning review process that includes, at a minimum:~~

8 ~~a.— The number of planned dwelling units or lots;~~

9 ~~b.— The proposed project density;~~

10 ~~c.— The proposed size and location of all land uses for the project;~~

11 ~~d.— A plan that identifies the proposed drainage patterns, the location of all points of~~
12 ~~discharge from the site, and the type, location, and size of all stormwater~~
13 ~~management measures based on site-specific stormwater management requirement~~
14 ~~computations; and~~

15 ~~e.— Any other information required by the Department of Public Works, including, but~~
16 ~~not limited to:~~

17 ~~i.— The proposed alignment, location, and construction type and standard for all~~
18 ~~roads, access ways, and areas of vehicular traffic;~~

19 ~~ii.— A demonstration that the methods by which the development will be supplied~~
20 ~~with water and wastewater service are adequate; and~~

21 ~~iii.— The size, type, and general location of all proposed wastewater and water~~
22 ~~system infrastructure.~~

23 ~~B.— The Department of Public Works may grant an administrative waiver to a development that~~
24 ~~received a preliminary project approval prior to May 4, 2010. Administrative waivers expire~~
25 ~~and may be extended according to the provisions of this section.~~

26 ~~C.— Expiration of administrative waivers.~~

27 ~~1.— Except as provided for in Section 17.10.130D of this code, an administrative waiver shall~~
28 ~~expire on:~~

29 ~~a.— May 4, 2013, if the development does not receive final project approval prior to that~~
30 ~~date; or~~

31 ~~b.— May 4, 2017, if the development receives final project approval prior to May 4, 2013.~~

32 ~~2.— All construction authorized pursuant to an administrative waiver must be completed by~~
33 ~~May 4, 2017, or, if the waiver is extended as provided in Section 17.10.130D of this code,~~
34 ~~by the expiration date of the waiver extension.~~

35 ~~D.— Extension of administrative waivers.~~

36 ~~1.— Except as provided in Section 17.10.130D2 of this code, an administrative waiver shall~~
37 ~~not be extended.~~

1 ~~2.—An administrative waiver may only be extended if, by May 4, 2010, the development:~~

2 ~~a.—Has received a preliminary project approval; and~~

3 ~~b.—Was subject to a Development Rights and Responsibilities Agreement, a Tax~~
4 ~~Increment Financing approval, or an Annexation Agreement.~~

5 ~~3.—Administrative waivers extended according to Section 17.10.130D2 of this code shall~~
6 ~~expire when the Development Rights and Responsibilities Agreement, the Tax Increment~~
7 ~~Financing approval, or the Annexation Agreement expires.~~

8 **~~17.10.140—Modifications.~~**

9 ~~Upon written application of the property owner or his/her agent, the Director of Public Works~~
10 ~~may grant a written modification to any requirement of Section 17.10.080 if there are exceptional~~
11 ~~circumstances applicable to the site such that strict adherence to the requirement would result in~~
12 ~~unnecessary hardship and would not fulfill the intent of the chapter. The application shall state the~~
13 ~~specific modifications sought and the reasons for the desired modifications. The Director of Public~~
14 ~~Works shall not grant a modification to any requirement of Section 17.10.080 except for good~~
15 ~~cause, consistent with the provisions for exceptions provided in this chapter, shown by the~~
16 ~~applicant requesting the modification.~~

17 **~~17.10.150—Permits.~~**

18 **~~A.—Permit Requirement.~~**

19 ~~1.—A grading permit shall not be issued for any parcel or lot unless a stormwater~~
20 ~~management plan, meeting all of the requirements of this chapter, has been approved or~~
21 ~~waived by the Department of Public Works. Where appropriate, a grading permit shall~~
22 ~~not be issued without:~~

23 ~~a.—Approval of the Anne Arundel Soil Conservation District;~~

24 ~~b.—A recorded private stormwater management facility inspection and maintenance~~
25 ~~agreement pursuant to Section 17.10.190;~~

26 ~~c.—A performance bond; and~~

27 ~~d.—Proof of property interests as required under Section 17.10.110.~~

28 **~~B.—Permit Suspension and Revocation.~~**

29 ~~1.—A grading permit issued by the Department of Planning and Zoning may be suspended~~
30 ~~or revoked by giving written notice thereof to the permittee, if the Directors of Planning~~
31 ~~and Zoning or Public Works finds any of the following:~~

32 ~~a.—Violation of any condition of the stormwater management plan approval.~~

33 ~~b.—Change in any site runoff characteristics upon which an approval or waiver was~~
34 ~~granted.~~

35 ~~c.—Construction of a stormwater management facility not in accordance with the~~
36 ~~approved plan.~~

1 d. ~~Noncompliance with a correction notice or a stop work order related to the~~
2 ~~construction of the stormwater management facility.~~

3 e. ~~An immediate danger to a downstream area.~~

4 2. ~~The grounds for suspension or revocation set forth in the preceding subsection are in~~
5 ~~addition to, and are not intended to supersede, other grounds for the issuance of a stop~~
6 ~~work order or the suspension or revocation of a grading permit.~~

7 C. ~~Permit Conditions. In granting a stormwater management plan approval, the Director of~~
8 ~~Public Works may impose such terms and conditions that the Director may deem necessary~~
9 ~~to ensure compliance with the provisions of this chapter and the preservation of the public~~
10 ~~health and safety.~~

11 **~~17.10.160 – Performance bond.~~**

12 A. ~~Prior to the issuance of a grading permit for any construction, the applicant shall provide the~~
13 ~~City of Annapolis with a surety or cash bond, irrevocable letter of credit, or other means of~~
14 ~~security acceptable to the City Attorney in a format acceptable to the City Attorney. The~~
15 ~~amount of the security shall not be less than the total estimated construction cost per the~~
16 ~~estimate form.~~

17 B. ~~The security shall not be fully released until all aspects of the grading permit are completed,~~
18 ~~including, but not limited to:~~

19 1. ~~The submission and acceptance of "as built drawings" in accordance with Subsection G~~
20 ~~of Section 17.10.100;~~

21 2. ~~Compliance with all landscaping plans;~~

22 3. ~~Absence of erosion or other site problems;~~

23 4. ~~The completion of all forms required by the administration; and,~~

24 5. ~~The stormwater management facility has been in operation for a minimum of one year~~
25 ~~without failure.~~

26 **~~17.10.170 – Ownership and maintenance of stormwater management facilities.~~**

27 A. ~~All stormwater management facilities that serve a single lot, facility or subdivision shall be~~
28 ~~privately owned and privately maintained except as provide in Subsection C of this section.~~

29 B. ~~All stormwater management facilities measures relying on vegetated areas or site features~~
30 ~~shall be privately owned and privately maintained.~~

31 C. ~~At the discretion of the Director of Public Works, a regional stormwater management facility~~
32 ~~may be publicly owned and publicly maintained. If a regional stormwater management facility~~
33 ~~is to be publicly owned, it shall be conveyed to the City of Annapolis prior to the final release~~
34 ~~of security.~~

35 **~~17.10.180 – Watershed restoration fund.~~**

36 A. ~~A watershed restoration fund shall be established and the moneys therein shall be used by~~
37 ~~the City for land acquisition (including easements and rights-of-way), and the study,~~

1 ~~engineering, design, purchase, construction, expansion, repair, maintenance, landscaping and~~
2 ~~inspection of public stormwater management systems.~~

3 ~~B.— The watershed restoration fee schedule applicable to the fund shall be established by~~
4 ~~resolution of the City Council. The fees schedule shall reflect an annual two percent rate~~
5 ~~increase in effect from July 1, 2015 until June 30, 2018 for stormwater fees under this section.~~
6 ~~To encourage environmentally sound and effective stormwater management practices, the~~
7 ~~Director of the Department of Public Works may authorize a reduction in the watershed~~
8 ~~restoration fee not to exceed fifty percent in accordance with a duly established policy setting~~
9 ~~forth which stormwater management facilities shall qualify for a reduction of the watershed~~
10 ~~restoration fee and how such reductions shall be calculated.~~

11 ~~C.— In the case of an application for a waiver to on site water quantity and/or water quality~~
12 ~~management under this chapter, the Director of Public Works may in his/her discretion accept~~
13 ~~the conveyance of an interest in land, the construction of a stormwater management facility,~~
14 ~~the scheduled fee or any equivalent combination thereof as the watershed restoration fee.~~

15 ~~D.— The Director of Public Works shall not accept a conveyance of land or the construction of a~~
16 ~~stormwater management facility pursuant to the preceding subsection that does not cover~~
17 ~~adequately the cost to the City of managing the stormwater generated from the subject~~
18 ~~property or if such acceptance is otherwise not in the interest of the City.~~

19 ~~E.— Public Works is responsible for maintenance, repair and retrofit of stormwater facilities that~~
20 ~~lie in the public right of way and these funds shall be used to this effect.~~

21 **~~17.10.190 – Private stormwater management facility inspection and maintenance~~**
22 **~~agreement.~~**

23 ~~A.— Prior to the issuance of any building or grading permit which has a private stormwater~~
24 ~~management facility as one of the requirements of the permit, the applicant shall execute and~~
25 ~~deliver to the Department of Public Works, a stormwater management facility inspection and~~
26 ~~maintenance agreement binding on the applicant (its successors and assigns) and on all owners~~
27 ~~(their successors and assigns) of land served by the stormwater management facility.~~

28 ~~B.— The agreement required by the preceding subsection shall:~~

29 ~~1.— Authorize access to the stormwater management facility at reasonable times, for periodic~~
30 ~~inspection by the City (or its contractor or agent),~~

31 ~~2.— Require the property owner and/beneficial users periodically inspect and maintain the~~
32 ~~stormwater management facility in a proper working condition satisfying the~~
33 ~~requirements of this chapter,~~

34 ~~3.— Include such other items and conditions as the Director of Public Works may require.~~

35 ~~C.— The agreement required by this section shall also provide that if, after notice by the Director~~
36 ~~of Public Works to correct a violation of this chapter, satisfactory corrective measures have~~
37 ~~not been completed by the owner and or beneficial users within the time specified in the notice,~~
38 ~~the Director of Public Works may cause to be performed all necessary work to correct the~~
39 ~~violation and may assess the owner, and/or beneficial users, the cost of the work. The~~
40 ~~agreement shall further provide that the cost of the work shall constitute a lien on the property~~

1 and may be placed on the tax bill for the property and collected in the same manner as property
2 taxes. The agreement shall also provide that the owner and/or beneficial users shall be liable
3 for interest, calculated at the maximum legal rate, on the unpaid balance of any such charges
4 until paid, as well as reasonable attorney fees incurred by the City in collecting such balance.

5 D.—The agreement required by this section shall be recorded among the land records of Anne
6 Arundel County. The cost of such recordation shall be paid by the applicant or the owner.

7 **17.10.200 – Responsibility of permittee and owner.**

8 The permittee and owner shall be jointly responsible for the installation of the stormwater
9 management facility in compliance with the provisions of this chapter.

10 **17.10.210 – Inspection program.**

11 A.—All privately owned stormwater management facilities shall be inspected during construction,
12 during the first year of operation, and annually thereafter by the Department of Public Works.

13 B.—Regular inspections shall be made and documented for each ESD system at the stages of
14 construction specified in the Design Manual and certified by a professional engineer licensed
15 in the State of Maryland. At a minimum, all ESD system and other nonstructural practices
16 shall be inspected upon completion of final grading, the establishment of permanent
17 stabilization, and before issuance of use and occupancy approval.

18 C.—All privately owned stormwater management facilities shall be inspected and maintained in
19 accordance with the stormwater management facility inspection and maintenance agreement.
20 Not later than August first of each year, the owner and/or beneficial users shall provide the
21 Department of Public Works with an inspection and maintenance report, in such format as
22 may be specified by the Director of Public Works.

23 D.—The Department of Public Works shall maintain copies of inspection and maintenance reports
24 for privately owned stormwater management facilities among their departmental records for
25 a period of seven years from the date of the inspection.

26 **17.10.220 – Emergency authority.**

27 If the Director of Public Works determines that the condition of any stormwater management
28 facility, storm drainage system or drainage way presents an immediate danger to the public health
29 or safety, the Director of Public Works may take any action to protect the public. Costs incurred
30 by the City as a result such action shall be assessed against the owners and beneficial uses of the
31 stormwater management facility, who shall be jointly and severally liable for such costs. The
32 property served by the stormwater management facility shall be subject to a lien for the costs that
33 may be placed on the tax bill for such property and collected in the same manner as property taxes.

34 **17.10.230 – Interpretation.**

35 In interpreting and applying this chapter, the stated requirements are declared to be minimum
36 requirements which are imposed and are in addition to, and not in lieu of, all other legal
37 requirements, and shall be interpreted to accomplish the purposes set forth in Section 17.10.010.
38 The provisions of this chapter shall be applied prospectively and any amendments hereto shall not

1 ~~apply to sites for which grading or building permit applications have been filed on or before that~~
2 ~~date which is forty five days after adoption.~~

3 **17.10.240 – Penalties.**

4 ~~Any person convicted of violating any provision of this chapter shall be guilty of a~~
5 ~~misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one thousand~~
6 ~~dollars or imprisonment not exceeding six months or both for each violation. Each day that a~~
7 ~~violation continues shall constitute a separate offense. In addition, the City may institute any action~~
8 ~~in law or equity to enforce the provisions of this chapter.~~

9
10 **Chapter 17.11 – FLOODPLAIN MANAGEMENT**

11 **17.11.050 - Basis for establishing special flood hazard areas and BFES.**

12
13 (A) For the purposes of this chapter, the minimum basis for establishing special flood
14 hazard areas and base flood elevations is the flood insurance study for Anne Arundel County,
15 Maryland and incorporated areas dated February 18, 2015, or the most recent revision thereof, and
16 the accompanying Flood Insurance Rate Map(s) and all subsequent amendments and revisions to
17 the FIRMs. The FIS and FIRMs are retained on file and available to the public at the ~~Office of~~
18 ~~Environmental Policy~~ DEPARTMENT OF THE ENVIRONMENT.

19 (B) Where field surveyed topography or digital topography indicates that ground elevations
20 are below the closest applicable base flood elevation, even in areas not delineated as a special flood
21 hazard on the FIRM, the area shall be considered as special flood hazard area.

22 (C) To establish base flood elevations in special flood hazard areas that do not have such
23 elevations shown on the FIRM, the Floodplain Administrator may provide the best available data
24 for base flood elevations, may require the applicant to obtain available information from Federal,
25 State or other sources, or may require the applicant to establish special flood hazard areas and base
26 flood elevations as set forth in Section 17.11.320, Section 17.11.330, and Section 17.11.340 of this
27 chapter.

28
29 **17.11.300 - Designation of the Floodplain Administrator.**

30
31 The Director of the ~~Office of Environmental Policy~~ DEPARTMENT OF THE ENVIRONMENT
32 is hereby appointed to administer and implement this chapter and is referred to herein as the
33 Floodplain Administrator. The Floodplain Administrator may:

34
35 (A) Delegate duties and responsibilities set forth in this chapter to qualified technical
36 personnel, plan examiners, inspectors, and other employees.

37 (B) Enter into a written agreement or written contract with another Maryland Community
38 or private sector entity to administer specific provisions of this chapter. Administration of any part
39 of this chapter by another entity shall not relieve the community of its responsibilities pursuant to
40 the participation requirements of the National Flood Insurance Program as set forth in the Code of
41 Federal Regulations (CFR) at 44 Section 59.22.

42
43 **17.11.350 - Review of application.**

1
2 The Floodplain Administrator shall:

- 3
4 (A) Review applications for development in special flood hazard areas to determine the
5 completeness of information submitted. The applicant shall be notified of incompleteness
6 or additional information that is required to support the application.
7 (B) Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and other
8 State and Federal authorities may be required.
9 (C) Review all permit applications to assure that all necessary permits have been received from
10 the Federal, State or local governmental agencies from which prior approval is required.
11 the applicant shall be responsible for obtaining such permits, including permits issued by:
12 (1) The U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act
13 and Section 404 of the Clean Water Act;
14 (2) MDE pursuant to COMAR 26.23 (Nontidal Wetlands) and Section 401 of the Clean
15 Water Act;
16 (3) MDE for construction on nontidal waters of the State pursuant to COMAR
17 26.17.04; and
18 (4) MDE pursuant to COMAR 26.24 (Tidal Wetlands).
19 (D) Review applications for compliance with this chapter after all information required in
20 Section 17.11.340 of this chapter or identified and required by the Floodplain Administrator
21 has been received.
22 (E) Review applications for compliance with the general requirements as described in
23 Chapter ~~17.08~~,19.40 Grading, Erosion and Sediment Control, and in Chapter 17.12, Building
24 Code, of this title.
25

26 **17.11.720 - Considerations for variances.**

27
28 (A) The Floodplain Administrator shall request comments on variance applications from
29 MDE (NFIP State Coordinator).

30 (B) In considering variance applications, the ~~Office of Environmental Policy~~
31 DEPARTMENT OF THE ENVIRONMENT shall consider and make findings of fact on all
32 evaluations, all relevant factors, requirements specified in other sections of this chapter, and the
33 following factors:

- 34
35 (1) The danger that materials may be swept onto other lands to the injury of others.
36 (2) The danger to life and property due to flooding or erosion damage.
37 (3) The susceptibility of the proposed development and its contents (if applicable)
38 to flood damage and the effect of such damage on the individual owner.
39 (4) The importance of the services to the community provided by the proposed
40 development.
41 (5) The availability of alternative locations for the proposed use which are not
42 subject to, or are subject to less, flooding or erosion damage.
43 (6) The necessity to the facility of a waterfront location, where applicable, or if the
44 facility is a functionally dependent use.

1 (7) The compatibility of the proposed use with existing and anticipated
2 development.

3 (8) The relationship of the proposed use to the comprehensive plan and hazard
4 mitigation plan for that area.

5 (9) The safety of access to the property in times of flood for passenger vehicles and
6 emergency vehicles.

7 (10) The expected heights, velocity, duration, rate of rise, and sediment transport
8 of the floodwaters and the effects of wave action, if applicable, expected at the site.

9 (11) The costs of providing government services during and after flood conditions,
10 including maintenance and repair of public utilities and facilities such as sewer, gas,
11 electrical, and water systems, and streets and bridges.

12 (12) The comments provided by MDE (NFIP State Coordinator).

13 (13) Considerations related to the reconstruction, rehabilitation, or restoration of
14 structures listed in the National Register of Historic Places or State Inventory of Historic
15 Places.

16
17 **17.11.730 - Limitations for granting variances.**

18
19 ~~The Office of Environmental Policy~~ DEPARTMENT OF THE ENVIRONMENT shall make an
20 affirmative decision on a variance request only upon:

21
22 (A) A showing of good and sufficient cause. Good and sufficient cause deals solely with
23 the physical characteristics of the property and cannot be based on the character of the
24 improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate
25 standards other than health and public safety.

26 (B) A determination that failure to grant the variance would result in exceptional hardship
27 due to the physical characteristics of the property. Increased cost or inconvenience of meeting the
28 requirements of this chapter does not constitute an exceptional hardship to the applicant.

29 (C) A determination that the granting of a variance for development within any designated
30 floodway, or flood hazard area with base flood elevations but no designated floodway, will not
31 result in increased flood heights beyond that which is allowed in this chapter.

32 (D) A determination that the granting of a variance will not result in additional threats to
33 public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or
34 conflict with existing local laws.

35 (E) A determination that the building, structure or other development is protected by
36 methods to minimize flood damages.

37 (F) A determination that the variance is the minimum necessary to afford relief, considering
38 the flood hazard.

39
40 **Chapter 17.12 – BUILDING CODE**

41 **17.12.050 - Building permit—Application.**

42
43 A. Both the owner of the property and the contractor engaged to do the work equally are
44 responsible for obtaining the required building permit.

- 1 B. No building permit shall be issued prior to the issuance of a grading permit, where
2 applicable under Chapter ~~17.08~~19.40.
- 3 C. Before any permit required by Section 17.12.022 shall be issued, the applicant shall file
4 with the Department of Planning and Zoning verification from the City Finance Director
5 that the applicant has paid all applicable Anne Arundel County School impact fees, or proof
6 that the project is not subject to the County's school impact fees.
- 7 D. With regard to building location, when a discrepancy is found between the grading permit
8 and building permit, the grading permit shall prevail.
- 9

10 **17.12.052 - Building permit—Plans and specifications.**

11

- 12 A. Before any permit required by Section 17.12.022 shall be issued the applicant shall file an
13 application with construction drawings supported by an affidavit, which specifies the
14 contract price of the construction in its entirety, the type of building, structure, or alteration
15 to be erected or made, the material to be used, the number of stories and the dimensions of
16 the building or area to which alterations will be made. If the permit is for the interior or
17 exterior alteration of an existing building or structure, construction drawings shall be
18 submitted showing the nature and location of all alterations unless approved otherwise.
- 19 B. The building permit application shall also include those plans and specifications as required
20 and as detailed in Section ~~17.08.060~~19.40.060. At a minimum, the application shall be
21 accompanied by a scaled drawing showing the proposed location of the building on the lot
22 and the front yard, side yard, and rear yard dimensions to the property line.
- 23 C. No permit for a commercial building or structure, or building or structure to be used for a
24 public assembly, shall be issued unless construction drawings and specifications, drawn
25 and certified by an architect or engineer registered under the laws of the State of Maryland,
26 are submitted. Certified construction drawings and specifications shall be submitted with
27 permit application for all other buildings or structures, unless approved otherwise by the
28 building official.
- 29 D. All construction drawings and specifications submitted as part of a permit application
30 which indicates they have been completed by an architect or engineer shall be certified on
31 each drawing and specification with the architect's or engineer's Maryland seal, original
32 signature and date.
- 33 E. All structural evaluations including drawings shall be certified by a Maryland Structural
34 Engineer or Architect.
- 35 F. All new and revised construction drawings and submittals requiring review shall pay a fee
36 per schedule as established by resolution of the City Council.
- 37
38

39 **TITLE 19 - ENVIRONMENT**
40 **CHAPTER 19.04 - DEFINITIONS**

41

42 **19.04.010- [RESERVED]**

43

44 **19.04.020 - ADVERSE IMPACT.**

1 "ADVERSE IMPACT" MEANS ANY DELETERIOUS EFFECT ON WATERS OR
2 WETLANDS, INCLUDING THEIR QUALITY, QUANTITY, SURFACE AREA, SPECIES
3 COMPOSITION, AESTHETICS OR USEFULNESS FOR HUMAN OR NATURAL USES.
4 SUCH DELETERIOUS EFFECT IS OR POTENTIALLY MAY BE HARMFUL OR
5 INJURIOUS TO HUMAN HEALTH, WELFARE, SAFETY OR PROPERTY, TO
6 BIOLOGICAL PRODUCTIVITY, DIVERSITY OR STABILITY; OR UNREASONABLY
7 MAY INTERFERE WITH THE ENJOYMENT OF LIFE OR PROPERTY, INCLUDING
8 OUTDOOR RECREATION.

9
10 **19.04.030 - AFFORESTATION.**

11 "AFFORESTATION" MEANS THE ESTABLISHMENT OF A TREE CROP ON AN AREA
12 FROM WHICH IT ALWAYS HAS OR VERY LONG HAS BEEN ABSENT, OR THE
13 PLANTING OF OPEN AREAS WHICH ARE NOT PRESENTLY IN FOREST COVER.

14 19.04.040 - AGRICULTURAL LAND MANAGEMENT PRACTICES.

15 "AGRICULTURAL LAND MANAGEMENT PRACTICES" MEANS THOSE METHODS
16 AND PROCEDURES USED IN THE CULTIVATION OF LAND IN ORDER TO FURTHER
17 CROP AND LIVESTOCK PRODUCTION AND CONSERVATION OF RELATED SOIL AND
18 WATER RESOURCES. LOGGING AND TIMBER REMOVAL OPERATIONS MAY NOT BE
19 CONSIDERED A PART OF THIS DEFINITION.

20
21 **19.04.050 - APPLICANT.**

22 "APPLICANT" MEANS AN OWNER, DEVELOPER OR THEIR AUTHORIZED AGENT
23 WHO EXECUTES THE FORMS REQUIRED FOR OBTAINING A PERMIT PURSUANT TO
24 THIS TITLE.

25
26 **19.04.060 - APPROVED.**

27 "APPROVED," AS USED IN THIS TITLE, MEANS ACCEPTED BY THE
28 DEPARTMENT OF THE ENVIRONMENT.

29
30 **19.04.065 – [RESERVED]**

31
32 **19.04.070 - AS-BUILT PLANS.**

33 "AS-BUILT PLANS" MEANS APPROVED SITE PLANS THAT HAVE BEEN REVISED,
34 IF NECESSARY, TO REPRESENT THE ACTUAL, PHYSICAL CHARACTERISTICS OF
35 THE COMPLETED SITE. ALL REVISIONS SHALL BE CLEARLY MARKED, AND SHALL
36 INCLUDE OR REFERENCE ANY AND ALL SUPPORT CALCULATIONS,
37 MEASUREMENTS AND INFORMATION.

38
39 **19.04.095 - BEST MANAGEMENT PRACTICE (BMP).**

40 "BEST MANAGEMENT PRACTICE" (BMP) MEANS A STRUCTURAL DEVICE OR
41 NONSTRUCTURAL PRACTICE DESIGNED TO TEMPORARILY STORE OR TREAT
42 STORMWATER RUNOFF IN ORDER TO MITIGATE FLOODING, REDUCE POLLUTION,
43 AND PROVIDE OTHER AMENITIES.

44
45 **19.04.100 - BUFFER.**

1 "BUFFER" MEANS A NATURALLY VEGETATED AREA OR VEGETATED AREA
2 ESTABLISHED OR MANAGED TO PROTECT AQUATIC, WETLAND, SHORELINE AND
3 TERRESTRIAL ENVIRONMENTS FROM MANMADE DISTURBANCES.
4

5 **19.04.110 - CANOPY.**

6 "CANOPY" MEANS THE HIGHEST LAYER OF WOODY VEGETATION.
7

8 **19.04.120 - CERTIFICATION.**

9 "CERTIFICATION" MEANS A SIGNED, WRITTEN STATEMENT THAT SPECIFIC
10 CONSTRUCTION, INSPECTIONS OR TESTS SHALL BE OR HAVE BEEN PERFORMED
11 AND THAT THEY COMPLY WITH THE APPLICABLE STANDARD OF THIS TITLE.
12 CERTIFICATION SHALL BE REQUIRED BY A REGISTERED PROFESSIONAL OF AN
13 APPROPRIATE DISCIPLINE FOR THE WORK PERFORMED, AS DETERMINED BY THE
14 DEPARTMENT OF THE ENVIRONMENT.
15

16 **19.04.130 - CITY.**

17 "CITY" MEANS THE CITY OF ANNAPOLIS, MARYLAND.
18

19 **19.04.140 - CITY ATTORNEY.**

20 "CITY ATTORNEY" MEANS THE CITY ATTORNEY OF THE CITY OF ANNAPOLIS.
21

22 **19.04.150 - CLEARING.**

23 "CLEARING" MEANS ANY ACTIVITY THAT REMOVES THE VEGETATIVE
24 GROUND COVER WHILE LEAVING THE ROOT MAT INTACT.
25

26 **19.04.155 - COAL TAR PAVEMENT PRODUCT.**

27 COAL TAR PAVEMENT PRODUCT MEANS A MATERIAL THAT CONTAINS COAL
28 TAR OR POLYCYCLIC AROMATIC HYDROCARBONS AND IS USED FOR AN ASPHALT
29 OR CONCRETE SURFACE.
30

31 **19.04.160 – [RESERVED]**
32

33 **19.04.165 - CONCEPT PLAN.**

34 "CONCEPT PLAN" MEANS THE FIRST OF THREE PLANS SUBMITTED UNDER THE
35 COMPREHENSIVE REVIEW AND APPROVAL PROCESS REQUIRED BY THE
36 STORMWATER MANAGEMENT ACT OF 2007 (ACT), AS MAY BE AMENDED FROM
37 TIME TO TIME, AND DESCRIBED IN CODE OF MARYLAND REGULATIONS (COMAR)
38 26.17.02 AND SHALL INCLUDE THE FOLLOWING INFORMATION NECESSARY TO
39 ALLOW AN INITIAL EVALUATION OF A PROPOSED PROJECT, PER SECTION 19.40.065
40 OF THE CITY CODE.
41

42 **19.04.170 - CONSTRUCTION.**

43 "CONSTRUCTION" MEANS ANY ACTIVITY ON A SITE WHICH IN ANY WAY
44 ALTERS ITS PHYSICAL CHARACTER.
45

1 **19.04.80 - CRITICAL AREA.**

2 "CRITICAL AREA" MEANS ALL LANDS AND WATERS DEFINED IN ANNOTATED
3 CODE OF MARYLAND, NATURAL RESOURCES ARTICLE, SECTION 8-1807 (OR ITS
4 SUCCESSORS).

5
6 **19.04.190 - CRUISING.**

7 "CRUISING" MEANS ANY FORESTRY ACTIVITY BY WHICH ESTIMATES ARE
8 MADE OF TIMBER SIZE, DENSITY, AND EXTENT OR VALUE.

9
10 **19.04.200 - CUTTING.**

11 "CUTTING" MEANS ANY ACT OR THE CONDITIONS RESULTING FROM ANY ACT
12 BY WHICH SOIL OR ROCK IS CUT INTO, DUG, QUARRIED, UNCOVERED, REMOVED,
13 DISPLACED OR LOCATED.

14
15 **19.04.210 - DEMOLITION.**

16 "DEMOLITION" MEANS THE PHYSICAL ACT OF REMOVING OR RAZING A
17 STRUCTURE OR GROUP OF STRUCTURES THAT DOES NOT REQUIRE CLEARING,
18 STRIPPING OR GRADING OF THE SITE OTHER THAN FOR ACCESS OR FOR RUBBLE
19 REMOVAL OR STABILIZATION.

20
21 **19.04.220 - DEPARTMENT.**

22 "DEPARTMENT" MEANS THE DEPARTMENT OF THE ENVIRONMENT OF THE CITY
23 OF ANNAPOLIS.

24
25 **19.04.230 - DESIGN PROFESSIONAL.**

26 "DESIGN PROFESSIONAL" MEANS A REGISTERED PROFESSIONAL ENGINEER,
27 REGISTERED LAND SURVEYOR, OR A REGISTERED LANDSCAPE ARCHITECT.

28
29 **19.04.240 - DETENTION STRUCTURE.**

30 "DETENTION STRUCTURE" MEANS A PERMANENT STRUCTURE FOR THE
31 TEMPORARY STORAGE OF SURFACE WATER RUNOFF WHICH IS DESIGNED NOT TO
32 CREATE A PERMANENT POOL OF WATER.

33
34 **19.04.250 - DEVELOPED WOODLANDS.**

35 "DEVELOPED WOODLANDS" MEANS THOSE AREAS ONE ACRE OR MORE IN SIZE
36 WHICH PREDOMINANTLY CONTAIN TREES AND NATURAL VEGETATION AND
37 WHICH ALSO INCLUDE RESIDENTIAL, COMMERCIAL OR INDUSTRIAL
38 STRUCTURES AND USES.

39
40 **19.04.260 - DEVELOPER.**

41 "DEVELOPER" MEANS ANY PERSON OR ENTITY ACTING AS A PROPERTY
42 OWNER OR IN BEHALF OF A PROPERTY OWNER TO DEVELOP A SITE.

43
44 **19.04.270 - DEVELOPMENT.**

1 "DEVELOPMENT" MEANS ANY MANMADE CHANGE TO IMPROVED OR
2 UNIMPROVED REAL ESTATE, INCLUDING BUT NOT LIMITED TO ANY
3 CONSTRUCTION, RECONSTRUCTION, MODIFICATION, EXTENSION OR EXPANSION
4 OF BUILDINGS OR OTHER STRUCTURES, PLACEMENT OF FILL OR CONCRETE,
5 CONSTRUCTION OF NEW OR REPLACEMENT INFRASTRUCTURE, DUMPING,
6 MINING, DREDGING, GRADING, PAVING, DRILLING OPERATIONS, STORAGE OF
7 MATERIALS, LAND EXCAVATION, LAND CLEARING, LAND IMPROVEMENT OR
8 LANDFILL OPERATION. THIS TERM ALSO INCLUDES THE SUBDIVISION OF LAND.

9
10 **19.04.280 - DIAMETER AT BREAST HEIGHT.**

11 "DIAMETER AT BREAST HEIGHT" ("DBH") MEANS THE DIAMETER OF A TREE
12 MEASURED AT FOUR AND ONE-HALF FEET ABOVE EXISTING, NATURAL GRADE.

13
14 **.04.290 - DIRECTOR.**

15 "DIRECTOR" MEANS THE DIRECTOR OF DEPARTMENT OF THE ENVIRONMENT
16 OF THE CITY OF ANNAPOLIS.

17
18 **19.04.300 – [RESERVED]**

19
20 **19.04.310 - DRAINAGE AREA.**

21 "DRAINAGE AREA" MEANS THAT AREA CONTRIBUTING SURFACE WATER
22 RUNOFF TO A SINGLE POINT, AS MEASURED IN A HORIZONTAL PLANE.

23
24 **19.04.315 - DRAINAGE WAY.**

25 "DRAINAGE WAY" MEANS ANY NATURAL OR ARTIFICIAL FLOW OR PATH,
26 INCLUDING, BUT NOT LIMITED TO, STREAMS, RIVERS, CREEKS, PONDS, LAKES,
27 DITCHES, CHANNELS, CANALS, CONDUITS, CULVERTS, DRAINS, WATERWAYS,
28 GULLIES, RAVINES OR WASHES IN WHICH WATERS FLOW IN A DEFINITE
29 DIRECTION OR COURSE, EITHER CONTINUOUSLY OR INTERMITTENTLY, AND
30 INCLUDING ANY ADJACENT AREA WHICH IS SUBJECT TO INUNDATION BY
31 REASON OF OVERFLOW OR FLOODWATERS.

32
33 **19.04.320 - DREDGING.**

34 "DREDGING" MEANS ANY ACT OF EXCAVATING IN A BODY OF WATER BELOW
35 THE LEVEL OF MEAN HIGH TIDE.

36
37 **19.04.330 - DRIPLINE.**

38 "DRIPLINE" MEANS THE AREA ON THE GROUND BENEATH A TREE AS DEFINED
39 BY THE CIRCUMFERENCE OF THE TREE'S BRANCHES.

40
41 **19.04.350 - ENGINEER.**

42 "ENGINEER" MEANS A "PROFESSIONAL ENGINEER" AS DEFINED IN THE
43 MARYLAND PROFESSIONAL ENGINEERS ACT, ANNOTATED CODE OF MARYLAND,
44 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, TITLE 14 (OR ITS
45 SUCCESSORS), WHO IS IN GOOD STANDING AND PROPERLY REGISTERED BY THE

1 STATE OF MARYLAND TO PRACTICE ENGINEERING IN ACCORDANCE WITH THE
2 ACT.

3
4 **19.04.355 - ENVIRONMENTAL SITE DESIGN (ESD).**

5 "ENVIRONMENTAL SITE DESIGN" (ESD) MEANS USING SMALL-SCALE
6 STORMWATER MANAGEMENT PRACTICES, NONSTRUCTURAL TECHNIQUES, AND
7 SITE PLANNING TO MIMIC NATURAL HYDROLOGIC RUNOFF CHARACTERISTICS
8 AND MINIMIZE THE IMPACT OF LAND DEVELOPMENT ON WATER RESOURCES.

9
10 **19.04.360 - EROSION.**

11 "EROSION" MEANS THE PROCESS OF WEARING AWAY OF THE LAND SURFACE.
12 EROSION MAY RESULT FROM EITHER NATURAL PROCESSES OR MANMADE
13 ACTIVITIES.

14
15 **19.04.370 - EROSION AND SEDIMENT CONTROL.**

16 "EROSION AND SEDIMENT CONTROL" MEANS A SYSTEM OF STRUCTURAL AND
17 VEGETATIVE MEASURES THAT MINIMIZE SOIL EROSION AND OFF-SITE
18 SEDIMENTATION.

19
20 **19.04.380 - EROSION AND SEDIMENT CONTROL PLAN.**

21 "EROSION AND SEDIMENT CONTROL PLAN" MEANS A STRATEGY OR PLAN
22 DESIGNED TO MINIMIZE EROSION AND PREVENT OFF-SITE SEDIMENTATION BY
23 CONTAINING SEDIMENT ON SITE OR BY PASSING SEDIMENT-LADEN RUNOFF
24 THROUGH A SEDIMENT CONTROL MEASURE, PREPARED AND APPROVED IN
25 ACCORDANCE WITH THE SPECIFIC REQUIREMENTS OF THE ANNE ARUNDEL SOIL
26 CONSERVATION DISTRICT AND THIS TITLE, AND DESIGNED IN ACCORDANCE
27 WITH THE STANDARDS AND SPECIFICATIONS.

28
29 **19.04.390 - EXCAVATION.**

30 "EXCAVATION" MEANS ANY ACT OR THE CONDITIONS RESULTING FROM ANY
31 ACT BY WHICH SOIL OR ROCK IS CUT INTO, DUG, QUARRIED, UNCOVERED,
32 REMOVED, DISPLACED OR RELOCATED.

33
34 **19.04.395 - EXEMPTION.**

35 "EXEMPTION" MEANS THOSE LAND DEVELOPMENT ACTIVITIES THAT ARE
36 NOT SUBJECT TO THE EROSION AND SEDIMENT CONTROL REQUIREMENTS
37 CONTAINED IN THIS CHAPTER.

38
39 **19.04.400 - EXISTING GRADE.**

40 "EXISTING GRADE" MEANS THE VERTICAL LOCATION OF THE EXISTING
41 GROUND SURFACE PRIOR TO ANY GRADING ACTIVITY.

42
43 **19.04.410 - FACILITY.**

1 "FACILITY" MEANS A STORMWATER MANAGEMENT DESIGN, AND SHALL
2 INCLUDE ALL LAND, MATERIALS AND APPURTENANCES USED IN CONSTRUCTION
3 AND OPERATION OF THAT DESIGN.
4

5 **19.04.420 - FILL.**

6 "FILL" MEANS ANY ACT, OR ANY RESULTANT OF THE ACT, BY WHICH SOIL,
7 EARTH, SAND, GRAVEL, ROCK OR ANY SIMILAR MATERIAL IS DEPOSITED,
8 PLACED, PUSHED, PULLED OR TRANSPORTED.
9

10 **19.04.425 - FINAL EROSION AND SEDIMENT CONTROL PLAN.**

11 "FINAL EROSION AND SEDIMENT CONTROL PLAN" MEANS, ALONG WITH THE
12 FINAL STORMWATER MANAGEMENT PLAN, THE LAST OF THREE PLANS
13 SUBMITTED UNDER THE COMPREHENSIVE REVIEW AND APPROVAL PROCESS
14 REQUIRED BY CHAPTER 19.50 OF THE CITY CODE AND DESCRIBED IN CHAPTER
15 19.40 OF THE CITY CODE. FINAL EROSION AND SEDIMENT CONTROL PLANS SHALL
16 BE PREPARED AND APPROVED IN ACCORDANCE WITH THE SPECIFIC
17 REQUIREMENTS OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT, THE
18 DIRECTOR, AND THIS CHAPTER AND DESIGNED IN ACCORDANCE WITH THE
19 STANDARDS AND SPECIFICATIONS.
20

21 **19.04.430 - FINISHED GRADE.**

22 "FINISHED GRADE" MEANS THE FINAL GRADE OR ELEVATION OF THE GROUND
23 SURFACE CONFORMING TO THE APPROVED SITE PLAN, INCLUDING ALL
24 DEPARTMENT-APPROVED MODIFICATIONS TO THE SITE PLAN. THE INTENT FOR
25 GRADING IS TO HAVE GRADES THAT ARE NOT TOO STEEP OR TOO FLAT FOR SITE
26 CONDITIONS AND TO PROVIDE FOR DRAINAGE PATTERNS.
27

28 **19.04.450 – [RESERVED]**

29
30 **19.04.460 – [RESERVED]**
31

32 **19.04.490 - FOREST.**

33 "FOREST" MEANS A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND
34 OTHER WOODY PLANTS COVERING A LAND AREA OF ONE ACRE OR MORE. THIS
35 ALSO INCLUDES FORESTS THAT HAVE BEEN CUT, BUT NOT CLEARED.
36

37 **19.04.500 - GRADING.**

38 "GRADING" MEANS TO DISTURB EARTH BY, INCLUDING BUT NOT LIMITED TO,
39 EXCAVATING, FILLING, STOCKPILING, DREDGING OF EARTH MATERIALS,
40 GRUBBING, REMOVING ROOT MAT OR TOPSOIL, OR ANY COMBINATION THEREOF.
41

42 **19.04.503 - GRADING UNIT.**

43 "GRADING UNIT" MEANS THE MAXIMUM CONTIGUOUS AREA ALLOWED TO BE
44 GRADED AT A GIVEN TIME. FOR THE PURPOSES OF THIS CHAPTER, A GRADING
45 UNIT IS TWENTY ACRES OR LESS.

1
2 **19.04.507 - HIGHLY ERODIBLE SOILS.**

3 "HIGHLY ERODIBLE SOILS" MEANS THOSE SOILS WITH A SLOPE GREATER
4 THAN FIFTEEN PERCENT OR THOSE SOILS WITH A SOIL ERODABILITY FACTOR, K,
5 GREATER THAN 0.35 AND WITH SLOPES GREATER THAN FIVE PERCENT.
6

7 **19.04.510 – [RESERVED]**

8
9 **19.04.511 - IMPERVIOUS SURFACES.**

10 "IMPERVIOUS SURFACES" MEANS THOSE AREAS WHICH DO NOT HAVE A
11 VEGETATED COVER WITH A NATURAL SOIL SUBSTRATE OR A STORMWATER
12 MANAGEMENT RESERVOIR.
13

14 **19.04.520 – [RESERVED]**

15
16 **19.04.530 - LANDSCAPING.**

17 "LANDSCAPING" MEANS ANY ACT OF PLANTING, PRUNING, CARE OR
18 MAINTENANCE, OR ANY OTHER HORTICULTURAL ACTIVITY INVOLVING
19 EXISTING OR TRANSPLANTED VEGETATIVE MATERIAL, INCLUDING ANY
20 ASSOCIATED DIGGING OR GRADING.
21

22 **19.04.535 – [RESERVED]**

23
24 **19.04.550 – [RESERVED]**

25
26 **19.04.565 - MAXIMUM EXTENT PRACTICABLE (MEP).**

27 "MAXIMUM EXTENT PRACTICABLE" (MEP) MEANS DESIGNING STORMWATER
28 MANAGEMENT SYSTEMS SO THAT ALL REASONABLE OPPORTUNITIES FOR USING
29 ENVIRONMENTAL SITE DESIGN PLANNING TECHNIQUES AND TREATMENT
30 PRACTICES ARE EXHAUSTED AND ONLY WHERE ABSOLUTELY NECESSARY IS A
31 STRUCTURAL BEST MANAGEMENT PRACTICE IMPLEMENTED.
32

33 **19.04.580 - NATURAL VEGETATION.**

34 "NATURAL VEGETATION" MEANS THOSE PLANT COMMUNITIES THAT
35 DEVELOP IN THE ABSENCE OF HUMAN ACTIVITIES.
36

37 **19.04.590 – [RESERVED]**

38
39 **19.04.600 – [RESERVED]**

40
41 **19.04.610 – [RESERVED]**

42
43 **19.04.620 - OWNER/DEVELOPER.**

44 "OWNER/DEVELOPER" MEANS A PERSON UNDERTAKING, OR FOR WHOSE
45 BENEFIT, ACTIVITIES COVERED BY THIS CHAPTER ARE CARRIED ON. GENERAL

1 CONTRACTORS OR SUBCONTRACTORS, OR BOTH, WITHOUT A PROPRIETARY
2 INTEREST IN A PROJECT ARE NOT INCLUDED WITHIN THIS DEFINITION.

3
4 **19.04.630 - PERMIT AND TOLLING.**

5 A. "PERMIT" MEANS WRITTEN, AUTHORIZED APPROVAL TO PERFORM THE
6 PROPOSED WORK.

7 B. PERMITS AND ANY PERMIT APPLICATION REVIEWED, APPROVED, AND
8 READY FOR ISSUANCE PURSUANT TO TITLE 19, AND ANY EXTENSIONS
9 THEREOF WHICH ARE ACTIVE AND VALID AS OF JUNE 30, 2012, SHALL BY
10 DEFINITION BE TOLLED UNTIL JUNE 30, 2014 SO THAT ALL SUCH PERMITS,
11 PERMIT APPLICATION APPROVALS, AND EXTENSIONS SHALL EXPIRE ON, OR
12 ANY APPLICABLE EXTENSION REQUEST SHALL HAVE BEEN REQUESTED BY,
13 JUNE 30, 2014.

14 1. THE CITY OF ANNAPOLIS CODE IN FORCE AT THE TIME
15 CONSTRUCTION COMMENCES SHALL APPLY TO ALL SUCH PERMIT
16 APPLICATION APPROVALS.

17
18 **19.04.640 - PERMITTEE.**

19 "PERMITTEE" MEANS ANY PERSON TO WHOM A PERMIT IS ISSUED PURSUANT
20 TO THIS TITLE.

21
22 **19.04.650 - PERSON.**

23 "PERSON" MEANS AND INCLUDES THE FEDERAL GOVERNMENT, THE STATE,
24 ANY COUNTY, MUNICIPAL CORPORATION OR OTHER POLITICAL SUBDIVISION OF
25 THE STATE, OR ANY OF THEIR UNITS, OR AN INDIVIDUAL, RECEIVER, TRUSTEE,
26 GUARDIAN, EXECUTOR, ADMINISTRATOR, FIDUCIARY OR REPRESENTATIVE OF
27 ANY KIND, OR ANY PARTNERSHIP, FIRM, ASSOCIATION, PUBLIC OR PRIVATE
28 CORPORATION, OR ANY OF THEIR AFFILIATES, OR ANY OTHER ENTITY.

29
30 **19.04.655 - POLLUTANT.**

31 "POLLUTANT" MEANS ANY LIQUID, GASEOUS, SOLID, OR OTHER SUBSTANCES,
32 INCLUDING COAL TAR PAVEMENT PRODUCTS AS DEFINED IN SECTION 19.04.155,
33 WHICH WILL CAUSE WATER POLLUTION OF A WATER RESOURCE OF THE CITY.

34
35 **19.04.660 - PRE-DEVELOPMENT.**

36 "PRE-DEVELOPMENT" MEANS THE UNITED STATES DEPARTMENT OF
37 AGRICULTURE (USDA) SOIL CONSERVATION SERVICE CLASSIFICATION FOR
38 "MEADOW" IN GOOD HYDROLOGIC CONDITION.

39
40 **19.04.670 - PRINCIPALLY ABOVE GROUND.**

41 "PRINCIPALLY ABOVE GROUND" MEANS THAT AT LEAST FIFTY-ONE PERCENT
42 OF THE ACTUAL CASH VALUE OF A STRUCTURE, LESS LAND VALUE, IS ABOVE
43 GROUND AS IT PERTAINS TO THE FLOODPLAIN DISTRICT.

44
45 **19.04.680 - PRIVATE STORMWATER MANAGEMENT FACILITY.**

1 "PRIVATE STORMWATER MANAGEMENT FACILITY" MEANS ANY
2 STORMWATER MANAGEMENT FACILITY WHICH IS NOT TO BE OWNED AND
3 MAINTAINED BY THE CITY OR ANY OTHER GOVERNMENT AGENCY.
4

5 **19.04.690 - PRUNING.**

6 "PRUNING" MEANS ANY ACT OF CUTTING OR REMOVING DEAD OR LIVING
7 PARTS OF BRANCHES OF A TREE OR SHRUB IN ORDER TO IMPROVE SHAPE OR
8 GROWTH.
9

10 **19.04.700 - PUBLIC STORMWATER MANAGEMENT FACILITY.**

11 "PUBLIC STORMWATER MANAGEMENT FACILITY" MEANS ANY STORMWATER
12 MANAGEMENT FACILITY WHICH IS TO BE OWNED AND MAINTAINED BY THE CITY
13 OR ANY OTHER GOVERNMENTAL AGENCY.
14

15 **19.04.710 - RESPONSIBLE PERSONNEL.**

16 "RESPONSIBLE PERSONNEL" MEANS ANY FOREMAN, SUPERINTENDENT OR
17 PROJECT ENGINEER WHO IS IN CHARGE OF ON-SITE CLEARING AND GRADING
18 OPERATIONS OR SEDIMENT CONTROL ASSOCIATED WITH EARTH CHANGES OR
19 DISTURBANCES.
20

21 **19.04.720 - RETENTION STRUCTURE.**

22 "RETENTION STRUCTURE" MEANS A PERMANENT STRUCTURE THAT
23 PROVIDES FOR THE STORAGE OF SURFACE WATER RUNOFF BY MEANS OF A
24 PERMANENT POOL OF WATER.
25

26 **19.04.730 - SEDIMENT.**

27 "SEDIMENT" MEANS SOILS OR OTHER MATERIALS TRANSPORTED OR
28 DEPOSITED BY THE ACTION OF WIND, WATER, ICE, GRAVITY OR ARTIFICIAL
29 MEANS.
30

31 **19.04.750 - SHRUB LAYER.**

32 "SHRUB LAYER" MEANS THE LOWEST LAYER OF WOODY VEGETATION.
33

34 **19.04.760 - SITE.**

35 "SITE" MEANS THAT PORTION OF LAND, LOT OR PARCEL OF LAND OR
36 COMBINATION OF CONTIGUOUS LOTS OR PARCELS OF LAND UPON WHICH
37 GRADING OR OTHER LAND-DISTURBING ACTIVITY IS TO BE PERFORMED AS PART
38 OF A UNIT, SUBDIVISION OR PROJECT.
39

40 **19.04.770 - SITE DESIGN PLAN.**

41 "SITE DESIGN PLAN" MEANS DRAWINGS THAT REFLECT A CONCEPTUAL
42 DESIGN FOR THE PHYSICAL CHARACTERISTICS OF A SITE FOR PLANNING
43 PURPOSES. THE SITE DESIGN PLAN PROVIDES PRELIMINARY ENGINEERING WHICH
44 MAY BE SUBJECT TO THE REVISIONS DURING FINAL ENGINEERING DESIGN.
45

1 **19.04.780 - SITE PLAN.**

2 "SITE PLAN" MEANS DRAWINGS THAT REFLECT THE PHYSICAL
3 CHARACTERISTICS OF A SITE. THESE DRAWINGS INCLUDE EXISTING AND
4 PROPOSED CONDITIONS.

5
6 **19.04.790 - SLOPE.**

7 "SLOPE" MEANS THE INCLINED EXPOSED SURFACE OF A FILL, EXCAVATION
8 OR NATURAL TERRAIN, ALSO THE STEEPNESS OR GRADE OF THAT SURFACE,
9 EXPRESSED IN TERMS OF THE RATIO OF HORIZONTAL DISTANCE TO VERTICAL
10 RISE, OR IN TERMS OF A PERCENTAGE.

11
12 **19.04.800 - SOIL.**

13 "SOIL" MEANS ALL EARTH MATERIAL OF WHATEVER ORIGIN THAT OVERLIES
14 BEDROCK, INCLUDING, BUT NOT LIMITED TO, THE DECOMPOSED ZONE OF
15 BEDROCK WHICH READILY CAN BE EXCAVATED BY MECHANICAL EQUIPMENT.

16
17 **19.04.810 - SPECIMEN.**

18 "SPECIMEN" MEANS AN INDIVIDUAL TREE UNIQUELY REPRESENTATIVE OF
19 ITS SPECIES.

20
21 **19.04.820 - STABILIZATION.**

22 "STABILIZATION" MEANS THE PROTECTION OF EXPOSED SOILS FROM
23 EROSION BY THE APPLICATION OF SEED AND MULCH, SEED AND MATTING, SOD,
24 OTHER VEGETATIVE MEASURES, AND/OR STRUCTURAL MEANS.

25
26 **19.04.825 - STANDARDS AND SPECIFICATIONS.**

27 "STANDARDS AND SPECIFICATIONS" MEANS THE "2011 MARYLAND
28 STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL"
29 OR ANY SUBSEQUENT REVISIONS.

30
31 **19.04.830 - STEEP SLOPE.**

32 "STEEP SLOPE" MEANS A SLOPE OF GREATER THAN FIFTEEN PERCENT GRADE,
33 WHICH IS CHARACTERIZED BY INCREASED RUNOFF, EROSION AND SEDIMENT
34 HAZARDS.

35
36 **19.04.840 - START OF CONSTRUCTION.**

37 "START OF CONSTRUCTION" MEANS THE DATE OF ISSUANCE OF THE BUILDING
38 PERMIT FOR ANY DEVELOPMENT, INCLUDING NEW CONSTRUCTION AND
39 SUBSTANTIAL IMPROVEMENTS, PROVIDED THAT THE ACTUAL START OF THE
40 CONSTRUCTION OR IMPROVEMENT WAS WITHIN ONE HUNDRED TWENTY DAYS
41 OF PERMIT ISSUANCE. THE ACTUAL START OF NEW CONSTRUCTION MEANS THE
42 INITIATION OF ANY LAND-DISTURBING ACTIVITY. FOR SUBSTANTIAL
43 IMPROVEMENT, THE START OF CONSTRUCTION IS THE FIRST ALTERATION OF ANY
44 STRUCTURAL PART OF THE BUILDING.

45

1 **19.04.850 - STORMWATER.**

2 "STORMWATER" MEANS WATER THAT ORIGINATES FROM A PRECIPITATION
3 EVENT.

4
5 **19.04.860 - STORMWATER MANAGEMENT.**

6 "STORMWATER MANAGEMENT" ("SWM") REFERS BOTH TO QUANTITATIVE
7 CONTROL: A SYSTEM OF VEGETATIVE AND STRUCTURAL MEASURES WHICH
8 CONTROL THE INCREASED VOLUME AND RATE OF SURFACE RUNOFF CAUSED BY
9 MANMADE CHANGES TO THE LAND AND HAVE THE EFFECT OF MAINTAINING THE
10 EXISTING PATTERNS OF FLOOD MAGNITUDE AND FREQUENCY; AND
11 QUALITATIVE CONTROL: A SYSTEM OF VEGETATIVE, STRUCTURAL AND OTHER
12 MEASURES WHICH CONTROL OR TREAT POLLUTANTS CARRIED BY SURFACE
13 RUNOFF.

14
15 **19.04.865 - STORMWATER MANAGEMENT SYSTEM.**

16 "STORMWATER MANAGEMENT SYSTEM" MEANS NATURAL AREAS, ESD
17 PRACTICES, STORMWATER MANAGEMENT MEASURES, AND ANY OTHER
18 STRUCTURE THROUGH WHICH STORMWATER FLOWS, INFILTRATES, OR
19 DISCHARGES FROM A SITE.

20
21 **19.04.870 - STRUCTURE.**

22 "STRUCTURE" MEANS THAT WHICH IS BUILT OR CONSTRUCTED, TO INCLUDE
23 BUT NOT LIMITED TO THE FOLLOWING: A WALLED OR ROOFED BUILDING, A GAS
24 OR LIQUID STORAGE TANK, A BUILDING FOUNDATION, PLATFORM DECK,
25 SWIMMING POOL, BULKHEAD OR GREENHOUSE THAT IS PRINCIPALLY ABOVE
26 GROUND AND AFFIXED TO A PERMANENT SITE OR LOCATION.

27
28 **19.04.880 - SUBDIVISION.**

29 "SUBDIVISION" MEANS THE DIVISION OR REDIVISION OF A LOT, TRACT OR
30 PARCEL OF LAND BY ANY MEANS INTO TWO OR MORE LOTS, TRACTS, PARCELS
31 OR OTHER DIVISIONS OF LAND, INCLUDING A CHANGE IN EXISTING LOT LINES,
32 FOR THE PURPOSE, WHETHER IMMEDIATE OR FUTURE, OF LEASE, TRANSFER OF
33 OWNERSHIP, OR BUILDING OR LOT DEVELOPMENT.

34
35 **19.04.890 - SUBSTANTIAL IMPROVEMENT.**

36 ANY RECONSTRUCTION, REHABILITATION, ADDITION, OR OTHER
37 IMPROVEMENT OF A BUILDING OR STRUCTURE, THE COST OF WHICH EQUALS OR
38 EXCEEDS FIFTY PERCENT OF THE MARKET VALUE OF THE BUILDING OR
39 STRUCTURE BEFORE THE START OF CONSTRUCTION OF THE IMPROVEMENT. THE
40 TERM INCLUDES STRUCTURES WHICH HAVE INCURRED SUBSTANTIAL DAMAGE,
41 REGARDLESS OF THE ACTUAL REPAIR WORK PERFORMED. THE TERM DOES NOT;
42 HOWEVER, INCLUDE EITHER:

- 43 (1) ANY PROJECT FOR IMPROVEMENT OF A BUILDING OR STRUCTURE TO
44 CORRECT EXISTING VIOLATIONS OF STATE OR LOCAL HEALTH,
45 SANITARY, OR SAFETY CODE SPECIFICATIONS WHICH HAVE BEEN

1 IDENTIFIED BY THE LOCAL CODE ENFORCEMENT OFFICIAL PRIOR TO
2 SUBMISSION OF AN APPLICATION FOR A PERMIT AND WHICH ARE THE
3 MINIMUM NECESSARY TO ASSURE SAFE LIVING CONDITIONS; OR

- 4 (2) ANY ALTERATION OF A HISTORIC STRUCTURE, PROVIDED THAT THE
5 ALTERATION WILL NOT PRECLUDE THE STRUCTURE'S CONTINUED
6 DESIGNATION AS A HISTORIC STRUCTURE.

7
8 **19.04.900 – [RESERVED]**

9
10 **19.04.910 - TRENCHING.**

11 "TRENCHING" MEANS ANY ACT OF CUTTING, DIGGING OR EXCAVATING A
12 TRENCH FOR THE EMPLACEMENT OF UTILITIES.

13
14 **19.04.920 – [RESERVED]**

15
16 **19.04.930 - TUNNELING.**

17 "TUNNELING" MEANS ANY ACT OF CUTTING, DIGGING OR EXCAVATING A
18 TUNNEL FOR THE EMPLACEMENT OF UTILITIES.

19
20 **19.04.940 - UNDERSTORY.**

21 "UNDERSTORY" MEANS THE INTERMEDIATE LAYER OF WOODY VEGETATION.

22
23 **19.04.950 - VARIANCE.**

24 "VARIANCE" MEANS THE MODIFICATION OF THE MINIMUM EROSION AND
25 SEDIMENT CONTROL REQUIREMENTS FOR EXCEPTIONAL CIRCUMSTANCES SUCH
26 THAT STRICT ADHERENCE TO THE REQUIREMENTS WOULD RESULT IN
27 UNNECESSARY HARDSHIP AND NOT FULFILL THE INTENT OF THIS CHAPTER.

28
29 **19.04.955 - WATER POLLUTION.**

30 "WATER POLLUTION" MEANS ANY CONTAMINATION, INCLUDING COAL TAR
31 PAVEMENT PRODUCTS AS DEFINED IN SECTION 19.04.155, OR OTHER ALTERATION
32 OF THE PHYSICAL, CHEMICAL, OR BIOLOGICAL PROPERTIES OF ANY WATERS,
33 INCLUDING A CHANGE IN TEMPERATURE, TASTE, COLOR, TURBIDITY, OR ODOR
34 OF THE WATERS OR THE DISCHARGE OR DEPOSIT OF ANY ORGANIC MATTER,
35 HARMFUL ORGANISM, OR LIQUID, GASEOUS, SOLID, RADIOACTIVE, OR OTHER
36 SUBSTANCE INTO ANY WATERS THAT WILL RENDER THE WATERS HARMFUL, OR
37 DETRIMENTAL TO PUBLIC HEALTH AND SAFETY, LEGITIMATE BENEFICIAL USES,
38 WILD ANIMALS, OR AQUATIC LIFE.

39
40 **19.04.960 - WATER RESOURCE.**

41 "WATER RESOURCE" MEANS ANY WETLANDS, EPHEMERAL STREAMS,
42 INTERMITTENT STREAMS, PERENNIAL STREAMS, OTHER BODIES OF WATER, AND
43 ANY OTHER DRAINAGE WAY THAT MAY CONTINUOUSLY OR INTERMITTENTLY
44 CARRY WATER TO ONE OF THESE WATER RESOURCES.

45

1 **19.04.970 - WATERSHED.**

2 "WATERSHED" MEANS THE TOTAL DRAINAGE AREA CONTRIBUTING RUNOFF
3 TO A SPECIFIC WATER BODY, OR TO A SPECIFIC POINT.
4

5 **19.04.980 - WETLANDS.**

6 "WETLANDS" MEANS ANY AREA THAT HAS SATURATED SOILS OR PERIODIC
7 HIGH GROUNDWATER LEVELS AND VEGETATION ADAPTED TO WET CONDITIONS
8 AND PERIODIC FLOODING, TO INCLUDE BUT NOT LIMITED TO LAND WHICH IS
9 EITHER CONSIDERED "PRIVATE WETLAND" OR "STATE WETLAND" PURSUANT TO
10 ANNOTATED CODE OF MARYLAND, ENVIRONMENT ARTICLE, TITLE 16 (OR ITS
11 SUCCESSORS), OR DEFINED AS "WETLAND" BY THE U.S. FISH AND WILDLIFE
12 SERVICE IDENTIFICATION AND CLASSIFICATION PROCEDURES (OR ITS
13 SUCCESSORS).
14

15 **19.04.990 – [RESERVED]**

16
17 **19.04.1000 - WILDLIFE CORRIDOR.**

18 "WILDLIFE CORRIDOR" MEANS A STRIP OF LAND HAVING VEGETATION THAT
19 PROVIDES HABITAT AND A SAFE PASSAGEWAY FOR WILDLIFE.
20

21 **19.04.1010 - WORK.**

22 "WORK" MEANS ANY CONSTRUCTION-RELATED ACTIVITY THAT LEADS TO
23 THE PERFORMANCE OF ACTION PROVIDED BY THE GRADING OR BUILDING
24 PERMIT.
25
26

27 **CHAPTER 19.10 - TREES IN PUBLIC SPACES**

28
29 **19.10.010 - POLICY.**

30 IT IS THE POLICY OF THE CITY TO REGULATE THE PLANTING, REMOVAL,
31 MAINTENANCE AND PROTECTION OF TREES AND SHRUBS ON ALL PUBLIC LANDS
32 SUBJECT TO ITS JURISDICTION; TO ELIMINATE AND GUARD AGAINST DANGEROUS
33 CONDITIONS WHICH MAY RESULT IN INJURY TO PERSONS USING PUBLIC AREAS,
34 TO PROMOTE AND ENHANCE THE BEAUTY OF THE CITY, TO PREVENT DAMAGE TO
35 ANY PUBLIC SEWER OR WATER MAIN, STREET, SIDEWALK OR OTHER PUBLIC
36 PROPERTY, TO PROTECT TREES AND SHRUBS LOCATED IN PUBLIC AREAS FROM
37 UNDESIRABLE AND UNSAFE PRACTICES, AND TO GUARD TREES AND SHRUBS
38 AGAINST THE SPREAD OF DISEASE OR PESTS.
39

40 **19.10.020 - APPLICABILITY.**

41 THIS CHAPTER APPLIES TO ALL TREES AND SHRUBS PLANTED IN OR
42 ADJACENT TO ANY PUBLIC AREAS, AND TO ALL TREES AND SHRUBS PLANTED IN
43 OR UPON ANY PRIVATE PREMISES WHICH ENDANGER THE LIFE, HEALTH OR
44 SAFETY OF PERSONS OR PROPERTY.
45

1 **19.10.030 - DEFINITIONS.**

2 AS USED IN THIS CHAPTER, THE FOLLOWING WORDS AND PHRASES HAVE THE
3 MEANINGS INDICATED:

- 4 A. "CROWN AREA" MEANS THE LEAFY PART OF A TREE.
5 B. "CUTTING" MEANS FELLING OR REMOVAL OF A TREE OR ANY PROCEDURE
6 THE RESULT OF WHICH IS TO CAUSE THE DEATH OR SUBSTANTIAL
7 DESTRUCTION OF A TREE. CUTTING DOES NOT INCLUDE NORMAL
8 PRUNING OR TRIMMING.
9 C. "DEPARTMENT" MEANS THE DEPARTMENT OF THE ENVIRONMENT.
10 D. "DIRECTOR OF THE DEPARTMENT OF THE ENVIRONMENT" SHALL BE
11 READ TO INCLUDE HIS/HER DESIGNEE.
12 E. "MAINTENANCE" AND "PROTECTION" INCLUDE ALL OPERATIONS OF
13 TRIMMING, PRUNING, SPRAYING, INJECTING, FERTILIZING, TREATING,
14 BRACING, DOING SURGERY WORK, AND CUTTING ABOVE OR BELOW
15 GROUND.
16 F. "PUBLIC AREA" INCLUDES ALL PUBLIC WAYS, PUBLIC PARKS AND OTHER
17 PUBLIC LANDS EXCEPT THOSE OWNED OR LEASED BY THE UNITED
18 STATES OF AMERICA OR BY THE STATE.
19 G. "PUBLIC WAY" INCLUDES ALL PUBLIC STREETS, ROADS, BOULEVARDS,
20 ALLEYS AND SIDEWALKS.
21 H. "REMOVE" OR "REMOVAL" MEANS THE ACTUAL PHYSICAL REMOVAL, OR
22 THE EFFECTIVE REMOVAL THROUGH DAMAGING, POISONING OR OTHER
23 DIRECT OR INDIRECT ACTIONS RESULTING IN, OR LIKELY TO RESULT IN,
24 THE DEATH OF A TREE.
25 I. "TREES" AND "SHRUBS" INCLUDES ALL WOODY VEGETATION.
26

27 **19.10.040 - ENVIRONMENTAL COMMISSION.**

28 IN ADDITION TO ANY OTHER DUTIES ASSIGNED BY THIS CODE, THE
29 ENVIRONMENTAL COMMISSION SHALL PERFORM THE FOLLOWING FUNCTIONS:

- 30 A. RECOMMEND THE APPOINTMENT OF A FORESTER;
31 B. STUDY THE PROBLEMS AND DETERMINE THE NEEDS OF THE CITY IN
32 CONNECTION WITH ITS TREE PLANTING, PROTECTION AND MAINTENANCE
33 PROGRAMS;
34 C. ASSIST IN THE DISSEMINATION OF NEWS AND INFORMATION REGARDING
35 THE SELECTION, PLANTING AND MAINTENANCE OF TREES WITHIN THE
36 AREAS SUBJECT TO THE JURISDICTION OF THE CITY, WHETHER THE AREAS
37 ARE PRIVATE OR PUBLIC PROPERTY, AND MAKE RECOMMENDATIONS FOR
38 LEGISLATION CONCERNING THE TREE PROGRAM AND ACTIVITIES;
39 D. INVESTIGATE AND IMPLEMENT ALTERNATIVE FUNDING SOURCES FOR
40 THE PLANTING AND MAINTENANCE OF TREES AND SHRUBS ON PUBLIC
41 LANDS;
42 E. CONDUCT MEETINGS AND FORUMS AT WHICH THE SUBJECT OF TREES IS
43 DISCUSSED.
44

1 **19.10.050 - RESPONSIBILITIES OF THE DIRECTOR OF THE DEPARTMENT OF THE**
2 **ENVIRONMENT.**

3 A. IMPLEMENTATION, ADMINISTRATION AND EXECUTION OF THE
4 REQUIREMENTS OF THIS CHAPTER ARE THE RESPONSIBILITY OF THE
5 DEPARTMENT OF THE ENVIRONMENT.

6 B. THE DIRECTOR OR HIS OR HER DESIGNEE SHALL HAVE THE FOLLOWING
7 GENERAL POWERS AND DUTIES:

- 8 1. TO DIRECT, MANAGE, SUPERVISE AND CONTROL THE STREET TREE
9 PROGRAM, INCLUDING ALL PLANTING, REMOVAL, MAINTENANCE, AND
10 PROTECTION OF ALL TREES AND SHRUBS ON ALL PUBLIC AREAS;
- 11 2. TO GUARD ALL TREES AND SHRUBS TO PREVENT THE SPREAD OF DISEASE
12 OR PESTS AND TO ELIMINATE DANGEROUS CONDITIONS WHICH MAY
13 AFFECT THE LIFE, HEALTH OR SAFETY OF PERSONS OR PROPERTY;
- 14 3. TO PERFORM OTHER RELATED FUNCTIONS AS ARE ASSIGNED.

15
16 **19.10.060 - DAMAGE TO TREES AND SHRUBS.**

17 NO PERSON SHALL BREAK, INJURE, MUTILATE, KILL OR DESTROY ANY TREE
18 OR SHRUB IN ANY PUBLIC AREA, OR PERMIT ANY ANIMAL UNDER THAT PERSON'S
19 CONTROL TO DO SO; PERMIT ANY LEAK TO EXIST IN ANY GAS LINE WITHIN THE
20 ROOT ZONE OF ANY TREE OR SHRUB; PERMIT ANY TOXIC CHEMICAL TO SEEP,
21 DRAIN OR BE EMPTIED ON OR ABOUT ANY TREE OR SHRUB; OR PERMIT ELECTRIC
22 OR COMMUNICATION WIRES TO COME IN CONTACT WITH ANY TREE OR SHRUB.
23 DURING BUILDING OR CONSTRUCTION OPERATIONS, SUITABLE PROTECTIVE
24 BARRIERS SHALL BE ERECTED AROUND TREES AND SHRUBS IN PUBLIC AREAS
25 WHICH MAY BE SUBJECT TO INJURY OR DESTRUCTION.

26
27 **19.10.070 - FASTENING MATERIALS TO TREES AND SHRUBS.**

28 NO PERSON SHALL FASTEN ANY SIGN, ROPE, WIRE, OR OTHER MATERIALS TO,
29 AROUND OR THROUGH ANY TREES OR SHRUBS IN ANY PUBLIC AREA WITHOUT
30 OBTAINING PRIOR WRITTEN APPROVAL FROM THE DEPARTMENT, EXCEPT IN
31 EMERGENCIES SUCH AS STORMS OR ACCIDENTS.

32
33 **19.10.080 - PLANT, REMOVE, MAINTAIN AND PROTECT PUBLIC TREES WITHOUT**
34 **PERMIT.**

35 A. A PERSON NEITHER SHALL PLANT TREES OR SHRUBS IN ANY PUBLIC
36 AREA, NOR UNDERTAKE ANY MAINTENANCE OR PROTECTION, OR
37 OTHERWISE DISTURB ANY TREE OR SHRUB IN ANY PUBLIC AREA, WITHOUT
38 OBTAINING PRIOR WRITTEN APPROVAL FROM THE DEPARTMENT, EXCEPT IN
39 EMERGENCIES SUCH AS STORMS OR ACCIDENTS. ARBORICULTURAL
40 SPECIFICATIONS AND STANDARDS OF WORKMANSHIP AS SET FORTH IN THE
41 WRITTEN APPROVAL SHALL BE ADHERED TO IN THE PERFORMANCE OF THE
42 WORK.

43 B. SUBJECT TO THE PROVISIONS OF CHAPTER 16.12, APPROVAL OF THE
44 DEPARTMENT IS NOT REQUIRED TO WATER TREES OR SHRUBS.

1 C. ANY PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MUNICIPAL
2 INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF
3 THE CITY COUNCIL.
4

5 **19.10.090 - POWER TO PLANT, REMOVE, MAINTAIN AND PROTECT.**

6 THE DEPARTMENT MAY PLANT, REMOVE, MAINTAIN AND PROTECT TREES
7 AND SHRUBS ON OR ADJACENT TO ALL PUBLIC AREAS AS MAY BE NECESSARY TO
8 ENSURE SAFETY OR PRESERVE THE SYMMETRY AND BEAUTY OF THE GROUNDS.
9 APPROPRIATE ADVANCE WRITTEN NOTIFICATION SHALL BE MADE TO ADJACENT
10 PROPERTY OWNERS OF THE CITY'S INTENT TO PLANT OR REMOVE TREES OR
11 SHRUBS.
12

13 **19.10.095 - TREE CONSERVATION AREA—TREE REMOVAL.**

14 A. "TREE CONSERVATION AREAS" ARE ESTABLISHED TO BE THE SAME
15 AREAS AS THE LEGALLY DEFINED FRONT, SIDE OR REAR YARD SETBACKS OF
16 ANY RESIDENTIAL OR COMMERCIAL PROPERTY AS DESCRIBED IN THE
17 ZONING REGULATIONS OF THE CITY OF ANNAPOLIS, WHICH ARE ADJACENT
18 TO A PUBLIC RIGHT-OF-WAY.

19 B. WITHIN A TREE CONSERVATION AREA, NO TREE GREATER THAN FIVE
20 INCHES IN DIAMETER AS MEASURED AT FOUR AND ONE-HALF FEET ABOVE
21 THE GROUND SHALL BE REMOVED EXCEPT AS PROVIDED FOR IN THIS
22 SECTION. WITHIN A TREE CONSERVATION AREA, THE PROPERTY OWNER MAY
23 REMOVE TREES THAT ARE LESS THAN FIVE INCHES IN DIAMETER AS
24 MEASURED AT FOUR AND ONE-HALF FEET ABOVE THE GROUND.

25 C. A PERMIT ISSUED BY THE DIRECTOR OR HIS OR HER DESIGNEE IS
26 REQUIRED FOR THE REMOVAL OF ANY TREE GREATER THAN FIVE INCHES IN
27 DIAMETER, AS MEASURED AT FOUR AND ONE-HALF FEET ABOVE THE
28 GROUND, LOCATED WITHIN THE TREE CONSERVATION AREA. THE TREE
29 REMOVAL PERMIT APPLICATION FEE AND PERMIT FEE SHALL BE SET BY
30 RESOLUTION OF THE CITY COUNCIL. CONDITIONS UNDER WHICH SUCH A
31 PERMIT MAY BE ISSUED INCLUDE BUT SHALL NOT BE LIMITED TO THE
32 FOLLOWING:

- 33 1. THE TREE IS DEAD, DYING OR DISEASED, SUCH THAT FIFTY PERCENT OR
34 MORE OF THE CROWN AREA IS VISIBLY DEAD;
- 35 2. THE TREE IS DAMAGED OR INJURED TO THE EXTENT THAT IT IS LIKELY
36 TO DIE OR BECOME DISEASED;
- 37 3. THE REMOVAL OF THE TREE WILL SERVE THE PURPOSES OF THIS
38 CHAPTER OR WILL ENHANCE THE HEALTH OF THE REMAINING TREES IN
39 THE CONSERVATION AREA;
- 40 4. THE REMOVAL OF THE TREE WILL AVOID OR ALLEVIATE, MITIGATE, OR
41 REDUCE A SUBSTANTIAL HARDSHIP OR DAMAGE TO THE PROPERTY OR
42 ANY STRUCTURE LOCATED THEREON; OR
- 43 5. THE REMOVAL OF THE TREE IS CONSISTENT WITH GOOD FORESTRY
44 PRACTICES.

1 D. A PERMIT SHALL NOT BE REQUIRED FOR PUBLIC UTILITIES TO REMOVE
2 TREES SITUATED IN PROXIMITY TO OVERHEAD OR UNDERGROUND
3 FACILITIES OR IN CASE OF ANY EMERGENCY IN WHICH FAILURE TO REMOVE
4 A TREE IS LIKELY TO CAUSE IMMINENT DAMAGE TO PUBLIC OR PRIVATE
5 PROPERTY, AS USED HEREIN, THE TERM "PUBLIC UTILITIES" MEANS ANY
6 "PUBLIC SERVICE COMPANY" AS DEFINED IN THE PUBLIC UTILITIES ARTICLE,
7 SECTION 1-101, OF THE ANNOTATED CODE OF MARYLAND, OR ITS SUCCESSOR
8 STATUTES; OR IN CASE OF ANY EMERGENCY IN WHICH FAILURE TO REMOVE
9 A TREE IS LIKELY TO CAUSE IMMINENT DAMAGE TO PUBLIC OR PRIVATE
10 PROPERTY.

11 E. IN ISSUING A PERMIT, THE DEPARTMENT MAY, IN ITS DISCRETION,
12 REQUIRE THAT REPLACEMENT TREE(S) BE PLANTED. THE SIZE, LOCATION
13 AND VARIETY OF ANY REPLACEMENT TREE MAY BE REQUIRED BY THE
14 DEPARTMENT SOLELY AT ITS DISCRETION, TO REESTABLISH THE VISUAL
15 CHARACTER AND ENVIRONMENTAL BENEFITS AFFORDED BY THE TREES
16 WHICH WERE REMOVED. REPLACEMENT AS FOLLOWS SHALL BE DEEMED
17 CONCLUSIVELY TO BE A REASONABLE EXERCISE OF SUCH DISCRETION:

REMOVED TREE	REPLACEMENT TREE(S)
5—10" DIAMETER BREAST HEIGHT (DBH)	1 TREE
10.1—20" DIAMETER BREAST HEIGHT (DBH)	2 TREES
GREATER THAN 20"	3 TREES

18
19
20 IF THE TREE CONSERVATION AREA IS INSUFFICIENT IN SIZE TO
21 ACCOMMODATE MORE THAN ONE REPLACEMENT TREE OR IF IT IS UNDESIRABLE
22 TO PLANT APPROPRIATE REPLACEMENT TREES (AS DETERMINED BY THE
23 DEPARTMENT, IN ITS SOLE DISCRETION), THEN THE ISSUANCE OF THE PERMIT
24 SHALL BE CONDITIONED UPON THE APPROVAL BY THE DIRECTOR OF A PLANTING
25 PLAN, DEVELOPED BY THE OWNER, TO PLANT REPLACEMENT TREES IN ANOTHER
26 LOCATION APPROVED BY THE DEPARTMENT.

27 F. THE TREE CONSERVATION AREA SHALL BE THE FIRST PRIORITY FOR
28 REPLACEMENT OF REMOVED TREES AS REQUIRED UNDER THE PRECEDING
29 SUBSECTION. ALTERNATE PLANTING SITES, IN ORDER OF PREFERENCE, ARE:

- 30 1. AN AREA ON THE PROPERTY ADJACENT TO ANY PUBLIC RIGHT-OF-WAY
31 OTHER THAN THE TREE CONSERVATION AREA;
- 32 2. AN AREA WITHIN ANY ADJACENT PUBLIC RIGHT-OF-WAY;
- 33 3. ANY OTHER PUBLIC PROPERTY;

1 4. ANY PROPERTY WITH A CONSERVATION DESIGNATION (E.G.: PROPERTY
2 RESERVED AS PART OF THE SUBDIVISION PROCESS; PROPERTY WITHIN
3 THE CRITICAL AREA; ETC.);

4 5. ANY OTHER APPROPRIATE AREA.

5 IF NO ALTERNATIVE PLANTING SITE CAN BE LOCATED, A FEE EQUIVALENT TO
6 THE IN-GROUND COST OF PLANTING REPLACEMENT TREES SHALL BE PAID BY
7 THE PERMIT APPLICANT TO THE CITY, WHICH SHALL PLANT AN EQUIVALENT
8 NUMBER OF TREES IN AN APPROPRIATE LOCATION WITHIN ONE YEAR.

9 G. A PROPERTY OWNER SHALL REPLACE ANY TREE REMOVED WITHOUT A
10 PERMIT ACCORDING TO THE REPLACEMENT STANDARD IN SUBSECTIONS (E)
11 AND (F) OF THIS SECTION. THE SITE, LOCATION AND VARIETY OF SUCH
12 REPLACEMENT TREES SHALL BE REVIEWED AND APPROVED BY THE
13 DIRECTOR OR HIS OR HER DESIGNEE IN ACCORDANCE WITH THE STANDARDS
14 SET FORTH HEREIN.

15 H. VIOLATION OF THIS SECTION SHALL BE A MUNICIPAL INFRACTION
16 PUNISHABLE BY A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY
17 COUNCIL FOR EACH TREE GREATER THAN FIVE INCHES IN DIAMETER AT 4.5
18 FEET ABOVE THE GROUND REMOVED FROM THE TREE CONSERVATION AREA
19 WITHOUT A PERMIT. IN ADDITION, THE DIRECTOR OR HIS OR HER DESIGNEE
20 MAY REVOKE ANY PERMIT ISSUED UNDER THIS SECTION AND/OR ISSUE AN
21 ORDER STOPPING FURTHER TREE REMOVAL WHENEVER THE DIRECTOR OR
22 DESIGNEE DETERMINES THAT SUCH ACTION IS NECESSARY TO ACCOMPLISH
23 THE PURPOSE OF THIS SECTION. ENFORCEMENT OF THIS SECTION SHALL BE
24 THE RESPONSIBILITY OF THE DEPARTMENT. ALL FINES MUST BE PAID IN FULL
25 BEFORE ANY WORK CAN CONTINUE.

26 I. WHERE THIS SECTION AND ANY OTHER FEDERAL, STATE OR LOCAL LAW
27 REGARDING TREE REMOVAL AND/OR REPLACEMENT APPLY TO A GIVEN
28 CIRCUMSTANCE, THE MORE RESTRICTIVE LAW SHALL CONTROL.

29
30 **19.10.100 - MASTER STREET TREE PLAN.**

31 A. THE DEPARTMENT SHALL FORMULATE A MASTER STREET TREE PLAN
32 WITH THE ADVICE OF THE ENVIRONMENTAL COMMISSION. THE MASTER
33 STREET TREE PLAN SHALL SPECIFY THE SPECIES OF TREES TO BE PLANTED ON
34 EACH OF THE STREETS OR OTHER PUBLIC SITES OF THE CITY. AFTER
35 APPROVAL BY THE HISTORIC DISTRICT COMMISSION OF THE PORTIONS OF
36 THE PLAN AFFECTING THE HISTORIC DISTRICT, AND FOLLOWING THE
37 ADOPTION OF THE PLAN BY THE CITY COUNCIL, ALL PLANTING SHALL
38 CONFORM TO THE PLAN.

39 B. IN PREPARING THE MASTER STREET TREE PLAN, THE DEPARTMENT
40 SHALL EVALUATE ALL SPACE AND SITE FACTORS WHICH WILL AID IN THE
41 DETERMINATION OF THE TREE SPECIES BEST SUITED TO A PARTICULAR
42 PLANTING SITE BEFORE RECOMMENDING A SPECIFIC SPECIES.

43 C. THE DEPARTMENT SHALL RECOMMEND REVISIONS OF THE MASTER
44 STREET TREE PLAN WHEN ADVISABLE.

45

1 **19.10.110 - RULES AND REGULATIONS.**

2 THE DEPARTMENT SHALL RECOMMEND RULES AND REGULATIONS FOR THE
3 ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE GOVERNING
4 THE PLANTING, MAINTENANCE, REMOVAL, FERTILIZATION, PRUNING AND
5 BRACING OF TREES IN ALL PUBLIC AREAS. ALL ARBORICULTURAL PRACTICES
6 SHALL FOLLOW THE NATIONAL ARBORIST ASSOCIATION STANDARDS AND SHALL
7 TAKE EFFECT UPON ADOPTION BY THE CITY COUNCIL.
8

9 **19.10.120 - SPECIES AND VARIETIES.**

10 A. THE DEPARTMENT SHALL PREPARE LISTS OF TREES ACCEPTABLE FOR
11 PLANTING IN THE PUBLIC AREAS. UNDESIRABLE TREES SHALL NOT BE
12 RECOMMENDED FOR GENERAL PLANTING, AND THEIR USE, IF ANY, SHALL BE
13 RESTRICTED TO SPECIAL LOCATIONS WHERE, BECAUSE OF CERTAIN
14 CHARACTERISTICS OF ADAPTABILITY OR LANDSCAPE EFFECT, THEY CAN BE
15 USED TO ADVANTAGE.

16 B. ONLY DESIRABLE TREES OF GOOD APPEARANCE, BEAUTY,
17 ADAPTABILITY, AND GENERALLY FREE FROM INJURIOUS INSECTS OR
18 DISEASE SHALL BE PLANTED IN PUBLIC AREAS.

19 C. WHERE STREET BLOCKS HAVE BEEN ASSIGNED A PARTICULAR SPECIES
20 OR VARIETY ON THE MASTER STREET TREE PLAN, ONLY THAT SPECIES OR
21 VARIETY SHALL BE PLANTED, SUBJECT TO REVISIONS BY THE DEPARTMENT.
22

23 **19.10.130 - SIZE.**

24 A. UNLESS OTHERWISE SPECIFIED BY THE DEPARTMENT, ALL DECIDUOUS
25 TREE SPECIES AND THEIR CULTIVARS AND VARIETIES SHALL CONFORM TO
26 AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS AND BE AT LEAST
27 ONE AND THREE-FOURTHS INCHES IN DIAMETER SIX INCHES ABOVE GROUND
28 LEVEL, AND AT LEAST EIGHT TO TEN FEET IN HEIGHT WHEN PLANTED. THE
29 CROWN SHALL BE IN GOOD BALANCE WITH THE TRUNK.

30 B. UNLESS OTHERWISE ALLOWED FOR SPECIFIC REASONS, ALL TREES
31 SHALL HAVE COMPARATIVELY STRAIGHT TRUNKS, WELL-DEVELOPED
32 LEADERS AND TOPS, AND ROOTS CHARACTERISTIC OF THE SPECIES,
33 CULTIVAR OR VARIETY SHOWING EVIDENCE OF PROPER NURSERY PRUNING.
34 ALL TREES MUST BE FREE OF INSECTS, DISEASES, MECHANICAL INJURIES,
35 AND OTHER OBJECTIONABLE FEATURES AT THE TIME OF PLANTING.
36

37 **19.10.140 - LOCATION**

38 A. WHERE A TREE IS REQUESTED BY AN OWNER OF PRIVATE PROPERTY
39 ADJACENT TO PUBLIC PROPERTY, AND THE LOCATION IS DETERMINED TO
40 BE DESIRABLE, AND NO APPROPRIATE PUBLIC PROPERTY IS AVAILABLE,
41 AN EASEMENT OR OTHER LEGAL AGREEMENT MAY BE SOUGHT TO PLANT
42 ON THE PRIVATE PROPERTY THAT IS IN PROXIMITY TO PUBLIC PROPERTY.
43 THE LEGAL AGREEMENT MAY CONTAIN PROVISIONS GRANTING THE CITY
44 PERMISSION TO SELECT AND PLANT TREES UNDER THE DIRECTION OF THE
45 DEPARTMENT. THE LEGAL AGREEMENT SHALL CONTAIN PROVISIONS

1 DEFINING THE CITY'S ABSENCE OF LIABILITY IN THE EVENT OF PERSONAL
2 INJURY OR DAMAGE CAUSED DURING, OR AS A RESULT OF, PLANTING ON
3 PRIVATE PROPERTY. APPROPRIATE ADVANCE WRITTEN NOTIFICATION
4 SHALL BE MADE TO THE ADJACENT PROPERTY OWNERS OF THE CITY'S
5 INTENT TO PLANT TREES.

6 B. TREES SHALL BE PLANTED AT LEAST THIRTY FEET FROM THE STREET
7 INTERSECTIONS AND AT LEAST FIFTEEN FEET FROM DRIVEWAYS AND
8 ALLEYS.

9 C. NO TREE SHALL BE PLANTED CLOSER THAN TEN FEET TO A UTILITY POLE
10 OR FIRE HYDRANT.

11 D. SPACING OF TREES SHALL BE DETERMINED BY THE DEPARTMENT
12 ACCORDING TO LOCAL CONDITIONS, THE SPECIES, CULTIVARS OR
13 VARIETIES USED, THEIR MATURE HEIGHT, SPREAD AND FORM. GENERALLY,
14 ALL TREES SHALL BE PLANTED TWENTY-FIVE TO FIFTY FEET ON CENTER.
15 THE EXACT PLANTING LOCATION OF EACH TREE AND SHRUB SHALL BE
16 DETERMINED BY THE DEPARTMENT.

17 E. ALL PLANTING ON UNPAVED STREETS WITHOUT CURBS SHALL HAVE THE
18 APPROVAL OF THE DEPARTMENT. THE TREES SHALL BE LOCATED SO THAT
19 THEY WILL NOT BE INJURED OR DESTROYED WHEN THE STREET IS CURBED
20 AND PAVED.

21
22 **19.10.150 - PRUNING AND REMOVAL OF TREES.**

23 A. NO TOPPING OR DEHORNING OF TREES SHALL BE PERMITTED, EXCEPT
24 UPON PRIOR WRITTEN APPROVAL OF THE DEPARTMENT.

25 B. ALL LARGE, ESTABLISHED TREES SHALL BE PRUNED TO SUFFICIENT
26 HEIGHT TO ALLOW FREE PASSAGE FOR PEDESTRIAN AND VEHICULAR
27 TRAFFIC, WHICH SHALL BE TEN FEET OVER A SIDEWALK AND TWELVE FEET
28 OVER A STREET, EXCEPT A STREET SUBJECT TO TRUCK TRAFFIC WHICH, AT
29 THE DISCRETION OF THE DEPARTMENT MAY HAVE CLEARANCE OF FIFTEEN
30 FEET. THE DEPARTMENT MAY WAIVE THE PROVISIONS OF THIS SECTION FOR
31 A NEWLY PLANTED TREE UPON A DETERMINATION THAT THE TREE DOES NOT
32 INTERFERE WITH PUBLIC TRAVEL, OBSTRUCT THE LIGHT OF ANY STREET
33 LIGHT, OR ENDANGER PUBLIC SAFETY.

34 C. ALL DEAD WOOD, STUBS, BROKEN BRANCHES, BADLY FORMED
35 BRANCHES, DISEASE-INFECTED AND INSECT-INFESTED BRANCHES, AND
36 BRANCHES INTERFERING WITH PUBLIC TRAVEL, LIGHTING, EXISTING
37 BUILDINGS AND TRAFFIC SIGNS SHALL BE REMOVED DURING THE TRIMMING
38 OPERATION, WITH CONSIDERATION GIVEN TO THE SYMMETRY AND BEAUTY
39 OF THE TREE OR SHRUB.

40 D. ALL TREES AND SHRUBS IN PUBLIC AREAS WHICH ARE MARKED FOR
41 REMOVAL SHALL BE REMOVED COMPLETELY FROM THE GROWING SITE AND
42 DISPOSED OF IN AN AUTHORIZED MANNER. THE STUMP SHALL BE REMOVED
43 TO A DEPTH SUITABLE FOR FUTURE PLANTING OF TREES OR TURF.

1 E. ANY PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MUNICIPAL
2 INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF
3 THE CITY COUNCIL.
4

5 **19.10.160 - RIGHT OF ENTRY.**

6 THE DEPARTMENT, AFTER GIVING REASONABLE ADVANCE NOTICE TO THE
7 OWNER OR TENANT HAVING CHARGE, MAY ENTER UPON PRIVATE PREMISES AT
8 REASONABLE TIMES FOR THE PURPOSE OF EXAMINING OR INSPECTING ANY
9 SUSPECTED NUISANCE TREE OR SHRUB. ALL NUISANCE TREES AND SHRUBS TO
10 BE REMOVED OR TO BE WORKED UPON MAY BE MARKED APPROPRIATELY BY THE
11 DEPARTMENT.
12

13 **19.10.170 - COST OF PLANTING, REMOVING, MAINTAINING AND PROTECTING.**

14 A. THE COST OF PLANTING TREES ON PUBLIC RIGHTS-OF-WAY SHALL BE
15 FINANCED JOINTLY BY THE ADJACENT PROPERTY OWNER AND THE CITY.
16 WHEN A STREET TREE IS REQUESTED BY AN ADJACENT PROPERTY OWNER,
17 THAT ADJACENT PROPERTY OWNER SHALL PAY TO THE CITY THE SUM OF
18 THIRTY DOLLARS PER TREE. THE CITY SHALL ASSUME THE REMAINING COSTS
19 FOR THE PURCHASE AND PLANTING OF THE TREE.

20 B. A SPECIAL ANNUAL ASSESSMENT ON PROPERTY OWNERS NOT TO
21 EXCEED FIVE CENTS PER LINEAR FOOT OF STREET FRONTAGE MAY BE
22 IMPOSED BY THE CITY COUNCIL. THE FUNDS GENERATED BY THE IMPOSITION
23 OF THE ASSESSMENT SHALL BE USED ONLY FOR THE PLANTING,
24 MAINTENANCE AND REMOVAL OF TREES AND SHRUBS IN PUBLIC AREAS.
25

26 **19.10.180 - INTERFERENCE WITH DEPARTMENT.**

27 NO PERSON SHALL PREVENT, DELAY, OR INTERFERE WITH THE DEPARTMENT
28 IN THE EXECUTION OR ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER.
29

30 **19.10.190 - NUISANCE—DESIGNATED.**

31 ANY TREE OR SHRUB OR PART OF A TREE OR SHRUB GROWING UPON PRIVATE
32 OR PUBLIC PROPERTY WHICH IS INTERFERING WITH THE USE OF ANY PUBLIC
33 AREA, INFESTED WITH AN INFECTIOUS PLANT DISEASE, INFESTED WITH
34 INJURIOUS INSECTS, INJURIOUS TO PUBLIC IMPROVEMENTS, OR ENDANGERING
35 THE LIFE, HEALTH OR SAFETY OF PERSONS OR PROPERTY IS A PUBLIC NUISANCE.
36

37 **19.10.200 - NUISANCE—ABATEMENT.**

38 A. IF THE DEPARTMENT DETERMINES, UPON INSPECTION OR EXAMINATION,
39 THAT ANY NUISANCE TREE OR SHRUB EXISTS IN OR UPON ANY PUBLIC AREA,
40 THE DEPARTMENT IMMEDIATELY SHALL CAUSE THE TREE OR SHRUB TO BE
41 TREATED, TRIMMED, REMOVED OR OTHERWISE ABATED TO ELIMINATE OR
42 PREVENT THE SPREAD OF THE NUISANCE. THE MANNER IN WHICH THE
43 NUISANCE IS ABATED SHALL BE DETERMINED BY THE DEPARTMENT.

44 B. IF THE DEPARTMENT DETERMINES, UPON INSPECTION OR EXAMINATION,
45 THAT ANY NUISANCE TREE OR SHRUB EXISTS IN OR UPON ANY PRIVATE

1 PROPERTY, THE OWNER OR TENANT HAVING CHARGE OF THE PREMISES
2 SHALL BE GIVEN WRITTEN NOTICE DESCRIBING THE NUISANCE TREE OR
3 SHRUB AND THE NECESSARY CORRECTIVE ACTION. WITHIN THIRTY DAYS
4 AFTER THE ISSUANCE OF THE NOTICE, THE PERSON SHALL UNDERTAKE THE
5 CORRECTIVE ACTION SPECIFIED IN THE NOTICE UNLESS, IN THE OPINION OF
6 THE DEPARTMENT, AN EMERGENCY EXISTS, IN WHICH CASE THE
7 DEPARTMENT IMMEDIATELY SHALL CAUSE THE TREE OR SHRUB TO BE
8 TREATED, TRIMMED, REMOVED OR OTHERWISE ABATED TO PREVENT THE
9 SPREAD OF THE NUISANCE. IF THE OWNER OR TENANT REFUSES OR NEGLECTS
10 TO COMPLY WITH THE TERMS OF THE WRITTEN NOTICE WITHIN THIRTY DAYS
11 AFTER RECEIVING IT, THE DEPARTMENT SHALL ABATE THE NUISANCE AND
12 THE EXPENSE OF ABATEMENT SHALL BE A CHARGE AND LIEN UPON THE REAL
13 PROPERTY ON WHICH THE TREE OR SHRUB IS LOCATED, TO BE COLLECTED IN
14 THE SAME MANNER, AND BEAR THE SAME INTEREST AND PRIORITY AS REAL
15 PROPERTY TAXES.

16
17 **19.10.210 - APPEALS.**

18 A PERSON AGGRIEVED BY AN ORDER FROM THE DEPARTMENT MAY APPEAL
19 TO THE BUILDING BOARD OF APPEALS WITHIN FIFTEEN CALENDAR DAYS OF
20 RECEIPT OF THE ORDER, PER SECTION 17.12.130. THE PETITION FOR APPEAL SHALL
21 BE IN WRITING AND SHALL STATE THE GROUNDS FOR APPEAL. THE SCHEDULING
22 OF THE HEARING AND THE RENDERING OF THE DECISION SHALL BE EXPEDITED IF
23 WARRANTED BY THE CIRCUMSTANCES. THE BOARD MAY AFFIRM, RESCIND OR
24 MODIFY THE ORDER, IN ITS DISCRETION, TO CONFORM THE ORDER TO THE
25 INTENT OF THIS CHAPTER.

26
27
28 **CHAPTER 19.20 - TREES IN DEVELOPMENT AREAS**

29
30 **19.20.010 - FINDINGS.**

31 A. TREES IN THE LANDSCAPE PROVIDE A PRODUCTIVE LAND USE WITH
32 SIGNIFICANT WATER QUALITY AND WILDLIFE HABITAT BENEFITS. TREES
33 ALSO DIMINISH AIR POLLUTION, REDUCE NOISE, MODERATE TEMPERATURE
34 EXTREMES, AND INCREASE PROPERTY VALUES, BUT CAN BE AFFECTED
35 ADVERSELY BY INDISCRIMINATE DEVELOPMENT.

36 B. INADEQUATE ATTENTION DURING DEVELOPMENT TO THE ECOLOGIC
37 FUNCTION OF TREES CAN RESULT IN MEASURABLE ENVIRONMENTAL AND
38 ECONOMIC DAMAGE TO PROPERTY.

39 C. THE CITY OF ANNAPOLIS IS COMMITTED TO THE COORDINATION OF
40 CONTROLLED DEVELOPMENT WITH CERTAIN ENVIRONMENTAL OBJECTIVES,
41 IN COMPLIANCE WITH THE CHESAPEAKE BAY CRITICAL AREAS PROGRAM AS
42 REQUIRED BY ANNOTATED CODE OF MARYLAND, NATURAL RESOURCES
43 ARTICLE, TITLE 8, SUBTITLE 18, (OR ITS SUCCESSORS), AND AS STATED
44 THROUGHOUT THE CITY CHARTER AND CITY CODE. THE PRESENCE OF TREES
45 IN THE LANDSCAPE HELPS TO ACHIEVE THESE GOALS.

1
2 **19.20.020 - PURPOSE.**

3 THE PURPOSE OF THIS CHAPTER IS TO PROTECT AND PROMOTE THE PUBLIC
4 HEALTH, SAFETY, PROPERTY AND GENERAL WELFARE BY ESTABLISHING
5 STANDARDS OF PRACTICE FOR THE PRESERVATION OF TREES AND THE
6 ENVIRONMENTAL DESIGN OF LANDSCAPES IN DEVELOPMENT AREAS IN ORDER
7 TO BETTER CONTROL SOIL EROSION AND THE TRANSPORT OF SEDIMENT,
8 IMPROVE THE ENVIRONMENTAL QUALITY OF SURFACE AND GROUNDWATERS,
9 SCREEN NOISE, AND PRESERVE, PROTECT AND ENHANCE WILDLIFE HABITAT.
10 THIS CHAPTER ESTABLISHES GUIDELINES THAT WILL PERMIT DEVELOPMENT
11 WHILE MINIMIZING IMPACT TO EXISTING WOODLAND COMMUNITIES AND
12 ENCOURAGES REFORESTATION WITH SPECIES NATIVE TO THE AREA.
13

14 **19.20.025 - APPLICABILITY.**

15 A. THE REQUIREMENTS OF THIS CHAPTER SHALL APPLY FOR ANY
16 APPLICATION FOR A BUILDING AND GRADING PERMIT, OR ANY APPLICATION
17 FOR A DEVELOPMENT PROJECT REQUIRING SITE DESIGN PLAN REVIEW IN
18 ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 21.22.

19 B. CHAPTER 19.30 OF THE CITY CODE SHALL APPLY TO ANY PUBLIC OR
20 PRIVATE SUBDIVISION PLAN, OR APPLICATION FOR A GRADING PERMIT, OR
21 ANY APPLICATION FOR A DEVELOPMENT PROJECT REQUIRING SITE DESIGN
22 REVIEW, OR ANY APPLICATION FOR A SPECIAL EXCEPTION ON AREAS FORTY
23 THOUSAND SQUARE FEET OR GREATER, EXCEPT AS PROVIDED IN ANNOTATED
24 CODE OF MARYLAND, NATURAL RESOURCES ARTICLE, SECTION 5-1602(B) (OR
25 ITS SUCCESSORS). WHERE ANY PROVISION OF THE FOREST CONSERVATION
26 ACT AND A PROVISION OF THE CITY CODE BOTH APPLY, THE MORE
27 RESTRICTIVE REQUIREMENTS MAY BE EMPLOYED.
28

29 **19.20.030 - LANDSCAPE PLAN.**

30 A. LANDSCAPE PLAN. ANY APPLICATION FOR A BUILDING OR GRADING
31 PERMIT SUBMITTED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS
32 TITLE, OR ANY APPLICATION FOR A DEVELOPMENT PROJECT REQUIRING SITE
33 DESIGN PLAN REVIEW IN ACCORDANCE WITH THE REQUIREMENTS OF
34 CHAPTER 21.22 INCLUDE A LANDSCAPE PLAN AT A SCALE OF ONE INCH TO
35 FORTY FEET. THE LANDSCAPE PLAN SHALL BE CONSIDERED A PART OF THE
36 PERMIT OR SITE PLAN DESIGN REVIEW APPLICATION AND SHALL BE SUBJECT
37 TO THE REVIEW REQUIREMENTS AND ADMINISTRATIVE PROCEDURES OF THIS
38 TITLE OR CHAPTER 21.22, WHICHEVER SHALL APPLY.

39 B. SUBMITTAL REQUIREMENTS. A LANDSCAPE PLAN SUBMITTED IN
40 ACCORDANCE WITH THIS CHAPTER SHALL INCLUDE:

- 41 1. LIMITS OF DISTURBANCE (LOD). WITHIN THE LIMITS OF DISTURBANCE
42 AND WITHIN FIFTEEN FEET OF THE LOD, THE LOCATION, DIAMETER AT
43 BREAST HEIGHT (DBH), AND SPECIES OF ALL EXISTING TREES EQUAL TO
44 OR GREATER THAN FIVE INCHES DBH. IF THE SIZE OF THE PARCEL AND
45 THE NUMBER OF AFFECTED TREES RENDERS THE INDIVIDUAL

1 IDENTIFICATION OF ALL TREES UNREASONABLE, AS MUTUALLY
2 DETERMINED BY THE APPLICANT AND THE DEPARTMENT, ACCEPTED
3 METHODS OF FOREST CRUISING MAY BE SUBSTITUTED, ALTHOUGH ALL
4 INDIVIDUAL TREES IN EXCESS OF TWELVE INCHES DBH MUST BE
5 INDIVIDUALLY IDENTIFIED;

- 6 2. LIMITS OF PROJECT DEVELOPMENT. DEPICT BUILDING FOOTPRINTS,
7 ACCESS DRIVES, PARKING AREAS, PUBLIC STREETS, EXISTING AND
8 PROPOSED UTILITIES AND STORMWATER MANAGEMENT STRUCTURES,
9 PROPOSED FINISHED GRADES, AND SEDIMENT AND EROSION CONTROL
10 STRUCTURES;
- 11 3. ALL TREES, REGARDLESS OF SIZE, OR TREE AREAS WITHIN THE LEGAL
12 BOUNDARIES OF THE PROPERTY WHICH ARE TO BE PRESERVED FOR
13 INCORPORATION INTO THE PROPOSED SITE DESIGN, NOTING ALL TREE
14 DRIPLINES;
- 15 4. TREE PRESERVATION DETAILS, IN ACCORDANCE WITH SECTIONS 19.20.040
16 AND 19.20.050 OF THIS CHAPTER;
- 17 5. LOCATIONS OF TREES TO BE REPLACED UNDER SECTION 19.20.070 OF THIS
18 CHAPTER, AND AREAS PROPOSED FOR ADDITIONAL LANDSCAPING. THE
19 PLAN SHALL SHOW:
 - 20 A. THE TREE NAME, BOTH BOTANICAL AND COMMON,
 - 21 B. QUANTITY OF EACH SPECIES USED IN THE PLAN,
 - 22 C. CALIPER MEASURED SIX INCHES ABOVE GROUND,
 - 23 D. TYPE OF ROOTSTOCK, AND
 - 24 E. TYPICAL PLANTING DETAIL;
- 25 6. PROPOSED AND REQUIRED BUFFER AREAS;
- 26 7. SUBSTANTIVE AGREEMENT WITH THE SITE DESIGN PLAN REVIEW AS
27 REQUIRED BY CHAPTER 21.22 OF THIS CODE;
- 28 8. CONFORMANCE WITH ALL APPLICABLE SECTIONS OF THIS CHAPTER;
- 29 9. OTHER RELEVANT INFORMATION AS MAY BE REQUIRED BY THE
30 DEPARTMENT.
- 31 C. GUIDELINES FOR SELECTING TREES FOR PRESERVATION. IN
32 DETERMINING WHICH TREES SHALL BE PRESERVED IN THE DEVELOPMENT
33 PROCESS, CONSIDERATION SHALL BE GIVEN TO PRESERVING THOSE WHICH:
 - 34 1. COMPLEMENT THE PROJECT DESIGN, INCLUDING THE ENHANCEMENT OF
35 BUILDING ARCHITECTURE AND STREETScape APPEARANCE;
 - 36 2. EXHIBIT STRONG BRANCHING AND ROOTING CAPABILITIES AND ARE
37 DISEASE AND INSECT RESISTANT;
 - 38 3. ARE TOLERANT OF ENVIRONMENTAL CHANGE, E.G., INCREASED
39 SUNLIGHT, HEAT, WIND, ALTERATION OF WATER REGIME;
 - 40 4. PROVIDE A GOOD SOURCE OF FOOD, COVER OR NESTING SITES FOR
41 WILDLIFE, OR ACT AS A WILDLIFE CORRIDOR;
 - 42 5. EXIST IN NATURAL GROUPINGS, INCLUDING ISLANDS OF TREES AND
43 WILDLIFE CORRIDORS;
 - 44 6. COMPLEMENT STORMWATER MANAGEMENT DESIGNS;

- 1 7. AUGMENT OR DO NOT CONFLICT WITH SEDIMENTATION AND EROSION
2 CONTROL DESIGNS;
 - 3 8. DO NOT CONFLICT WITH EXISTING UTILITIES OR PROPOSED UTILITY
4 INSTALLATION;
 - 5 9. DO NOT HAVE PROPOSED STRUCTURES, SIDEWALKS, ROADS, PARKING
6 LOTS ETC. WITHIN DRIPLINES;
 - 7 10. ARE SPECIMENS FOR THE PARTICULAR SPECIES OR HAVE RECOGNIZED
8 SIGNIFICANCE;
 - 9 11. ARE WITHIN PROPOSED BUFFER AREAS;
 - 10 12. ARE RECOMMENDED FOR PRESERVATION BY MARYLAND FOREST,
11 PARKS AND WILDLIFE SERVICE (OR ITS SUCCESSOR AGENCIES); OR
 - 12 13. ARE RECOMMENDED FOR PRESERVATION BY THE DEPARTMENT FOR
13 SOME OTHER REASON DEMONSTRATED TO BE IN FURTHERANCE OF THE
14 PURPOSES OF THIS CHAPTER AS SET FORTH IN SECTION 19.20.020.
- 15 D. CONFLICTING CRITERIA. IN THE EVENT THAT TWO OR MORE
16 CONFLICTING GUIDELINES ARE PRESENT IN THE EVALUATION OF THE
17 PRESERVATION OF TREES ON A SITE, CONSIDERATION SHALL BE GIVEN TO
18 THOSE CRITERIA MOST RELEVANT TO THE PLANNED USE OF THE PROPOSED
19 DEVELOPMENT.
- 20 E. APPLICABILITY. NO CUTTING, CLEARING, DIGGING OR GRADING MAY BE
21 UNDERTAKEN WITHIN A DEVELOPMENT AREA UNTIL A LANDSCAPING PLAN
22 HAS BEEN APPROVED. NEITHER MAY ANY LANDSCAPING BE UNDERTAKEN
23 UNTIL APPROVAL OF THE PERMIT APPLICATION AND SUBSEQUENT ISSUANCE
24 OF THE PERMIT.
- 25 F. REPLACEMENT VALUE OF REMOVED/DAMAGED TREES. ANY TREES
26 WHICH HAVE BEEN DESIGNATED FOR PRESERVATION ON THE LANDSCAPING
27 PLAN, OR ARE OUTSIDE THE LIMITS OF DEVELOPMENT, AND SUBSEQUENTLY
28 HAVE BEEN REMOVED OR DAMAGED WITHIN THE BOUNDARIES OF THE
29 PROPERTY UNDER DEVELOPMENT, OR ANY ADJACENT PROPERTIES, SHALL BE
30 REPLACED CONSISTENT WITH THE MITIGATION REQUIREMENTS IN SECTION
31 19.20.070(C).
- 32 G. EXCEPTIONS.
- 33 1. A LANDSCAPE PLAN SHALL NOT BE REQUIRED UNDER THE TERMS OF THIS
34 CHAPTER WHERE THE APPLICANT CAN DEMONSTRATE CLEARLY THAT
35 THERE ARE NO EXISTING TREES OR TREE AREAS WITHIN THE PROPOSED
36 LIMITS OF DEVELOPMENT.
 - 37 2. A LANDSCAPING PLAN SHALL NOT BE REQUIRED FOR THE REGULAR
38 MAINTENANCE OF EXISTING PUBLIC UTILITIES OR THE APPROVED
39 INSTALLATION OF PUBLIC UTILITIES, NOR SHALL A REPLACEMENT VALUE
40 BE REQUIRED OR ASSESSED.
 - 41 3. THE PROVISIONS OF THIS CHAPTER DO NOT APPLY TO PROJECTS WHICH
42 WERE GRANTED SPECIAL EXCEPTION APPROVAL, OR BUILDING OR
43 GRADING PERMIT APPROVAL PRIOR TO NOVEMBER 15, 1988, PROVIDED
44 THAT THEY ARE IN CONFORMANCE WITH ALL OTHER APPROVED PLANS
45 AND CONDITIONS.

1
2 **19.20.040 - PROTECTION OF TREES BEFORE CONSTRUCTION.**

3 A. TREES OR TREE AREAS THAT ARE TO BE PRESERVED SHALL BE MARKED
4 VISIBLY IN THE FIELD PRIOR TO CLEARING OR CONSTRUCTION.

5 B. PROTECTION DEVICES SHALL BE INSTALLED PRIOR TO CLEARING OR
6 CONSTRUCTION, AS SPECIFIED BY THE DEPARTMENT, AND SHALL BE SHOWN ON
7 THE APPROVED PLAN. DEVICES MAY INCLUDE, BUT NOT BE LIMITED TO SNOW
8 FENCING, BOARD FENCING, SILT FENCING, POSTS, STRING AND FLAGGING, WATER
9 BASED PAINT. PROTECTIVE DEVICES SHALL BE EVIDENT AND EFFECTIVE.
10 CONSTRUCTION PERSONNEL SHALL BE NOTIFIED OF THE PURPOSE AND
11 PRESENCE OF THE PROTECTION DEVICES.

12 C. ALL CLEARING LIMITS AND PROTECTIVE DEVICES ARE TO BE INSPECTED AND
13 APPROVED BY THE DEPARTMENT PRIOR TO COMMENCING CLEARING AND
14 CONSTRUCTION. THE DEVELOPER SHALL ARRANGE AN ON-SITE INSPECTION
15 PRIOR TO COMMENCING GRADING OR CLEARING.
16

17 **19.20.050 - PROTECTION OF TREES DURING CONSTRUCTION.**

18 A. GRADING OR FILLING SHALL NOT TAKE PLACE INSIDE THE DRIPLINE OF
19 TREES TO BE PRESERVED, UNLESS APPROVED BY THE DEPARTMENT.

20 B. IF GRADING OR FILLING IS PROPOSED INSIDE THE DRIPLINE OF TREES TO BE
21 PRESERVED, ROOT AERATION PRACTICES AND/OR TREE WELLS OR WALLS
22 SHALL BE USED, THE DESIGN OF WHICH SHALL BE APPROVED BY THE
23 DEPARTMENT.

24 C. TRENCHING AND/OR TUNNELING SHOULD TAKE PLACE OUTSIDE OF THE
25 DRIPLINE OF TREES TO BE RETAINED.

26 D. TRENCHING AND/OR TUNNELING PROPOSED INSIDE THE DRIPLINE OF
27 TREES TO BE PRESERVED SHALL BE ACCOMPLISHED ACCORDING TO
28 PROCEDURES WHICH MINIMIZE ROOT DAMAGE, AND MUST BE APPROVED
29 BY THE DEPARTMENT.

30 E. TEMPORARY STORAGE OF ANY CONSTRUCTION MATERIALS, INCLUDING
31 FILL, GRAVEL, FELLED TREES, CONSTRUCTION SUPPLIES OR EQUIPMENT,
32 WITHIN THE DRIPLINES OF PROTECTED TREES SHALL BE PROHIBITED.

33 F. THE ROUTING OF HEAVY EQUIPMENT, INCLUDING CARS, TRUCKS AND
34 BULLDOZERS, AND CONSTRUCTION TRAILERS WITHIN THE DRIPLINES OF
35 PROTECTED TREES SHALL BE PROHIBITED WITHOUT THE CONSENT OF THE
36 DEPARTMENT.

37 G. ALL SEDIMENT AND EROSION CONTROL SILT FENCING OR STRAW BALES
38 SHALL BE PLACED AT THE LIMITS OF GRADING OR IN THOSE LOCATIONS
39 WHERE DEPOSITION OF SEDIMENT IS MINIMIZED WITHIN THE DRIPLINES OF
40 TREES TO BE PRESERVED.

41 H. WHERE A CUT IS APPROVED WITHIN THE DRIPLINE OF TREES TO BE
42 PRESERVED, EXPOSED AND/OR DAMAGED ROOTS ARE TO BE TRIMMED
43 CLEANLY AND COVERED TEMPORARILY WITH MOIST PEAT MOSS, BURLAP
44 OR OTHER SUITABLE MATERIAL TO KEEP THEM FROM DRYING OUT.

- 1 I. WHERE A FILL IS APPROVED WITHIN THE DRIPLINE OF TREES TO BE
2 PRESERVED, ALL ORGANIC MATTER IS TO BE REMOVED AND FERTILIZER IS
3 TO BE SPREAD ACCORDING TO THE DEPARTMENT SPECIFICATIONS PRIOR
4 TO RAISING THE GRADE.
- 5 J. NO PROTECTIVE DEVICES, SIGNS, UTILITY POLES OR OTHER OBJECTS
6 SHALL BE NAILED TO ANY TREES WHICH ARE TO BE PRESERVED.
- 7 K. ANY OTHER ACTION WITHIN THE DRIPLINE OF PROTECTED TREES WHICH
8 MAY RESULT IN THE SEVERING OF ROOTS, COMPACTION OF SOIL OR THE
9 PLACING OF ANY SUBSTANCE WITHIN THE DRIPLINE WHICH IMPEDES THE
10 FREE ACCESS OF AIR AND WATER TO TREE ROOTS IS PROHIBITED WITHOUT
11 THE CONSENT OF THE DEPARTMENT.
- 12 L. THE DEPARTMENT MAY REQUIRE OTHER TREE PROTECTION PRACTICES AS
13 ON-SITE CIRCUMSTANCES MAY DICTATE.
- 14 M. IF IT BECOMES NECESSARY SUBSEQUENT TO CLEARING TO REMOVE
15 ADDITIONAL TREES WHICH WERE SHOWN ON THE PLAN TO BE PRESERVED,
16 THE DEPARTMENT SHALL BE NOTIFIED AND MUST GRANT APPROVAL
17 PRIOR TO PERFORMING ANY ADDITIONAL CLEARING.

18
19 **19.20.060 - PROTECTION OF TREES AFTER CONSTRUCTION.**

- 20 A. AFTER CONSTRUCTION IS COMPLETED, TEMPORARY BARRIERS, SURPLUS
21 MATERIALS AND ALL DEBRIS SHALL BE REMOVED FROM PROTECTED TREE
22 AREAS.
- 23 B. ANY DAMAGE TO THE CROWN, TRUNK OR ROOT SYSTEM OF TREES
24 REMAINING ON SITE SHALL BE REPAIRED IMMEDIATELY.
- 25 C. TREES WOUNDED DURING CONSTRUCTION SHALL HAVE THEIR WOUNDS
26 CLEANED, TORN BARK CUT, AND THE WOUNDS PROPERLY SHAPED FOR
27 HEALING.
- 28 D. ANY DEAD OR DAMAGED BRANCHES ARE TO BE REMOVED IN A PROPER
29 MANNER, AS WELL AS ANY NOXIOUS VINES. SELECTIVE PRUNING MAY BE
30 NECESSARY IF CUTTING, FILLING, TRENCHING OR TUNNELING WAS
31 UNDERTAKEN WITHIN A TREE'S DRIPLINE, THEREBY REDUCING THE
32 HEALTHY ROOT AREA.
- 33 E. FERTILIZATION MAY BE REQUIRED WHERE TOPSOIL OR SURFACE LITTER
34 WITHIN A TREE'S DRIPLINE HAS BEEN REMOVED, OR A TREE'S ROOT AREA
35 HAS BEEN REDUCED. ANY FERTILIZATION SHALL BE ACCOMPLISHED
36 ACCORDING TO SPECIFICATIONS PROVIDED BY THE DEPARTMENT.
- 37 F. THE DEVELOPER SHALL ARRANGE AN ON-SITE INSPECTION BY THE
38 DEPARTMENT. APPROVAL OF POST-CONSTRUCTION TREE PROTECTION
39 PRACTICES SHALL BE REQUIRED PRIOR TO THE ISSUANCE OF ANY USE OR
40 OCCUPANCY PERMITS.

41
42 **19.20.070 - REPLACEMENT VALUE—MITIGATION—FEE IN LIEU—EXCEPTIONS.**

- 43 A. REPLACEMENT TREES. IT IS THE INTENT OF THIS SECTION TO ENSURE THAT
44 LANDSCAPING PROPOSED IN ASSOCIATION WITH DEVELOPMENT WILL
45 REFLECT THE DENSITY AND SPECIES OF THOSE TREES NECESSARILY

1 REMOVED FOR DEVELOPMENT. THEREFORE, TREES REMOVED FOR
2 DEVELOPMENT SHALL BE REPLACED ACCORDING TO THE FOLLOWING
3 REQUIREMENTS:

4 1. THE NUMBER OF TREES TO BE REPLACED ARE CONTAINED IN THE
5 FOLLOWING TABLE:
6

7 **TABLE 19.20.070**
8 **TREE REPLACEMENT REQUIREMENTS**

PLANT MATERIAL SIZE	NUMBER TO BE REPLACED FOR NUMBER REMOVED: OUTSIDE CRITICAL AREAS	NUMBER TO BE REPLACED FOR NUMBER REMOVED: INTENSELY DEVELOPED AREAS	NUMBER TO BE REPLACED FOR NUMBER REMOVED: LIMITED DEVELOPMENT AREAS	NUMBER TO BE REPLACED FOR NUMBER REMOVED: RESOURCE CONSERVATION AREAS	NUMBER TO BE REPLACED FOR NUMBER REMOVED: 100 FOOT BUFFER CRITICAL AREA
---------------------	--	---	---	---	---

9

SCRUB SHRUB - SAPLING <1" DBH	NO REPLACEMENT	1 FOR EVERY 20 SQUARE FEET	1 FOR EVERY 40 SQUARE FEET	AREA BASIS FOR AREA BASIS	*
TREES 1 TO <4" DBH	NO REPLACEMENT	1 FOR 1	1 FOR 1	AREA BASIS FOR AREA BASIS	*
TREES 4 TO <12" DBH	1 FOR 2	2 FOR 1	1 FOR 1	AREA BASIS FOR AREA BASIS	*
TREES 12 TO <18" DBH	1 FOR 1	3 FOR 1	2 FOR 1	AREA BASIS FOR AREA BASIS	*
TREES 18 TO 24" DBH	2 FOR 1	4 FOR 1	3 FOR 1	AREA BASIS FOR AREA BASIS	*

TREES >24" DBH	3 FOR 1	6 FOR 1	4 FOR 1	AREA BASIS FOR AREA BASIS	*
ADDITIONAL REQUIREMENTS FOUND IN SECTION	19.20.070	19.20.070 (G)(1-2)	19.20.070 (H)(1—5)	19.20.070 (I)(1-2)	19.20.070 (J)(1—8)

1 * MUST OBTAIN APPROVED BUFFER MANAGEMENT PLAN FROM THE
2 DEPARTMENT OF PLANNING AND ZONING

3 2. ONE OR MORE TREES MAY BE TRANSPLANTED AS REPLACEMENT TREES
4 FROM AREAS DESIGNATED TO BE CLEARED ON A DEVELOPMENT SITE;
5 HOWEVER, TRANSPLANTED TREES SHALL ONLY BE USED WHEN A
6 PROFESSIONAL NURSERY, LANDSCAPE CONTRACTOR, OR SIMILAR
7 PROFESSIONAL QUALIFIED TO DO THIS WORK, IS EMPLOYED TO
8 TRANSPLANT THE TREES. THIS PROFESSIONAL SHALL MEET WITH CITY
9 STAFF PRIOR TO MOVING ANY TREES TO ENSURE THAT THE TREES TO BE
10 MOVED ARE HEALTHY AND SUITABLE FOR TRANSPLANTING.

11 3. REPLACEMENT TREES SHALL BE A SPECIES NATIVE TO MARYLAND AND
12 SHALL BE HEALTHY, FREE OF PESTS OR DISEASE AND IN GOOD
13 CONDITION. DECIDUOUS SPECIES SHALL BE A MINIMUM OF TWO INCHES
14 IN CALIPER MEASURED SIX INCHES FROM THE GROUND. CONIFEROUS
15 TREES SHALL BE A MINIMUM OF FIVE FEET IN HEIGHT. TRANSPLANTED
16 TREES SHALL BE, AT A MINIMUM, OF THE APPROXIMATE SIZE AS NURSERY
17 STOCK AND SHALL BE HEALTHY, FREE OF PESTS OR DISEASE AND IN GOOD
18 CONDITION.

19 4. ANY LANDSCAPING REQUIREMENTS IMPOSED UNDER OTHER SECTIONS
20 OF THIS CODE SHALL INCLUDE ANY AND ALL REPLACEMENT TREES.

21 5. ANY WAIVER OR MODIFICATION TO THESE REQUIREMENTS SHALL BE
22 MADE IN ACCORDANCE WITH SECTION 19.20.130 OF THIS CHAPTER.

23 B. MITIGATION. IF THE NUMBER OF TREES TO BE PLANTED, AS DETERMINED
24 BY THE TREE REPLACEMENT REQUIREMENTS, EXCEEDS THE NUMBER OF
25 TREES WHICH CAN BE ACCOMMODATED PRACTICALLY ON SITE AS
26 DETERMINED BY THE DEPARTMENT, OFF-SITE PLANTING MAY BE REQUESTED
27 AT LOCATIONS AS DETERMINED BY THE DEVELOPER AND THE DEPARTMENT,
28 OR A FEE IN LIEU OF OFF-SITE PLANTING MAY BE REQUIRED AS PROVIDED IN
29 SUBSECTION C OF THIS SECTION. TREES REMOVED FOR DEVELOPMENT
30 WITHIN THE CRITICAL AREA MUST BE REPLACED WITHIN THE CRITICAL
31 AREA.

32 C. FEE-IN-LIEU. WHERE, PURSUANT TO SUBSECTION A OF THIS SECTION,
33 REPLACEMENT ON SITE IS NOT PRACTICAL AND AN OFF-SITE LOCATION
34 CANNOT BE DETERMINED AND AGREED UPON BY THE DEVELOPER AND THE
35 DEPARTMENT, A FEE-IN-LIEU AS SET BY RESOLUTION OF THE CITY COUNCIL

1 MAY BE ASSESSED WHICH IS ADEQUATE TO ENSURE AN EQUIVALENT TREE
2 REPLACEMENT AS REQUIRED BY SUBSECTION A OF THIS SECTION. ALL FUNDS
3 COLLECTED BY THIS PROCESS WILL BE EXPENDED EXCLUSIVELY FOR TREE
4 PLANTING AND TREE MAINTENANCE WITHIN THE CITY UNDER THE AUSPICES
5 OF THE URBAN FORESTRY PROGRAM AND, WHEREVER POSSIBLE, WITHIN
6 REASONABLE PROXIMITY TO THE DEVELOPMENT FROM WHICH FEES ARE
7 COLLECTED FOR PLANTING. FEES-IN-LIEU COLLECTED FOR TREES REMOVED
8 WITHIN THE CRITICAL AREA SHALL BE EXPENDED EXCLUSIVELY FOR TREE
9 PLANTING AND TREE MAINTENANCE WITHIN THE CRITICAL AREA, AND IF
10 POSSIBLE WITHIN THE SAME CREEK WATERSHED.

11 1. ALL FUNDS COLLECTED BY THIS PROCESS WILL BE EXPENDED
12 EXCLUSIVELY FOR TREE PLANTING AND TREE MAINTENANCE WITHIN
13 THE CITY UNDER THE AUSPICES OF THE URBAN FORESTRY PROGRAM
14 AND, WHEREVER POSSIBLE, WITHIN REASONABLE PROXIMITY TO THE
15 DEVELOPMENT FROM WHICH FEES ARE COLLECTED FOR PLANTING.

16 2. FEES IN LIEU COLLECTED FOR TREES REMOVED WITHIN THE CRITICAL
17 AREA SHALL BE EXPENDED EXCLUSIVELY FOR TREE PLANTING AND TREE
18 MAINTENANCE WITHIN THE CRITICAL AREA, AND IF POSSIBLE WITHIN
19 THE SAME CREEK WATERSHED.

20 D. EXCEPTIONS. THE FOLLOWING TREES REMOVED FOR DEVELOPMENT ARE
21 NOT SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS A, B AND C OF THIS
22 SECTION:

23 1. TREES REMOVED FOR THE CONSTRUCTION OF APPROVED ROADS AND
24 THE INSTALLATION OR MAINTENANCE OF PUBLIC UTILITIES.

25 A. APPROVED ROADS INCLUDE CITY REQUIRED PUBLIC ROADS AND FIRE
26 LANES, BUT DOES NOT INCLUDE ANY PORTION OF A PARKING LOT.

27 B. PUBLIC UTILITIES INCLUDE GAS, ELECTRIC, WATER AND SEWER MAIN
28 TRANSMISSION LINES, AND STORMWATER MANAGEMENT
29 STRUCTURES WITHIN REQUIRED EASEMENTS.

30 2. TREES WHICH HAVE BEEN CONFIRMED BY THE DEPARTMENT TO BE
31 HAZARDOUS, DEAD, DYING OR DISEASED;

32 3. TREES TRANSPLANTED FROM ONE PART OF A DEVELOPMENT SITE TO
33 ANOTHER.

34 E. GENERAL APPLICABILITY. EXCEPT AS PROVIDED BY SUBSECTION D OF
35 THIS SECTION, THE REQUIREMENTS OF THIS SECTION APPLY TO ALL
36 DEVELOPMENT AND CONSTRUCTION UNDERTAKEN PURSUANT TO ANY
37 GRADING PERMIT OR PURSUANT TO ANY BUILDING PERMIT FOR
38 CONSTRUCTION WHICH MAY INVOLVE THE DISTURBANCE OF LAND BUT FOR
39 WHICH A GRADING PERMIT PREVIOUSLY WAS NOT REQUIRED.

40 F. MINIMUM STANDARDS. AFFORESTATION AND REFORESTATION AS
41 REQUIRED BY THE MARYLAND FOREST CONSERVATION ACT, ANNOTATED
42 CODE OF MARYLAND, NATURAL RESOURCES ARTICLE, TITLE 5, SUBTITLE 16
43 (OR ITS SUCCESSORS) SHALL BE A MINIMUM STANDARD FOR THE
44 REPLACEMENT AND PLANTING OF TREES WHERE CHAPTER 19.20 OF THIS

1 CODE APPLIES, REGARDLESS OF THE SQUARE FOOTAGE OF THE AREA
2 DISTURBED.

3 G. THE LOCATIONS OF INTENSELY DEVELOPED AREAS, LIMITED
4 DEVELOPMENT AREAS, RESOURCE CONSERVATION AREAS AND THE
5 CRITICAL AREA BUFFER ARE SHOWN ON THE APPROVED CRITICAL AREAS
6 MAP FOR THE CITY OF ANNAPOLIS AND ITS AMENDMENTS. PROPOSED
7 DEVELOPMENT SHALL BE CONSISTENT WITH THE APPROVED CRITICAL
8 AREAS PLAN FOR THE CITY OF ANNAPOLIS.

9 H. ADDITIONAL STANDARDS FOR LIMITED DEVELOPMENT AREAS.

10 1. UNDER NORMAL CIRCUMSTANCES, NO MORE THAN TWENTY PERCENT OF
11 ANY FOREST OR WOODLAND MAY BE REMOVED FROM FOREST USE,
12 EXCEPT AS PERMITTED IN SUBSECTION (C)(3) OF THIS SECTION. THE
13 REMAINING EIGHTY PERCENT SHALL BE MAINTAINED THROUGH
14 RECORDED, RESTRICTIVE COVENANTS OR SIMILAR INSTRUMENTS.

15 2. A DEVELOPER MAY CLEAR OR DEVELOP UP TO THIRTY PERCENT OF ANY
16 FOREST OR WOODLAND, PROVIDED THAT THE AFFORESTED AREA SHALL
17 BE ONE AND ONE-HALF TIMES THE TOTAL SURFACE ACREAGE OF THE
18 DISTURBED FOREST OR DEVELOPED WOODLAND. THE REMAINING
19 SEVENTY PERCENT SHALL BE MAINTAINED THROUGH RECORDED,
20 RESTRICTIVE COVENANTS OR OTHER SIMILAR INSTRUMENTS.

21 3. IF NO FOREST IS ESTABLISHED ON PROPOSED DEVELOPMENT SITES,
22 THESE SITES SHALL BE PLANTED TO PROVIDE A FOREST OR DEVELOPED
23 WOODLAND COVER OF AT LEAST FIFTEEN PERCENT OF THE TOTAL
24 SURFACE AREA OF THE SITE.

25 4. FORESTS WHICH HAVE BEEN CLEARED BEFORE OBTAINING A GRADING
26 PERMIT, OR THAT EXCEED THE MAXIMUM AREA ALLOWED IN
27 SUBSECTION (C)(3) OF THIS SECTION SHALL BE PLANTED AT THREE TIMES
28 THE AREAL EXTENT OF THE CLEARED FOREST.

29 5. THE DEVELOPER SHALL CONSIDER THE RECOMMENDATIONS OF THE
30 MARYLAND FOREST, PARKS AND WILDLIFE SERVICE WHEN PLANNING
31 DEVELOPMENT ON FORESTED LANDS.

32 I. ADDITIONAL STANDARDS FOR RESOURCE CONSERVATION AREAS.

33 1. IN ADDITION TO THE REQUIREMENTS OF SUBSECTION H OF THIS SECTION,
34 THE OVERALL ACREAGE OF FOREST AND WOODLAND WITHIN THE
35 RESOURCE CONSERVATION AREA MAY NOT BE DECREASED.

36 2. ANY DEVELOPMENT WITHIN A RESOURCE CONSERVATION AREA THAT
37 REQUIRES THE CUTTING OR CLEARING OF TREES MUST REPLACE THE
38 TREES ON A NOT LESS THAN AN EQUAL AREA BASIS, EXCEPT WHERE
39 TREES ARE REMOVED ACCORDING TO SUBPARAGRAPHS 4, 6 AND 8 OF
40 SUBSECTION J OF THIS SECTION.

41 J. ADDITIONAL STANDARDS FOR THE CRITICAL AREA BUFFER.

42 1. A ONE HUNDRED-FOOT BUFFER IS ESTABLISHED LANDWARD FROM THE
43 MEAN HIGH WATER LINE OF TIDAL WATERS, TRIBUTARY STREAMS, AND
44 TIDAL WETLANDS WHICH IS A PROTECTED AREA.

- 1 2. NEW DEVELOPMENT ACTIVITIES, INCLUDING STRUCTURES, ROADS,
2 PARKING AREAS AND OTHER IMPERVIOUS SURFACES, MINING OR
3 RELATED FACILITIES, OR SEPTIC SYSTEMS, MAY NOT BE PERMITTED IN
4 THE BUFFER, EXCEPT FOR THOSE NECESSARILY ASSOCIATED WITH
5 WATER-DEPENDENT FACILITIES.
- 6 3. THE BUFFER SHALL BE MAINTAINED IN NATURAL VEGETATION, BUT MAY
7 INCLUDE PLANTED VEGETATION AS APPROVED BY THE DEPARTMENT OF
8 PLANNING AND ZONING OR THE DEPARTMENT OF THE ENVIRONMENT
9 WHERE NECESSARY TO PROTECT, STABILIZE OR ENHANCE THE
10 SHORELINE.
- 11 4. CUTTING OF TREES OR REMOVAL OF NATURAL VEGETATION MAY BE
12 PERMITTED WHERE NECESSARY TO PROVIDE ACCESS TO PRIVATE PIERS,
13 OR TO INSTALL AND CONSTRUCT A SHORE EROSION PROTECTION DEVICE
14 OR MEASURE, OR A WATER-DEPENDENT FACILITY, PROVIDED THE
15 DEVICE, MEASURE OR FACILITY HAS RECEIVED ALL NECESSARY CITY,
16 STATE, AND FEDERAL PERMITS.
- 17 5. WITH THE CONCURRENCE OF THE DEPARTMENT OF PLANNING AND
18 ZONING AND THE DEPARTMENT OF THE ENVIRONMENT, INDIVIDUAL
19 TREES MAY BE CUT FOR PERSONAL USE PROVIDING THAT THIS CUTTING
20 DOES NOT IMPAIR THE WATER QUALITY OR EXISTING HABITAT VALUE OR
21 OTHER FUNCTIONS OF THE BUFFER, AND PROVIDED THAT THE TREES ARE
22 REPLACED ON AN EQUAL AREA BASIS FOR EACH TREE CUT.
- 23 6. WITH THE CONCURRENCE OF THE DEPARTMENT OF PLANNING AND
24 ZONING AND THE DEPARTMENT OF THE ENVIRONMENT, INDIVIDUAL
25 TREES MAY BE REMOVED WHICH ARE IN DANGER OF FALLING AND
26 CAUSING DAMAGE TO DWELLINGS OR OTHER STRUCTURES, OR WHICH
27 ARE IN DANGER OF FALLING AND THEREFORE CAUSING THE BLOCKAGE
28 OF STREAMS, OR RESULTING IN ACCELERATED SHORE EROSION.
- 29 7. HORTICULTURAL PRACTICES SHALL BE USED TO MAINTAIN THE HEALTH
30 OF INDIVIDUAL TREES.
- 31 8. OTHER CUTTING TECHNIQUES MAY BE PERMITTED WITHIN THE ONE
32 HUNDRED-FOOT BUFFER AND UNDER THE ADVICE AND GUIDANCE OF THE
33 DEPARTMENT OF THE ENVIRONMENT AND DEPARTMENT OF PLANNING
34 AND ZONING, IF NECESSARY TO PRESERVE THE FOREST FROM EXTENSIVE
35 PEST OR DISEASE INFESTATION OR THREAT FROM FIRE.
- 36 K. FOREST PRESERVATION PLAN. THE FOREST PRESERVATION PLAN AS
37 DESCRIBED WITHIN THE APPROVED CRITICAL AREAS PROGRAM FOR THE CITY
38 OF ANNAPOLIS SHALL BE CONSISTENT WITH THE PROVISIONS OF THIS
39 CHAPTER.
- 40 L. FOREST UNDEVELOPED WOOD LAND. WHERE FORESTS OR DEVELOPED
41 WOODLAND OCCUR WITHIN THE CITY OF ANNAPOLIS, LOCAL POLICIES AND
42 PROGRAMS FOR TREE CULTURAL OPERATIONS IN THE CRITICAL AREA SHALL
43 BE CONSISTENT WITH THE CRITICAL AREA PROGRAM OF THE CITY OF
44 ANNAPOLIS.

1 M. APPLICABILITY. THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION
2 TO, AND NOT IN LIEU OF, ANY AND ALL REQUISITES OF THIS CHAPTER.

3 N. RESTRICTIONS. THE REQUIREMENTS OF THIS SECTION DO NOT RESTRICT
4 THE REMOVAL OF HAZARDOUS, DEAD, DYING OR DISEASED TREES,
5 ALTHOUGH REPLACEMENT MAY BE REQUIRED AS DETERMINED BY THE
6 DEPARTMENT, NOR ARE ACCEPTED HORTICULTURAL PRACTICES
7 RESTRICTED.

8 O. VARIANCE PROCEDURES. VARIANCE PROCEDURES SHALL BE IN
9 ACCORDANCE WITH THE APPROVED CRITICAL AREAS PLAN OF THE CITY OF
10 ANNAPOLIS.

11 P. MINIMUM STANDARDS. THE PROVISIONS OF THE MARYLAND FOREST
12 CONSERVATION ACT, ANNOTATED CODE OF MARYLAND, NATURAL RESOURCES
13 ARTICLE, TITLE 5, SUBTITLE 16, (OR ITS SUCCESSORS) DO NOT APPLY TO THE
14 CRITICAL AREA, EXCEPT THAT AFFORESTATION AND REFORESTATION AS
15 REQUIRED BY THE ACT SHALL BE A MINIMUM STANDARD FOR THE
16 REPLACEMENT AND PLANTING OF TREES.

17
18 **19.20.090 - NATURAL AND LANDSCAPED BUFFERS.**

19 A. GUIDELINES FOR THE DESIGN OF AREAS DESIGNATED AS NATURAL OR
20 LANDSCAPED BUFFERS. THE CRITERIA SET FORTH IN THIS SECTION SHALL
21 BE TAKEN INTO CONSIDERATION IN THE DESIGN OF ALL BUFFER AREAS
22 SHOWN ON THE LANDSCAPING PLAN REQUIRED BY SECTION 19.20.030,
23 INCLUDING ALL BUFFERS INCLUDED TO SATISFY THE REQUIREMENTS OF
24 SECTION 21.62.030 OF THIS CODE.

- 25 1. THE PRIMARY PURPOSE OF THE BUFFER SHALL BE DEFINED ON THE
26 LANDSCAPING PLAN AND THE NATURAL OR LANDSCAPED BUFFER
27 SHALL REFLECT THAT DEFINITION. THE PURPOSE OF A BUFFER MAY
28 INCLUDE, BUT NOT BE LIMITED TO, URBAN STREETSCAPE
29 BEAUTIFICATION, ENHANCEMENT OF BUILDING ARCHITECTURE,
30 VISUAL SHIELDING, NOISE REDUCTION, WILDLIFE HABITAT
31 ENHANCEMENT, AND WATER QUALITY MANAGEMENT.
- 32 2. A DEFINED BUFFER SHALL COMPLY WITH THE STANDARDS FOR TREE
33 PRESERVATION AS DEFINED IN SECTION 19.20.030(B).
- 34 3. WITHIN THE CRITICAL AREA, THE BUFFER SHALL BE CONSISTENT
35 WITH THE REQUISITES FOR HABITAT PROTECTION AREAS IN THE
36 CRITICAL AREA (SECTION 19.20.080(E) OF THIS CHAPTER).
- 37 4. THE BUFFER SHALL HAVE VERTICAL STRATIFICATION, I.E., CANOPY
38 LAYER, UNDERSTORY AND SHRUB LAYER, AS NEEDED TO REFLECT
39 THE STATED PURPOSE OF THE BUFFER.
- 40 5. THE BUFFER SHALL HAVE CONTINUOUS PLANTINGS AND/OR
41 EXISTING VEGETATION WITHIN THE DESIGNATED BUFFER AREA, AS
42 NEEDED TO REFLECT THE STATED PURPOSE OF THE BUFFER.
- 43 6. THE BUFFER SHALL BE DESIGNED IN FULL COGNIZANCE OF ANY
44 UTILITY PLANS, STORMWATER MANAGEMENT PLANS,
45 SEDIMENTATION AND EROSION CONTROL PLANS, AND GRADING

1 PLANS. WHEREVER ARCHITECTURALLY OR ENGINEERINGLY
2 POSSIBLE, INTERFERENCE WITH DESIGNATED BUFFER AREAS IS TO
3 BE AVOIDED.

- 4 7. PLANTINGS WITHIN THE BUFFER AREA SHALL NOT IMPAIR ACCESS
5 TO UTILITIES FOR THEIR MAINTENANCE AND REPAIR.
- 6 8. PLANTINGS MAY NOT BE WITHIN OR ATOP ANY STORMWATER
7 MANAGEMENT STRUCTURES, BUT SHALL BE PLACED TO
8 COMPLEMENT THEIR FUNCTION, IF POSSIBLE.
- 9 9. WHERE A DESIGNATED BUFFER AREA ADJOINS OTHER LANDSCAPED
10 OR NATURAL AREAS, THE DEVELOPER SHALL BLEND THE PROPOSED
11 BUFFER WITH EXISTING ADJACENT CONDITIONS, WITH PARTICULAR
12 ATTENTION TO THE NECESSITY TO PROVIDE WILDLIFE CORRIDORS.
- 13 10. ANY LANDSCAPING OF THE DESIGNATED BUFFER AREA SHALL
14 OCCUR AFTER THE PLACEMENT OF SIDEWALKS, ROADS,
15 DRIVEWAYS, UTILITIES AND STORMWATER MANAGEMENT
16 STRUCTURES WHICH MAY AFFECT THE BUFFER, AND AFTER FINAL
17 GRADE HAS BEEN ESTABLISHED.
- 18 11. TREES REQUIRED TO BE REPLACED ON-SITE ACCORDING TO SECTION
19 19.20.070(A) AND (B) SHALL BE PLACED, AS A FIRST PRIORITY, WITHIN
20 DESIGNATED BUFFER AREAS IF ADDITIONAL PLANTING IN THE
21 BUFFER IS STIPULATED.
- 22 12. ANY CHANGES MADE IN THE FIELD TO A DESIGNATED BUFFER AREA
23 MUST FIRST BE APPROVED BY THE DEPARTMENT
- 24 13. NATURAL AND LANDSCAPED BUFFERS WITHIN THE CRITICAL AREA
25 SHALL BE SUBJECT TO THE REQUISITES OF SECTIONS 19.20.080 IN
26 ADDITION TO THE REQUISITES OF THIS SECTION. IF THERE ARE ANY
27 INCONSISTENCIES BETWEEN THESE SECTIONS, THE MORE
28 RESTRICTIVE SHALL APPLY.

29
30 **19.20.100 - LANDSCAPE STANDARDS.**

- 31 A. ALL DESIGNATED BUFFER AREAS, AS WELL AS ALL OTHER ON-SITE
32 NATURAL OR LANDSCAPED AREAS, SHALL BE CONSISTENT WITH CHAPTER
33 19.10, AND SECTIONS 20.24.160 AND 21.62.120 WHERE APPLICABLE. IF THERE
34 ARE ANY INCONSISTENCIES BETWEEN THESE SECTIONS, THE MORE
35 RESTRICTIVE SHALL PREVAIL.
- 36 B. THE DEVELOPER/OWNER IS RESPONSIBLE FOR THE PURCHASE, PLANTING,
37 CARE AND MAINTENANCE OF ALL TREES PLANTED IN ACCORDANCE WITH
38 THIS CHAPTER, EXCEPT FOR THE CARE AND MAINTENANCE OF TREES
39 PLANTED OFF-SITE PURSUANT TO SECTION 19.20.070(B). ADDITIONALLY,
40 THE DEVELOPER/OWNER IS NOT RESPONSIBLE FOR THE CARE AND
41 MAINTENANCE OF TREES AND SHRUBS PLANTED FOR A SINGLE-FAMILY OR
42 TWO-FAMILY ATTACHED OR DETACHED HOME AFTER SALE OF THE HOME
43 BY THE BUILDER OR DEVELOPER TO THE INITIAL CONSUMER. ALL TREES
44 OF NURSERY STOCK INSTALLED ACCORDING TO THE REQUISITES OF THIS
45 CHAPTER MUST BE LISTED ON THE STATE AND/OR CITY RECOMMENDED

1 TREE LIST AND SHALL MEET AMERICAN ASSOCIATION OF NURSERYMEN
2 STANDARDS FOR NURSERY STOCK.

- 3 C. THE DEPARTMENT MAY REQUIRE THAT THE INSTALLATION OF ALL
4 IMPROVEMENTS AS NOTED ON THE APPROVED LANDSCAPE PLAN BE
5 BONDED, INCLUDING THOSE TREES DESIGNATED FOR PRESERVATION, AND
6 EXCLUDING THOSE TREES TRANSPLANTED FROM ONE LOCATION ON SITE
7 TO ANOTHER, AND EXCEPTING THOSE TREES TO BE PLANTED OFF-SITE
8 PURSUANT TO SECTION 19.20.070(B). ON THE SATISFACTORY COMPLETION
9 OF THE IMPROVEMENTS AS NOTED ON THE APPROVED LANDSCAPE PLAN,
10 THE SECURITY DESCRIBED IN THIS SECTION SHALL BE RELEASED;
11 PROVIDED, HOWEVER, THAT A ONE YEAR MAINTENANCE BOND OR OTHER
12 APPROPRIATE SECURITY BE SUBSTITUTED IN AN AMOUNT TO BE
13 DETERMINED BY THE DEPARTMENT, WHICH AMOUNT SHALL BE NOT MORE
14 THAN TEN PERCENT OF THE COST OF INSTALLATION OF THE
15 IMPROVEMENTS. THE AMOUNT OF THIS BOND OR OTHER SECURITY SHALL
16 BE REDUCED TO REFLECT THE PORTION ATTRIBUTABLE TO THOSE TREES
17 ON A LOT WITH A SINGLE-FAMILY OR TWO-FAMILY ATTACHED OR
18 DETACHED HOME AFTER THE SALE OF THAT HOME BY THE DEVELOPER OR
19 BUILDING TO THE INITIAL CONSUMER. ANY WAIVER OR MODIFICATION TO
20 THESE REQUIREMENTS SHALL BE MADE IN ACCORDANCE WITH SECTION
21 19.20.130 OF THIS CHAPTER.

22
23 **19.20.110 - EASEMENTS.**

24 IN THE CASE OF NEW DEVELOPMENT, EASEMENTS MAY BE SOUGHT FOR USE
25 AS BUFFER OR LANDSCAPED AREAS AND ARE SUBJECT TO THE INTENT OF THIS
26 CHAPTER. THESE EASEMENTS SHALL BE INDICATED ON THE PLAT OF RECORD
27 AND GRANTED TO ALL PROPERTY OWNERS WITHIN THE DEVELOPMENT AREA,
28 AND SHALL REQUIRE PROPERTY OWNERS TO MAINTAIN THE BUFFER AND/OR
29 LANDSCAPED AREA IN ACCORDANCE WITH THE APPROVED LANDSCAPE PLAN.

30
31 **19.20.120 - LANDSCAPING PLANS—APPROVALS—INSPECTIONS.**

- 32 A. PLANS. IN ACCORDANCE WITH SECTION 19.20.030 OF THIS CHAPTER,
33 LANDSCAPING PLANS SHALL BE SUBMITTED FOR REVIEW TO THE
34 DEPARTMENT.
- 35 B. APPROVALS.
- 36 1. NO CUTTING, CLEARING, DIGGING OR GRADING MAY BE UNDERTAKEN
37 UNTIL A LANDSCAPE PLAN HAS BEEN APPROVED. NO LANDSCAPING MAY
38 BE UNDERTAKEN UNTIL THE APPROVAL OF THE LANDSCAPE PLAN.
- 39 2. WHERE DEVELOPMENT IS PROPOSED WITHIN THE CRITICAL AREA, ALL
40 PLANS MUST BE CONSISTENT WITH THE APPROVED CRITICAL AREA
41 PROGRAM FOR THE CITY OF ANNAPOLIS.
- 42 3. PLAN APPROVALS OR DISAPPROVALS SHALL BE MADE IN WRITING BY
43 THE DEPARTMENT TO THE APPLICANT.
- 44 C. INSPECTIONS.

- 1 1. WORK WHICH MAY AFFECT TREE AREAS DESIGNATED FOR
2 PRESERVATION MAY NOT PROCEED TO THE NEXT PHASE OF
3 CONSTRUCTION UNTIL THE DEPARTMENT APPROVES TREE PROTECTION
4 MEASURES PURSUANT TO SECTIONS 19.20.040, 19.20.050 AND 19.20.060.
- 5 2. AREAS DESIGNATED AS BUFFERS SHALL BE INSPECTED BY THE
6 DEPARTMENT FOR AGREEMENT WITH THE APPROVED BUFFER SITE PLAN.
7 OCCUPANCY AND/OR USE PERMIT APPROVALS SHALL BE CONTINGENT
8 UPON THE FAVORABLE INSPECTION OF BUFFER AREAS.
- 9 3. THE PROJECT SITE SHALL BE INSPECTED BY THE DEPARTMENT FOR
10 AGREEMENT WITH THE APPROVED LANDSCAPE PLAN. OCCUPANCY AND
11 USE PERMIT APPROVALS SHALL BE CONTINGENT UPON THE FAVORABLE
12 INSPECTION OF THE PROJECT SITE.
- 13 4. ANY BONDS REQUIRED BY THE CITY OF ANNAPOLIS FOR LANDSCAPING
14 WILL BE REDUCED UPON THE FINAL INSPECTIONS BY THE DEPARTMENT,
15 OR AT THAT TIME THAT THE LANDSCAPE REQUIREMENTS ARE MET BY
16 THE DEVELOPER/APPLICANT.

17
18 **19.20.130 - WAIVER OR MODIFICATION**

- 19 A. THE DIRECTOR MAY WAIVE OR MODIFY THE MINIMUM REQUIREMENTS
20 SET FORTH IN THIS CHAPTER IF IT CAN BE DEMONSTRATED BY THE
21 APPLICANT THAT:
 - 22 1. SPECIAL PRACTICES MAY BE UNDERTAKEN WHICH WILL MEET THE
23 INTENT OF THIS CHAPTER BUT NOT THE MINIMUM REQUIREMENTS AS
24 STRICTLY INTERPRETED; OR
 - 25 2. SPECIAL CIRCUMSTANCES EXIST WHICH PREVENT THE APPLICANT FROM
26 MEETING THE MINIMUM REQUIREMENTS AS STRICTLY INTERPRETED.
- 27 B. THE DIRECTOR MAY NOT WAIVE OR MODIFY, UNDER THE PROVISIONS OF
28 THIS SECTION, ANY EXISTING CITY OR STATE REQUIREMENTS.
- 29 C. ANY APPLICANT AGGRIEVED BY REFUSAL TO GRANT A WAIVER OR
30 MODIFICATION OF ANY OF THE REQUIREMENTS OF THIS CHAPTER BY THE
31 DIRECTOR MAY APPEAL THE DECISION TO THE BUILDING BOARD OF APPEALS
32 WITHIN FIFTEEN WORKING DAYS OF THE DECISION.

33
34 **19.20.140 - ENFORCEMENT—VIOLATION—PENALTIES.**

- 35 A. ENFORCEMENT. THE ADMINISTRATION AND ENFORCEMENT OF THIS
36 CHAPTER SHALL BE THE RESPONSIBILITY OF THE DEPARTMENT OF THE
37 ENVIRONMENT.
- 38 B. VIOLATION. VIOLATION OF THIS CHAPTER MAY BE CAUSE FOR THE
39 DEVELOPER TO BE REQUIRED TO STOP WORK UNTIL A SATISFACTORY
40 RESOLUTION IS ESTABLISHED BY THE DEPARTMENT.
- 41 C. PENALTIES. ANY DEVELOPER WHO VIOLATES THIS CHAPTER IS GUILTY OF
42 A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY
43 RESOLUTION OF THE CITY COUNCIL. THE UNAPPROVED REMOVAL OF A
44 SINGLE TREE CONSTITUTES A SINGLE VIOLATION AND EACH DAY A
45 VIOLATION CONTINUES WITHOUT ABATEMENT OR MITIGATION WILL BE

1 CONSIDERED A SEPARATE VIOLATION WITH FINES AS ESTABLISHED BY
2 RESOLUTION OF THE CITY COUNCIL. IF ANY TREES SHOWN TO BE
3 PRESERVED ON THE APPROVED PLAN SUBSEQUENTLY ARE REMOVED OR
4 ARE DEAD OR DYING BECAUSE OF ACTS OF NEGLIGENCE BY A DEVELOPER,
5 THIS SHALL BE CONSIDERED A VIOLATION AND FINES SHALL BE ASSESSED.
6 THE TREES SHALL BE REPLACED BY THE DEVELOPER, OR THE DEVELOPER
7 SHALL BE ASSESSED A FEE IN LIEU. THE SIZE, SPECIES AND QUANTITY OF
8 REPLACEMENT TREES OR FEE IN LIEU SHALL BE SPECIFIED BY THE
9 DEPARTMENT AND SHALL BE CONSISTENT WITH SECTION 19.20.070(C). IF
10 NECESSARY, OFF-SITE LOCATIONS IDENTIFIED BY THE DEPARTMENT MAY
11 BE UTILIZED IF THERE ARE CONSTRAINTS ON THE SITE. REPLACEMENT
12 SHALL BE WITHIN A TIME FRAME SPECIFIED BY THE DEPARTMENT.

13 D. REPLACEMENT TREES. IN ADDITION TO ANY OTHER PENALTY OR
14 REQUIREMENT THAT MAY BE IMPOSED UNDER THIS SECTION, IF ANY TREES
15 SHOWN TO BE PRESERVED ON THE APPROVED PLAN SUBSEQUENTLY ARE
16 REMOVED OR ARE DEAD OR DYING BECAUSE OF ACTS OF NEGLIGENCE BY
17 A DEVELOPER, THEY SHALL BE REPLACED BY THE DEVELOPER. THE SIZE,
18 SPECIES AND QUANTITY OF REPLACEMENT TREES SHALL BE SPECIFIED BY
19 THE DEPARTMENT BASED UPON SECTION 19.20.070(C). THE QUANTITY
20 SHALL BE DICTATED BY THE CONSTRAINTS OF THE SITE. REPLACEMENT
21 SHALL BE WITHIN A TIME FRAME SPECIFIED BY THE DEPARTMENT.

22 E. APPEALS. THE BUILDING BOARD OF APPEALS SHALL CONSIDER APPEALS
23 FROM THE PROVISIONS OF THIS CHAPTER FROM THE DETERMINATION OF
24 THE DIRECTOR IN THE MANNER SPECIFIED IN THE BUILDING CODE. THE
25 BOARD MAY MAKE DETERMINATIONS OF ALTERNATIVE METHODS,
26 STANDARDS OR MATERIALS WHEN, IN ITS OPINION, STRICT COMPLIANCE
27 WITH THIS CHAPTER IS UNNECESSARY. THE PROVISIONS OF THIS
28 SUBSECTION SHALL NOT APPLY TO ANY MUNICIPAL CITATION ISSUED
29 PURSUANT TO SECTION.
30
31

32 **CHAPTER 19.30 - FOREST CONSERVATION**

33 **19.30.010 - PURPOSE AND GENERAL PROVISIONS.**

34 THE CITY COUNCIL HAS DETERMINED THAT TO MEET THE REQUIREMENTS OF
35 NATURAL RESOURCES ARTICLE, §§ 5-1601—5-1612, ANNOTATED CODE OF
36 MARYLAND, THE PROVISIONS OF THIS CHAPTER MUST BE ENACTED TO PROTECT
37 FORESTS AND ENVIRONMENTALLY SENSITIVE AREAS IN THE CITY.
38
39

40 **19.30.020 - FOREST AND TREE CONSERVATION DEFINITIONS.**

41 FOR THE PURPOSES OF THIS CHAPTER ONLY, THE FOLLOWING TERMS HAVE THE
42 MEANINGS INDICATED:

43 "AFFORESTATION" MEANS:

44 1. ESTABLISHMENT OF TREE COVER ON AN AREA FROM WHICH FOREST
45 COVER HAS BEEN ABSENT FOR A LONG PERIOD OF TIME; OR

1 2. PLANTING ON OPEN AREAS ON WHICH THERE IS NO EXISTING FOREST
2 COVER.

3 "AGRICULTURAL AND RESOURCE AREAS" MEANS UNDEVELOPED AREAS ZONED
4 FOR DENSITIES OF LESS THAN OR EQUAL TO ONE DWELLING UNIT PER FIVE
5 ACRES.

6 "APPLICANT" MEANS A PERSON WHO HAS LAWFULLY SUBMITTED AN
7 APPLICATION FOR APPROVAL OF A PLANNED DEVELOPMENT, SPECIAL
8 EXCEPTION, SUBDIVISION SITE DESIGN PLAN, OR PROJECT PLAN, OR A GRADING
9 OR SEDIMENT CONTROL PERMIT, OR WHO HAS SUBMITTED A FOREST STAND
10 DELINEATION FOR REVIEW, A PRELIMINARY FOREST CONSERVATION PLAN FOR
11 REVIEW, OR A FINAL FOREST CONSERVATION PLAN FOR APPROVAL FOR A TRACT
12 OF LAND THAT, IN ITS EXISTING OR REDEVELOPED STATE, IS FORTY THOUSAND
13 SQUARE FEET OR GREATER OR WHO HAS RECEIVED APPROVAL OF A FOREST
14 STAND DELINEATION OR FOREST CONSERVATION PLAN.

15 "APPROVED FOREST MANAGEMENT PLAN" MEANS A DOCUMENT:

16 1. APPROVED BY THE DEPARTMENT OF NATURAL RESOURCES FORESTER
17 ASSIGNED TO THE CITY; AND

18 2. WHICH OPERATES AS A PROTECTIVE AGREEMENT FOR FOREST
19 CONSERVATION AS DESCRIBED IN THE NATURAL RESOURCES ARTICLE, §§ 5-
20 1607(E)—(F), ANNOTATED CODE OF MARYLAND.

21 "CALIPER" MEANS THE DIAMETER MEASURED AS TWO INCHES ABOVE THE ROOT
22 COLLAR.

23 "CHAMPION TREE" MEANS THE LARGEST TREE OF ITS SPECIES WITHIN THE
24 UNITED STATES, THE STATE, COUNTY, OR THE CITY, AS APPLICABLE.

25 "COMAR" MEANS THE MARYLAND CODE OF REGULATIONS.

26 "COMMERCIAL AND INDUSTRIAL USES" MEANS MANUFACTURING OPERATIONS,
27 OFFICE COMPLEXES, SHOPPING CENTERS, AND OTHER SIMILAR USES AND THEIR
28 ASSOCIATED STORAGE AREAS, YARDING AND PARKING AREAS, MORE
29 SPECIFICALLY DESCRIBED AND DELINEATED IN CITY CODE SECTION 21.48.020,
30 TABLE OF USES.

31 "COMMERCIAL LOGGING OR TIMBER HARVESTING OPERATIONS" MEANS THE
32 CUTTING AND REMOVING OF TREE STEMS FROM A SITE FOR COMMERCIAL
33 PURPOSES, LEAVING THE ROOT MASS INTACT.

34 "CONTIGUOUS FOREST" MEANS A FOREST OF TWENTY ACRES OR MORE THAT
35 CONNECTS THE LARGEST UNDEVELOPED OR VEGETATED TRACTS OF LAND
36 WITHIN, AND ADJACENT TO, A SITE.

37 "CRITICAL HABITAT AREA" MEANS A CRITICAL HABITAT FOR AN ENDANGERED
38 SPECIES AND ITS SURROUNDING PROTECTION AREA. A CRITICAL HABITAT AREA
39 SHALL:

40 1. BE LIKELY TO CONTRIBUTE TO THE LONG-TERM SURVIVAL OF THE
41 SPECIES;

42 2. BE LIKELY TO BE OCCUPIED BY THE SPECIES FOR THE FORESEEABLE
43 FUTURE; AND

1 3. CONSTITUTE HABITAT OF THE SPECIES WHICH IS CONSIDERED
2 CRITICAL UNDER NATURAL RESOURCES ARTICLE, §§ 4-2A-04 AND 10-2A-06,
3 ANNOTATED CODE OF MARYLAND.

4 "CRITICAL HABITAT FOR ENDANGERED SPECIES" MEANS A HABITAT OCCUPIED
5 BY AN ENDANGERED SPECIES AS DETERMINED OR LISTED UNDER NATURAL
6 RESOURCES ARTICLE, §§ 4-2A-04 AND 10-2A-04, ANNOTATED CODE OF MARYLAND.

7 "DBH" OR "DIAMETER AT BREAST HEIGHT" MEANS A TREE DIAMETER MEASURED
8 AT FOUR AND ONE-HALF FEET ABOVE THE GROUND.

9 "DECLARATION OF INTENT" MEANS:

10 1. A SIGNED AND NOTARIZED STATEMENT BY A LANDOWNER OR THE
11 LANDOWNER'S AGENT CERTIFYING THAT THE ACTIVITY ON THE LANDOWNER'S
12 PROPERTY:

13 I. IS FOR CERTAIN ACTIVITIES EXEMPTED UNDER THE ANNAPOLIS
14 CITY CODE OR NATURAL RESOURCES ARTICLE, §§ 5-103 AND 5-1601—5-1612,
15 ANNOTATED CODE OF MARYLAND,

16 II. DOES NOT CIRCUMVENT THE REQUIREMENTS OF THE
17 ANNAPOLIS CITY CODE OR NATURAL RESOURCES ARTICLE, §§ 5-103 AND 5-
18 1601—5-1612, ANNOTATED CODE OF MARYLAND, AND

19 III. DOES NOT CONFLICT WITH THE PURPOSES OF ANY OTHER
20 DECLARATION OF INTENT; OR

21 2. THE DOCUMENT REQUIRED UNDER COMAR 08.19.01.05 OR THIS
22 CHAPTER.

23 "DEPARTMENT" MEANS THE DEPARTMENT OF THE ENVIRONMENT.

24 "DEVELOPMENT PLAN" MEANS A DRAWING OR DRAWINGS WHICH DELINEATE A
25 PLANNED DEVELOPMENT, SPECIAL EXCEPTION, SUBDIVISION, SITE DESIGN PLAN,
26 OR PROJECT PLAN, OR A GRADING OR SEDIMENT CONTROL PERMIT FOR A TRACT
27 OF LAND THAT, IN ITS EXISTING OR REDEVELOPED STATE, IS FORTY THOUSAND
28 SQUARE FEET OR GREATER.

29 DEVELOPMENT PROJECT.

30 1. "DEVELOPMENT PROJECT" MEANS THE GRADING OR CONSTRUCTION
31 ACTIVITIES OCCURRING ON A SPECIFIC TRACT THAT IS FORTY THOUSAND
32 SQUARE FEET OR GREATER.

33 2. "DEVELOPMENT PROJECT" INCLUDES REDEVELOPMENT.

34 "DEVELOPMENT PROJECT COMPLETION" MEANS FOR THE PURPOSES OF
35 AFFORESTATION, REFORESTATION:

36 1. THE RELEASE OF THE DEVELOPMENT BOND, IF REQUIRED;

37 2. ACCEPTANCE OF THE PROJECT'S STREETS, UTILITIES, AND PUBLIC
38 SERVICES BY THE DEPARTMENT; OR

39 3. DESIGNATION IN WRITING BY THE DEPARTMENT OR STATE THAT A:

40 I. DEVELOPMENT PROJECT HAS BEEN COMPLETED, OR

41 II. PARTICULAR STAGE OF A STAGED DEVELOPMENT PROJECT, INCLUDING
42 A PLANNED UNIT DEVELOPMENT, HAS BEEN COMPLETED.

43 "ENVIRONMENT ARTICLE" MEANS THE ENVIRONMENT ARTICLE OF THE
44 ANNOTATED CODE OF MARYLAND, AS AMENDED FROM TIME TO TIME.

1 "EPHEMERAL STREAM" MEANS A STREAM THAT FLOWS ONLY IN DIRECT
2 RESPONSE TO PRECIPITATION IN THE IMMEDIATE WATERSHED OR IN RESPONSE
3 TO THE MELTING OF A COVER OF SNOW OR ICE, AND WHICH HAS A CHANNEL
4 BOTTOM THAT IS ALWAYS ABOVE THE LOCAL WATER TABLE.

5 FOREST.

6 1. "FOREST" MEANS A BIOLOGICAL COMMUNITY DOMINATED BY TREES
7 AND OTHER WOODY PLANTS COVERING A LAND AREA OF TEN THOUSAND
8 SQUARE FEET OR GREATER.

9 2. "FOREST" INCLUDES:

10 I. AREAS THAT HAVE AT LEAST ONE HUNDRED LIVE TREES PER ACRE
11 WITH AT LEAST FIFTY PERCENT OF THOSE TREES HAVING A TWO-INCH OR
12 GREATER DIAMETER AT FOUR AND ONE-HALF FEET ABOVE THE GROUND
13 AND LARGER; AND

14 II. AREAS THAT HAVE BEEN CUT BUT NOT CLEARED.

15 3. "FOREST" DOES NOT INCLUDE ORCHARDS.

16 "FOREST CONSERVATION" MEANS THE RETENTION OF EXISTING FOREST OR THE
17 CREATION OF NEW FOREST AT THE LEVELS SET BY THE DEPARTMENT.

18 "FOREST CONSERVATION AND MANAGEMENT AGREEMENT" MEANS AN
19 AGREEMENT AS STATED IN TAX-PROPERTY ARTICLE, § 8-211, ANNOTATED CODE
20 OF MARYLAND.

21 "FOREST CONSERVATION TECHNICAL MANUAL" MEANS THE CITY TECHNICAL
22 MANUAL, INCORPORATED BY REFERENCE HEREIN, USED TO ESTABLISH
23 STANDARDS OF PERFORMANCE REQUIRED IN PREPARING FOREST STAND
24 DELINEATIONS AND FOREST CONSERVATION PLANS.

25 "FOREST CONSERVATION PLAN" MEANS A PLAN APPROVED PURSUANT TO
26 SECTIONS 19.30.070, 19.30.080, 19.30.090 AND 19.30.100 OF THIS CHAPTER.

27 "FOREST COVER" MEANS THE AREA OF A SITE MEETING THE DEFINITION OF
28 FOREST.

29 "FOREST MANAGEMENT PLAN" MEANS A PLAN ESTABLISHING BEST
30 CONSERVATION AND MANAGEMENT PRACTICES FOR A LANDOWNER IN
31 ASSESSMENT OF THE RESOURCE VALUES OF FORESTED PROPERTY.

32 "FOREST MITIGATION BANK" MEANS AN AREA OF LAND WHICH HAS BEEN
33 INTENTIONALLY AFFORESTED OR REFORESTED FOR THE EXPRESS PURPOSE OF
34 PROVIDING CREDITS FOR REFORESTATION REQUIREMENTS.

35 "FOREST MITIGATION BANK AGREEMENT" MEANS AN AGREEMENT ENTERED
36 INTO BY AN INDIVIDUAL OWNING A FOREST MITIGATION BANK AND THE
37 DEPARTMENT OR LOCAL GOVERNMENT WHICH COMMITS THE BANKER TO
38 CERTAIN PROCEDURES AND REQUIREMENTS WHEN CREATING AND OPERATING
39 THE FOREST MITIGATION BANK.

40 "FOREST MITIGATION BANK PLAN" MEANS A PLAN SUBMITTED FOR APPROVAL OF
41 A FOREST MITIGATION BANK TO THE DEPARTMENT, OR TO A LOCAL
42 GOVERNMENT WITH AN APPROVED LOCAL PROGRAM, BY AN INDIVIDUAL
43 PROPOSING TO ESTABLISH A FOREST MITIGATION BANK.

1 "FOREST STAND DELINEATION" MEANS THE METHODOLOGY FOR EVALUATING
2 THE EXISTING VEGETATION ON A SITE PROPOSED FOR DEVELOPMENT, AS
3 PROVIDED IN THE FOREST CONSERVATION TECHNICAL MANUAL.

4 "GROWING SEASON" MEANS THE PERIOD OF CONSECUTIVE FROST-FREE DAYS AS
5 STATED IN THE CURRENT SOIL SURVEY FOR THIS COUNTRY PUBLISHED BY THE
6 NATIONAL COOPERATIVE SOIL SURVEY PROGRAM, 16 U.S.C. § 590(A)—(F).

7 "HIGH DENSITY RESIDENTIAL AREAS" MEANS AREAS ZONED FOR DENSITIES
8 GREATER THAN ONE DWELLING UNIT PER ACRE, INCLUDING BOTH EXISTING AND
9 PLANNED DEVELOPMENT AND THEIR ASSOCIATED INFRASTRUCTURE, SUCH AS
10 ROADS, UTILITIES, AND WATER AND SEWER SERVICE IDENTIFIED AS ALL
11 RESIDENTIAL ZONES IN THE ANNAPOLIS CITY CODE, CHAPTER 21.40.

12 "HISTORIC SITE" OR "HISTORIC STRUCTURE" MEANS ANY SITE OR STRUCTURE
13 THAT IS:

- 14 1. INDIVIDUALLY LISTED IN THE NATIONAL REGISTER OF HISTORIC PLACES
15 (A LISTING MAINTAINED BY THE U.S. DEPARTMENT OF THE INTERIOR) OR
16 PRELIMINARILY DETERMINED BY THE SECRETARY OF THE INTERIOR AS
17 MEETING THE REQUIREMENTS FOR INDIVIDUAL LISTINGS ON THE
18 NATIONAL REGISTER;
- 19 2. CERTIFIED OR PRELIMINARILY DETERMINED BY THE SECRETARY OF THE
20 INTERIOR AS CONTRIBUTING TO THE HISTORICAL SIGNIFICANCE OF A
21 REGISTERED HISTORIC DISTRICT OR A DISTRICT PRELIMINARILY
22 DETERMINED BY THE SECRETARY TO QUALIFY AS A REGISTERED HISTORIC
23 DISTRICT;
- 24 3. INDIVIDUALLY LISTED ON THE MARYLAND REGISTER OF HISTORIC
25 PLACES; OR
- 26 4. INDIVIDUALLY LISTED ON THE INVENTORY OF HISTORIC PLACES
27 MAINTAINED BY THE CITY OF ANNAPOLIS WHOSE HISTORIC
28 PRESERVATION PROGRAM HAS BEEN CERTIFIED BY THE MARYLAND
29 HISTORIC TRUST OR THE SECRETARY OF THE INTERIOR.

30 "INSTITUTIONAL DEVELOPMENT AREA" MEANS AREAS ZONED TO ALLOW THE
31 INCLUSION OF SCHOOLS, COLLEGES AND UNIVERSITIES, MILITARY
32 INSTALLATIONS, TRANSPORTATION FACILITIES, UTILITY AND SEWER PROJECTS,
33 GOVERNMENT OFFICES AND FACILITIES, GOLF COURSES, RECREATION AREAS,
34 PARKS, AND CEMETERIES AS IS APPLIED IN THE ANNAPOLIS CITY CODE.

35 "INTERMITTENT STREAM" MEANS A STREAM IN WHICH SURFACE WATER IS
36 ABSENT DURING A PART OF THE YEAR AS SHOWN ON THE MOST RECENT SEVEN
37 AND ONE-HALF MINUTE TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE
38 UNITED STATES GEOLOGIC SURVEY OR AS DEFINED IN COMAR 26.23.01.01 AND
39 CONFIRMED BY FIELD VERIFICATION.

40 "LANDSCAPING PLAN" FOR PURPOSES OF THIS SECTION MEANS A PLAN:

- 41 1. DRAWN TO SCALE, SHOWING DIMENSIONS AND DETAILS FOR REFORESTING
42 AN AREA AT LEAST THIRTY-FIVE FEET WIDE AND COVERING TWO
43 THOUSAND FIVE HUNDRED SQUARE FEET OR GREATER IN SIZE;
- 44 2. USING NATIVE OR INDIGENOUS PLANTS WHEN APPROPRIATE; AND
- 45 3. WHICH IS MADE PART OF AN APPROVED FOREST CONSERVATION PLAN.

1 "LINEAR PROJECT" MEANS A PROJECT WHICH:

- 2 1. IS ELONGATED WITH NEARLY PARALLEL SIDES;
- 3 2. IS USED TO TRANSPORT A UTILITY PRODUCT OR PUBLIC SERVICE NOT
4 OTHERWISE CONTAINED IN AN APPLICATION FOR SUBDIVISION, SUCH AS
5 ELECTRICITY, GAS, WATER, SEWER, COMMUNICATIONS, TRAINS, AND
6 VEHICLES; AND
- 7 3. MAY TRAVERSE FEE SIMPLE PROPERTIES THROUGH DEFINED BOUNDARIES,
8 OR ESTABLISHED EASEMENT RIGHTS.

9 "LOCAL AGENCY" MEANS EACH UNIT IN THE EXECUTIVE, LEGISLATIVE, OR
10 JUDICIAL BRANCH OF A COUNTY OR MUNICIPAL GOVERNMENT, INCLUDING AN
11 OFFICE OR DEPARTMENT.

12 "LOT" MEANS A UNIT OF LAND, THE BOUNDARIES OF WHICH HAVE BEEN
13 ESTABLISHED BY SUBDIVISION OF A LARGER PARCEL, AND WHICH WILL NOT BE
14 THE SUBJECT OF FURTHER SUBDIVISION, AS DEFINED BY NATURAL RESOURCES
15 ARTICLE, § 5-1601, ANNOTATED CODE OF MARYLAND AND THIS CHAPTER, AND
16 WITHOUT AN APPROVED FOREST STAND DELINEATION AND FOREST
17 CONSERVATION PLAN.

18 "MAINTENANCE AGREEMENT" MEANS THE SHORT-TERM MANAGEMENT
19 AGREEMENT ASSOCIATED WITH AFFORESTATION OR REFORESTATION PLANS
20 REQUIRED UNDER NATURAL RESOURCES ARTICLE § 5-1605, ANNOTATED CODE OF
21 MARYLAND AND THIS CHAPTER.

22 "MEDIUM DENSITY RESIDENTIAL AREAS" MEANS AREAS ZONED FOR DENSITIES
23 GREATER THAN ONE DWELLING UNIT PER FIVE ACRES AND LESS THAN OR EQUAL
24 TO ONE DWELLING UNIT PER ACRE, INCLUDING BOTH EXISTING AND PLANNED
25 DEVELOPMENT AND THEIR ASSOCIATED INFRASTRUCTURE, SUCH AS ROADS,
26 UTILITIES, AND WATER AND SEWER SERVICE.

27 "MINOR DEVELOPMENT PROJECT" MEANS A PROJECT:

- 28 1. ON LESS THAN FIVE ACRES OF LAND CONTAINING NOT MORE THAN FOUR
29 LOTS PER ACRE; OR
- 30 2. SUBSTANTIVELY SIMILAR AS DEFINED BY THE DEPARTMENT AND
31 APPROVED BY THE STATE.

32 "MIXED USE DEVELOPMENT" MEANS A SINGLE, HIGH DENSITY DEVELOPMENT
33 PROJECT WHICH INCLUDES TWO OR MORE TYPES OF USES, MORE SPECIFICALLY
34 DESCRIBED AND DELINEATED IN CITY CODE SECTION 21.48.030, TABLE OF USES.

35 "NATURAL REGENERATION" MEANS THE NATURAL ESTABLISHMENT OF TREES
36 AND OTHER VEGETATION WITH AT LEAST FOUR HUNDRED WOODY, FREE-TO-
37 GROW SEEDLINGS PER ACRE, WHICH ARE CAPABLE OF REACHING A HEIGHT OF
38 AT LEAST TWENTY FEET AT MATURITY.

39 "NATURAL RESOURCES INVENTORY" MEANS A COMPILATION OF NATURAL SITE
40 FEATURES INCLUDING FOREST DELINEATION, GEOLOGICAL DATA, TOPOGRAPHY,
41 SOILS SERIES AND PROPERTIES, WATERSHED DATA INCLUDING FLOODPLAINS,
42 WATER RESOURCES INCLUDING SURFACE WATER, GROUND WATER AND
43 WETLANDS, WILDLIFE HABITATS AND CONNECTIONS, HYDRIC SOILS, SOILS WITH
44 K FACTORS OF .35 OR GREATER, AND SLOPES OF FIFTEEN PERCENT OR GREATER,
45 AND AS FURTHER DEFINED IN THE TECHNICAL MANUAL.

1 "NET TRACT AREAS" MEANS:

- 2 1. EXCEPT IN AGRICULTURE AND RESOURCE AREAS, THE TOTAL AREA OF A
3 SITE, INCLUDING BOTH FORESTED AND NONFORESTED AREAS, TO THE
4 NEAREST ONE-TENTH-ACRE, REDUCED BY THAT AREA WHERE FOREST
5 CLEARING IS RESTRICTED BY ANOTHER LOCAL ORDINANCE OR PROGRAM;
6 2. IN AGRICULTURE AND RESOURCE AREAS THE PART OF THE TOTAL TRACT
7 FOR WHICH LAND USE WILL BE CHANGED OR WILL NO LONGER BE USED
8 FOR PRIMARILY AGRICULTURAL ACTIVITIES, REDUCED BY THAT AREA
9 WHERE FOREST CLEARING IS RESTRICTED BY ANOTHER LOCAL
10 ORDINANCE OR PROGRAM; AND
11 3. FOR A LINEAR PROJECT:
12 I. THE AREA OF A RIGHT-OF-WAY WIDTH, NEW ACCESS ROADS, AND
13 STORAGE; OR
14 II. THE LIMITS OF DISTURBANCE AS SHOWN ON AN APPLICATION FOR
15 SEDIMENT AND EROSION CONTROL APPROVAL OR IN A CAPITAL
16 IMPROVEMENTS PROGRAM PROJECT DESCRIPTION.

17 NONTIDAL WETLANDS.

- 18 1. "NONTIDAL WETLANDS" MEANS AN AREA THAT IS:

- 19 I. INUNDATED OR SATURATED BY SURFACE OR GROUNDWATER AT A
20 FREQUENCY AND DURATION SUFFICIENT TO SUPPORT, AND UNDER
21 NORMAL CONDITIONS DOES SUPPORT, A PREVALENCE OF VEGETATION
22 TYPICALLY ADAPTED FOR LIFE IN SATURATED SOIL CONDITIONS,
23 COMMONLY KNOWN AS HYDROPHYTIC VEGETATION; AND
24 II. CONSIDERED A NONTIDAL WETLAND IN ACCORDANCE WITH THE
25 PUBLICATION KNOWN AS THE "FEDERAL MANUAL FOR IDENTIFYING AND
26 DELINEATING JURISDICTIONAL WETLAND," PUBLISHED IN 1989 AND AS
27 MAY BE AMENDED AND INTERPRETED BY THE U.S. ENVIRONMENTAL
28 PROTECTION AGENCY.

- 29 2. "NONTIDAL WETLANDS" DOES NOT INCLUDE TIDAL WETLANDS REGULATED
30 UNDER ENVIRONMENT ARTICLE, TITLE 16, ANNOTATED CODE OF MARYLAND.

31 "OFFSITE" MEANS OUTSIDE OF THE LIMITS OF THE AREA ENCOMPASSED BY THE
32 TRACT OR PARCEL OF RECORD ON WHICH THE ACTIVITY IS PROPOSED.

33 "ONSITE" MEANS WITHIN THE LIMITS OF THE AREA ENCOMPASSED BY THE TRACT
34 OR PARCEL OF RECORD ON WHICH THE ACTIVITY IS PROPOSED, INCLUDING AN
35 AREA CLASSIFIED AS A 100-YEAR FLOODPLAIN.

36 "100-YEAR FLOOD" MEANS A FLOOD WHICH HAS ONE PERCENT CHANCE OF BEING
37 EQUALED OR EXCEEDED IN ANY GIVEN YEAR.

38 "100-YEAR FLOODPLAIN" MEANS AN AREA ALONG OR ADJACENT TO A STREAM OF
39 BODY OF WATER, EXCEPT TIDAL WATERS, THAT IS CAPABLE OF STORING OR
40 CONVEYING FLOODWATERS DURING A 100-YEAR FREQUENCY STORM EVENT, OR
41 A 100-YEAR FLOOD.

42 "PERENNIAL STREAM" MEANS A STREAM CONTAINING SURFACE WATER
43 THROUGHOUT AN AVERAGE RAINFALL YEAR, AS SHOWN ON THE MOST RECENT
44 SEVEN AND ONE-HALF-MINUTE TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE

1 UNITED STATES GEOLOGIC SURVEY, OR AS DEFINED IN COMAR 26.23.01.01 AND
2 CONFIRMED BY FIELD VERIFICATION.

3 "PERSON" MEANS THE FEDERAL GOVERNMENT, THE STATE, A COUNTY,
4 MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE STATE, OR
5 ANY OF THEIR UNITS, OR AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN,
6 EXECUTOR, ADMINISTRATOR, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND, OR
7 ANY PARTNERSHIP, FIRM, ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, OR
8 ANY OF THEIR AFFILIATES, OR ANY OTHER ENTITY.

9 "PLANNED UNIT DEVELOPMENT" OR "PLANNED DEVELOPMENT" FOR PURPOSES
10 OF THIS SECTION MEANS A DEVELOPMENT COMPRISED OF A COMBINATION OF
11 LAND USES OR VARYING INTENSITIES OF THE SAME LAND USE IN ACCORDANCE
12 WITH AN INTEGRATED PLAN THAT PROVIDES FLEXIBILITY IN LAND USE DESIGN
13 APPROVED BY THE CITY WITH AT LEAST TWENTY PERCENT OF THE LAND
14 PERMANENTLY DEDICATED TO OPEN SPACE IN RESIDENTIAL PLANNED
15 DEVELOPMENTS AND AT LEAST FIVE PERCENT OF THE LAND PERMANENTLY
16 DEDICATED TO OPEN SPACE IN COMMERCIAL, MIXED USE AND OTHER PLANNED
17 DEVELOPMENTS.

18 "PLANTING PLAN" MEANS A LABELED DIAGRAM THAT SHOWS THE QUANTITIES,
19 LOCATION, SIZE, SHAPE, COLOR, DETAILS AND SPECIFICATIONS OF SPECIFIC
20 PLANTS TO BE USED IN THE LANDSCAPE.

21 "PRIORITY RETENTION AREA" MEANS:

- 22 1. SPECIFIC AREAS WITH TREES, SHRUBS AND PLANTS LOCATED IN SENSITIVE
23 AREAS INCLUDING 100-YEAR FLOODPLAINS, INTERMITTENT, PERENNIAL
24 AND EPHEMERAL STREAMS AND THEIR BUFFERS, COASTAL BAYS AND
25 THEIR BUFFERS, NON-TIDAL WETLANDS AND THEIR BUFFERS, STEEP
26 SLOPES AND THEIR BUFFERS, HYDRIC SOILS AND CRITICAL HABITATS AS
27 FURTHER DEFINED IN THE FOREST CONSERVATION TECHNICAL MANUAL;
28
- 29 2. AREAS CONTAINING TREES, SHRUBS, OR PLANTS IDENTIFIED ON THE LIST
30 OF RARE, THREATENED, AND ENDANGERED SPECIES OF THE U.S. FISH AND
31 WILDLIFE SERVICE OR THE DEPARTMENT;
- 32 3. TREES THAT ARE PART OF A HISTORIC SITE OR ASSOCIATED WITH A
33 HISTORIC STRUCTURE OR DESIGNATED BY THE DEPARTMENT AS A
34 NATIONAL, STATE, OR CITY CHAMPION TREE;
- 35 4. AREAS CONTAINING ONE OR MORE SIGNIFICANT TREES;
- 36 5. AREAS OF CONTIGUOUS FOREST.

37 "PROJECT PLAN" MEANS A CONSTRUCTION, GRADING, OR SEDIMENT CONTROL
38 ACTIVITY ON AN AREA OF FORTY THOUSAND SQUARE FEET OR GREATER BY A
39 LOCAL AGENCY OR A "SITE DESIGN PLAN" AS SPECIFIED IN CITY CODE SECTION
40 21.22.020.

41 "PUBLIC UTILITY" MEANS ANY:

- 42 1. FACILITY, FIXTURE OR MEANS OF TRANSMISSION OPERATED IN
43 ASSOCIATION WITH A PUBLIC SERVICE COMPANY AS DEFINED IN PUBLIC
44 UTILITIES ARTICLE, ANNOTATED CODE OF MARYLAND § 1-101(X);

1 2. WATER AND SEWER SERVICES AS SPECIFIED IN TITLE 16 OF THE ANNAPOLIS
2 CITY CODE; OR

3 3. CABLE TELEVISION SYSTEMS AS DEFINED IN LOCAL GOVERNMENT
4 ARTICLE, ANNOTATED CODE OF MARYLAND § 1-708(A).

5 "REFORESTATION" OR "REFORESTED" MEANS:

6 1. CREATION OF A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND
7 OTHER WOODY PLANTS CONTAINING AT LEAST ONE HUNDRED LIVE TREES
8 PER ACRE WITH AT LEAST FIFTY PERCENT OF THOSE TREES HAVING THE
9 POTENTIAL OF ATTAINING A TWO-INCH OR GREATER DIAMETER
10 MEASURED AT FOUR AND ONE-HALF FEET ABOVE THE GROUND, WITHIN
11 SEVEN YEARS; OR

12 2. ESTABLISHMENT OF A FOREST ACCORDING TO PROCEDURES SET FORTH IN
13 THE FOREST CONSERVATION TECHNICAL MANUAL;

14 3. LANDSCAPING OF AREAS UNDER AN APPROVED LANDSCAPING PLAN;

15
16 4. FOR A LINEAR PROJECT INVOLVING OVERHEAD TRANSMISSION LINES MAY
17 CONSIST OF A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND
18 WOODY SHRUBS WITH NO MINIMUM HEIGHT OR DIAMETER CRITERIA.

19 "REGULATED ACTIVITY" MEANS ANY OF THE FOLLOWING ACTIVITIES, WHEN
20 THAT ACTIVITY OCCURS ON A UNIT OF LAND WHICH IS FORTY THOUSAND
21 SQUARE FEET OR GREATER:

22 1. SUBDIVISION;

23 2. GRADING;

24 3. AN ACTIVITY THAT REQUIRES A SEDIMENT CONTROL PERMIT;

25 4. PROJECT PLAN; OR

26 5. A PLANNED DEVELOPMENT OR A SPECIAL EXCEPTION.

27 "RETENTION" MEANS THE DELIBERATE HOLDING AND PROTECTION OF EXISTING
28 TREES, SHRUBS, OR PLANTS ON THE SITE ACCORDING TO ESTABLISHED
29 STANDARDS AS PROVIDED IN THE FOREST CONSERVATION TECHNICAL MANUAL.

30 "SEDIMENT CONTROL PERMIT" MEANS THE AUTHORIZATION OF AN ACTIVITY
31 REGULATED UNDER A SEDIMENT CONTROL PLAN AS PROVIDED IN ENVIRONMENT
32 ARTICLE, TITLE 4, ANNOTATED CODE OF MARYLAND OR A GRADING PERMIT AS
33 PROVIDED IN CHAPTERS 19.40 AND 19.50 OF THE ANNAPOLIS CITY CODE.

34 "SEEDLING" MEANS AN UNBRANCHED WOODY PLANT, LESS THAN TWENTY-FOUR
35 INCHES IN HEIGHT AND HAVING A DIAMETER OF LESS THAN ONE-HALF-INCH
36 MEASURED AT TWO INCHES ABOVE THE ROOT COLLAR.

37 "SELECTIVE CLEARING" MEANS THE CAREFUL AND PLANNED REMOVAL OF
38 TREES, SHRUBS, AND PLANTS USING SPECIFIC STANDARDS AND PROTECTION
39 MEASURES UNDER AN APPROVED FOREST CONSERVATION PLAN.

40 "SIGNIFICANT TREE" MEANS:

41 1. A CHAMPION TREE;

42 2. OR A TREE WHICH IS AT LEAST SEVENTY-FIVE PERCENT OF THE DIAMETER
43 OF THE STATE CHAMPION TREE;

44 3. OR A TREE WHICH IS OF TWENTY-FOUR INCHES DBH OR MORE AND WHICH
45 HAS BEEN DETERMINED BY THE DEPARTMENT DIRECTOR TO BE OF

1 NOTABLE QUALITY AND OR HIGH VALUE BECAUSE OF ITS TYPE, SIZE, AGE,
2 HISTORICAL SIGNIFICANCE, CANOPY BENEFITS, OR WHICH OTHERWISE
3 WARRANTS SPECIAL CONSIDERATION FOR PRESERVATION.

4 "STEEP SLOPE" MEANS A SLOPE OF FIFTEEN PERCENT OR GREATER.

5 "STEEP SLOPE BUFFER" MEANS A PROTECTIVE SETBACK FROM THE STEEP SLOPE
6 ITSELF, REQUIRED BY THE ANNE ARUNDEL COUNTY SOIL CONSERVATION
7 DISTRICT, THAT IS PROVIDED TO MAINTAIN THE INTEGRITY OF THE STEEP SLOPE.

8 "STREAM BUFFER" MEANS ALL LANDS LYING UP TO ONE HUNDRED FEET AND NO
9 LESS THAN FIFTY FEET, MEASURED FROM THE TOP OF EACH NORMAL BANK OF A
10 PERENNIAL OR INTERMITTENT STREAM. THE WIDTH OF THE BUFFER IS TO BE
11 DETERMINED BY THE DIRECTOR OR HIS/HER DESIGNEE TO PREVENT ACTIVITY
12 FROM HAVING A DELETERIOUS EFFECT ON THE STREAM.

13 "STREAM RESTORATION PROJECT" MEANS AN ACTIVITY THAT:

- 14 1. IS DESIGNED TO STABILIZE STREAM BANKS OR ENHANCE STREAM
15 FUNCTION OR HABITAT LOCATED WITHIN AN EXISTING STREAM,
16 WATERWAY, OR FLOODPLAIN;
- 17 2. AVOIDS AND MINIMIZES IMPACTS TO FORESTS AND PROVIDES FOR
18 REPLANTING ONSITE AN EQUIVALENT NUMBER OF TREES TO THE NUMBER
19 REMOVED BY THE PROJECT;
- 20 3. MAYBE PERFORMED UNDER A MUNICIPAL SEPARATE STORM SEWER
21 SYSTEM PERMIT, A WATERSHED IMPLEMENTATION PLAN GROWTH OFFSET,
22 OR ANOTHER PLAN ADMINISTERED BY THE STATE OR LOCAL
23 GOVERNMENT TO ACHIEVE OR MAINTAIN WATER QUALITY STANDARDS;
24 AND
- 25 4. IS NOT PERFORMED TO SATISFY STORMWATER MANAGEMENT, WETLANDS
26 MITIGATION, OR ANY OTHER REGULATORY REQUIREMENT ASSOCIATED
27 WITH PROPOSED DEVELOPMENT ACTIVITY.

28 "SUBDIVISION" MEANS A DIVISION OF A UNIT OF LAND INTO TWO OR MORE LOTS
29 OF PARCELS FOR THE PURPOSE, WHETHER IMMEDIATE OR FUTURE, OF TRANSFER
30 OF OWNERSHIP, SALE, LEASE, OR DEVELOPMENT.

31 "TAX PROPERTY ARTICLE" MEANS THE TAX PROPERTY ARTICLE OF THE
32 ANNOTATED CODE OF MARYLAND AS AMENDED FROM TIME TO TIME.

33 "TIMBER HARVESTING" MEANS:

- 34 1. A TREE-CUTTING OPERATION AFFECTING ONE OR MORE ACRES OF FOREST
35 OR DEVELOPED WOODLAND WITHIN A ONE-YEAR INTERVAL THAT
36 DISTURBS FIVE THOUSAND SQUARE FEET OR MORE OF FOREST FLOOR;
- 37 2. DOES NOT INCLUDE GRUBBING AND CLEARING OF ROOT MASS.

38 "TRACT" MEANS PROPERTY OR UNIT OF LAND SUBJECT TO AN APPLICATION FOR
39 A GRADING OR SEDIMENT CONTROL PERMIT, SUBDIVISION APPROVAL, OR
40 PROJECT PLAN APPROVAL.

41 "TRACT FOR A PLANNED UNIT DEVELOPMENT" MEANS THE ENTIRE PROPERTY
42 SUBJECT TO A PLANNED UNIT DEVELOPMENT.

43 "TREE" MEANS A LARGE, BRANCHED WOODY PLANT HAVING ONE OR SEVERAL
44 SELF-SUPPORTING STEMS OR TRUNKS THAT REACH A HEIGHT OF AT LEAST
45 TWENTY FEET AT MATURITY.

1 "UNWARRANTED HARDSHIP" MEANS THE APPLICANT HAS DEMONSTRATED THAT
2 WITHOUT A VARIANCE, THE APPLICANT WOULD BE DENIED REASONABLE AND
3 SIGNIFICANT USE OF THE ENTIRE PARCEL OR LOT FOR WHICH THE VARIANCE IS
4 REQUESTED.

5 VARIANCE.

6 1. "VARIANCE" MEANS AN EXEMPTION GRANTED TO AN APPLICANT FROM
7 ONE OR MORE REQUIREMENTS OF THIS CHAPTER.

8 2. "VARIANCE" DOES NOT MEAN A ZONING VARIANCE.

9 "WATERSHED" MEANS ALL LAND LYING WITHIN AN AREA DESCRIBED AS A SUB-
10 BASIN IN WATER QUALITY REGULATIONS ADOPTED BY THE MARYLAND
11 DEPARTMENT OF THE ENVIRONMENT UNDER COMAR 26.08.02.08.

12 "WHIP" MEANS AN UNBRANCHED WOODY PLANT GREATER THAN TWENTY-FOUR
13 INCHES IN HEIGHT AND HAVING A DIAMETER OF LESS THAN ONE INCH
14 MEASURED AT TWO INCHES ABOVE THE ROOT COLLAR.

15
16 **19.30.030 - APPLICATION.**

17 A. THIS CHAPTER IS APPLICABLE TO:

18 1. A PERSON MAKING APPLICATIONS FOR A SUBDIVISION, PROJECT PLAN,
19 GRADING, SEDIMENT CONTROL, PLANNED DEVELOPMENT, SPECIAL
20 EXCEPTION OR SITE PLAN APPROVAL ON UNITS OF LAND FORTY
21 THOUSAND SQUARE FEET OR GREATER;

22 2. A PUBLIC UTILITY NOT EXEMPT UNDER SUBSECTION B.5. AND 6. OF THIS
23 SECTION;

24 3. A UNIT OF COUNTY OR MUNICIPAL GOVERNMENT, INCLUDING PUBLIC
25 UTILITY OR PUBLIC WORKS PROJECT, MAKING APPLICATION FOR A
26 SUBDIVISION, PROJECT PLAN, GRADING, OR SEDIMENT CONTROL
27 APPROVAL ON AREAS FORTY THOUSAND SQUARE FEET OR GREATER.

28 B. THIS CHAPTER DOES NOT APPLY TO:

29 1. HIGHWAY CONSTRUCTION ACTIVITIES UNDER NATURAL RESOURCES
30 ARTICLE, § 5-103, ANNOTATED CODE OF MARYLAND;

31 2. AREAS GOVERNED BY THE CHESAPEAKE BAY CRITICAL AREA
32 PROTECTION LAW, NATURAL RESOURCES ARTICLE, §§ 8-1801—8-1817,
33 ANNOTATED CODE OF MARYLAND, INCLUDING THOSE AREAS INTO
34 WHICH CRITICAL AREA FOREST PROTECTION MEASURES HAVE BEEN
35 EXTENDED UNDER NATURAL RESOURCES ARTICLE, § 5-1602(C),
36 ANNOTATED CODE OF MARYLAND;

37 3. COMMERCIAL LOGGING AND TIMBER HARVESTING OPERATIONS,
38 INCLUDING HARVESTING CONDUCTED SUBJECT TO THE FOREST
39 CONSERVATION AND MANAGEMENT PROGRAM UNDER TAX-PROPERTY
40 ARTICLE, § 8-211, ANNOTATED CODE OF MARYLAND, THAT ARE
41 COMPLETED:

42 I. BEFORE JULY 1, 1991; OR

43 II. AFTER JULY 1, 1991, ON PROPERTY WHICH:

- 1 A. HAS NOT BEEN THE SUBJECT OF APPLICATION FOR A GRADING
2 PERMIT FOR DEVELOPMENT WITHIN FIVE YEARS AFTER THE
3 LOGGING OR HARVESTING OPERATION, AND
- 4 B. IS THE SUBJECT OF A DECLARATION OF INTENT AS PROVIDED FOR
5 IN SUBSECTION C. OF THIS SECTION, APPROVED BY THE
6 DEPARTMENT;
- 7 4. AGRICULTURAL ACTIVITIES NOT RESULTING IN A CHANGE IN LAND USE
8 CATEGORY, INCLUDING AGRICULTURAL SUPPORT BUILDING AND OTHER
9 RELATED STRUCTURES BUILT USING ACCEPTED BEST MANAGEMENT
10 PRACTICES, EXCEPT THAT A PERSON ENGAGING IN AN AGRICULTURAL
11 ACTIVITY CLEARING FORTY THOUSAND SQUARE FEET OR GREATER OF
12 FOREST WITHIN A ONE-YEAR PERIOD, MAY NOT RECEIVE AN
13 AGRICULTURAL EXEMPTION, UNLESS THE PERSON FILES A DECLARATION
14 OF INTENT AS PROVIDED FOR IN SUBSECTION C. OF THIS SECTION WHICH
15 INCLUDES:
 - 16 I. A STATEMENT THAT THE LANDOWNER OR LANDOWNER'S AGENT
17 WILL PRACTICE AGRICULTURE ON THAT PORTION OF THE PROPERTY
18 FOR FIVE YEARS FROM THE DATE OF THE DECLARATION; AND
 - 19 II. A SKETCH OF THE PROPERTY WHICH SHOWS THE AREAS TO BE
20 CLEARED;
- 21 5. THE CUTTING OR CLEARING OF PUBLIC UTILITY RIGHTS-OF-WAY
22 LICENSED UNDER PUBLIC UTILITIES ARTICLE, §§ 7-207 AND 7-208 OR 7-205,
23 ANNOTATED CODE OF MARYLAND, OR LAND FOR ELECTRIC GENERATING
24 STATIONS LICENSED UNDER PUBLIC UTILITIES ARTICLE, §§ 7-207 AND 7-
25 208 OR 7-205, ANNOTATED CODE OF MARYLAND, IF:
 - 26 I. REQUIRED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY
27 HAVE BEEN ISSUED IN ACCORDANCE WITH NATURAL RESOURCES
28 ARTICLE, § 5-1603(F), ANNOTATED CODE OF MARYLAND; AND
 - 29 II. CUTTING OR CLEARING OF THE FOREST IS CONDUCTED TO MINIMIZE
30 THE LOSS OF FOREST;
- 31 6. ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF PUBLIC UTILITY
32 RIGHTS-OF-WAY LICENSED UNDER PUBLIC UTILITIES ARTICLE, §§ 7-207
33 AND 7-208 OR 7-205, ANNOTATED CODE OF MARYLAND;
- 34 7. EXCEPT FOR A PUBLIC UTILITY SUBJECT TO SUBSECTION B.5. OF THIS
35 SECTION, ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF A PUBLIC
36 UTILITY RIGHT-OF-WAY IF:
 - 37 I. THE RIGHT-OF-WAY EXISTED BEFORE THE EFFECTIVE DATE OF THIS
38 SECTION; OR
 - 39 II. THE RIGHT-OF-WAY'S INITIAL CONSTRUCTION WAS APPROVED
40 BEFORE THE EFFECTIVE DATE OF THIS SECTION;
- 41 8. A RESIDENTIAL CONSTRUCTION ACTIVITY CONDUCTED ON AN EXISTING
42 SINGLE LOT OF RECORD OF ANY SIZE AT THE TIME OF APPLICATION, OR A
43 LINEAR PROJECT NOT OTHERWISE EXEMPTED UNDER THIS SECTION, IF
44 THE ACTIVITY:

- 1 I. DOES NOT RESULT IN THE CUMULATIVE CUTTING, CLEARING, OR
2 GRADING OF MORE THAN TWENTY THOUSAND SQUARE FEET OF
3 FOREST;
- 4 II. DOES NOT RESULT IN THE CUTTING, CLEARING, OR GRADING OF A
5 FOREST THAT IS SUBJECT TO THE REQUIREMENTS OF A PREVIOUS
6 FOREST CONSERVATION PLAN APPROVED UNDER THIS SECTION; AND
- 7 III. IS THE SUBJECT OF A DECLARATION OF INTENT FILED WITH THE
8 DEPARTMENT, AS PROVIDED IN SUBSECTION C. OF THIS SECTION,
9 STATING THAT THE LOT WILL NOT BE THE SUBJECT OF A REGULATED
10 ACTIVITY WITHIN FIVE YEARS OF THE CUTTING, CLEARING, OR
11 GRADING OF FOREST;
- 12 9. STRIP OR DEEP MINING OF COAL REGULATED UNDER ENVIRONMENT
13 ARTICLE, TITLE 15, SUBTITLE 5 OR 6, ANNOTATED CODE OF MARYLAND;
- 14 10. NONCOAL SURFACE MINING REGULATED UNDER ENVIRONMENT
15 ARTICLE, TITLE 15, SUBTITLE 8, ANNOTATED CODE OF MARYLAND;
- 16 11. AN ACTIVITY REQUIRED FOR THE PURPOSE OF CONSTRUCTING A
17 DWELLING HOUSE INTENDED FOR THE USE OF THE OWNER, OR A CHILD
18 OF THE OWNER, IF THE ACTIVITY:
 - 19 I. DOES NOT RESULT IN CUTTING, CLEARING, OR GRADING OF MORE
20 THAN TWENTY THOUSAND SQUARE FEET OF FOREST; AND
 - 21 II. IS THE SUBJECT OF A DECLARATION OF INTENT FILED WITH THE
22 DEPARTMENT, AS PROVIDED FOR IN SUBSECTION C. OF THIS SECTION,
23 WHICH STATES THAT A TRANSFER OF OWNERSHIP MAY RESULT IN A
24 LOSS OF EXEMPTION;
- 25 12. A PLAN OF SUBDIVISION OR A GRADING OR SEDIMENT CONTROL PLAN
26 ADMINISTRATIVELY APPROVED BEFORE THE EFFECTIVE DATE OF THIS
27 CHAPTER AND THAT IS NOT SUBSEQUENTLY OVERTURNED ON APPEAL;
- 28 13. A PLANNED DEVELOPMENT, PRIOR TO THE EFFECTIVE DATE OF THIS
29 CHAPTER, THAT HAS OBTAINED FINAL PLANNED DEVELOPMENT
30 APPROVAL IN ACCORDANCE WITH SECTION 21.24.070 AND THAT IS NOT
31 SUBSEQUENTLY OVERTURNED ON APPEAL;
- 32 14. A REAL ESTATE TRANSFER TO PROVIDE A SECURITY, LEASEHOLD, OR
33 OTHER LEGAL OR EQUITABLE INTEREST, INCLUDING A TRANSFER OF
34 TITLE OF A PORTION OF A LOT OR PARCEL, IF:
 - 35 I. THE TRANSFER DOES NOT INVOLVE A CHANGE IN LAND USE, OR NEW
36 DEVELOPMENT OR REDEVELOPMENT, WITH ASSOCIATED LAND-
37 DISTURBING ACTIVITIES; AND
 - 38 II. BOTH THE GRANTOR AND GRANTEE FILE A DECLARATION OF INTENT,
39 AS PROVIDED FOR IN SUBSECTION C. OF THIS SECTION;
- 40 15. MAINTENANCE OR RETROFITTING OF A STORMWATER MANAGEMENT
41 STRUCTURE THAT MAY INCLUDE CLEARING OF VEGETATION OR
42 REMOVAL AND TRIMMING OF TREES, IF THE MAINTENANCE OR
43 RETROFITTING IS WITHIN THE ORIGINAL LIMITS OF DISTURBANCE FOR
44 CONSTRUCTION OF THE EXISTING STRUCTURE, OR WITHIN ANY
45 MAINTENANCE EASEMENT FOR ACCESS TO THE STRUCTURE;

- 1 16. A STREAM RESTORATION PROJECT, AS DEFINED IN SECTION 21.71.020 OF
2 THIS CHAPTER, FOR WHICH THE APPLICANT FOR A GRADING OR
3 SEDIMENT CONTROL PERMIT HAS EXECUTED A BINDING MAINTENANCE
4 AGREEMENT OF AT LEAST FIVE YEARS WITH THE AFFECTED PROPERTY
5 OWNER OR OWNERS;
- 6 17. A SPECIAL EXCEPTION APPLICATION THAT IS ONLY A CHANGE OF USE
7 THAT DOES NOT INVOLVE NEW DEVELOPMENT OR REDEVELOPMENT
8 WITH ASSOCIATED LAND-DISTURBING ACTIVITIES.
- 9 C. DECLARATION OF INTENT.
 - 10 1. THE PURPOSE OF THE DECLARATION OF INTENT IS TO VERIFY THAT THE
11 PROPOSED ACTIVITY IS EXEMPT UNDER NATURAL RESOURCES ARTICLE,
12 §§ 5-103 AND 5-1601—5-1612, ANNOTATED CODE OF MARYLAND, AND THIS
13 CHAPTER.
 - 14 2. A PERSON SEEKING AN EXEMPTION UNDER SUBSECTION B.3., 4., 8., 11.,
15 AND 14. OF THIS CHAPTER SHALL FILE A DECLARATION OF INTENT WITH
16 THE DEPARTMENT.
 - 17 3. THE DECLARATION OF INTENT IS EFFECTIVE FOR FIVE YEARS.
 - 18 4. THE EXISTENCE OF A DECLARATION OF INTENT DOES NOT PRECLUDE
19 ANOTHER EXEMPTED ACTIVITY ON THE PROPERTY SUBJECT TO A
20 DECLARATION OF INTENT, IF THE ACTIVITY:
 - 21 I. DOES NOT CONFLICT WITH THE PURPOSE OF ANY EXISTING
22 DECLARATION OF INTENT; AND
 - 23 II. COMPLIES WITH THE APPLICABLE REQUIREMENTS FOR AN
24 EXEMPTED ACTIVITY.
 - 25 5. IF A REGULATED ACTIVITY ON THE AREA COVERED BY THE
26 DECLARATION OF INTENT OCCURS WITHIN FIVE YEARS OF THE EFFECTIVE
27 DATE OF THE DECLARATION OF INTENT:
 - 28 I. THERE SHALL BE AN IMMEDIATE LOSS OF EXEMPTION; OR
 - 29 II. THERE MAY BE A NONCOMPLIANCE ACTION TAKEN BY THE
30 DEPARTMENT, AS APPROPRIATE, UNDER THIS CHAPTER.
 - 31 6. AN APPLICANT MAY APPLY FOR A REGULATED ACTIVITY ON THAT AREA
32 OF THE PROPERTY NOT COVERED UNDER THE DECLARATION OF INTENT
33 IF THE REQUIREMENTS OF THIS CHAPTER ARE SATISFIED.
 - 34 7. THE DEPARTMENT MAY REQUIRE A PERSON FAILING TO FILE A
35 DECLARATION OF INTENT OR A PERSON FOUND IN NONCOMPLIANCE
36 WITH A DECLARATION OF INTENT TO:
 - 37 I. MEET THE RETENTION, AFFORESTATION, AND REFORESTATION
38 REQUIREMENTS ESTABLISHED IN SECTION 7.21.030 THROUGH SECTION
39 7.21.160 OF THIS CHAPTER.
 - 40 II. PAY A NONCOMPLIANCE FEE OF TEN DOLLARS PER SQUARE FOOT OF
41 FOREST CUT OR CLEARED UNDER THE DECLARATION OF INTENT OR
42 AS SET BY RESOLUTION OF THE CITY COUNCIL, WHICHEVER IS
43 GREATER;

1 III. BE SUBJECT TO OTHER ENFORCEMENT ACTIONS APPROPRIATE
2 UNDER NATURAL RESOURCES ARTICLE, §§ 5-1601—5-1612,
3 ANNOTATED CODE OF MARYLAND AND THIS CHAPTER; OR

4 IV. FILE A DECLARATION OF INTENT WITH THE DEPARTMENT.

- 5 8. IN ITS DETERMINATION OF APPROPRIATE ENFORCEMENT ACTION, THE
6 DEPARTMENT MAY CONSIDER WHETHER FAILURE TO FILE A
7 DECLARATION OF INTENT BY A PERSON REQUIRED TO FILE IS A KNOWING
8 VIOLATION OF THIS CHAPTER.
9

10 **19.30.040 - TECHNICAL MANUAL.**

11 A. THE TECHNICAL MANUAL SHALL BE POSTED TO THE DEPARTMENT'S
12 WEBSITE. THE DEPARTMENT MAY AMEND THE MANUAL FROM TIME TO TIME.
13 WHENEVER THE DEPARTMENT SEEKS TO AMEND THE MANUAL, PROPOSED
14 CHANGES MUST BE POSTED ONLINE FOR A 30-DAY COMMENT PERIOD. THE
15 ANNAPOLIS ENVIRONMENTAL COMMISSION, THE ENVIRONMENTAL MATTERS
16 COMMITTEE, AND THE CITY'S PLANNING COMMISSION, SHALL ALSO BE
17 NOTIFIED AT THE START OF THE 30-DAY COMMENT PERIOD. AFTER THE
18 COMMENT PERIOD CLOSES, THE DEPARTMENT SHALL CONSIDER THE
19 COMMENTS RECEIVED, AFTER WHICH THEIR PROPOSED CHANGES ARE
20 DEEMED ADOPTED.

21 B. THE FOREST CONSERVATION TECHNICAL MANUAL SHALL PROVIDE
22 SPECIFICATIONS CONSISTENT WITH THIS CHAPTER INCLUDING BUT NOT
23 LIMITED TO:

- 24 1. ANY METHODS THE DEPARTMENT APPROVES TO PROTECT RETAINED
25 FORESTS AND TREES DURING CONSTRUCTION;
26 2. A REQUIREMENT THAT ENVIRONMENTAL FEATURES MAPS OR NATURAL
27 RESOURCES INVENTORY SHALL INCLUDE TOPOGRAPHIC CONTOURS (AT
28 TWO-FOOT INTERVALS OR LESS IF REQUIRED BY THE DEPARTMENT),
29 STEEP SLOPES AND THEIR BUFFERS, SOIL CLASSIFICATIONS (INCLUDING
30 HYDRIC PROPERTIES), SIGNIFICANT TREES, TREES MEASURING TWENTY-
31 FOUR INCHES OR GREATER DBH, STREAMS (INTERMITTENT, PERENNIAL,
32 EPHEMERAL), STREAM BUFFERS, CRITICAL HABITATS, NATURAL
33 DRAINAGE COURSES, AND WETLANDS AND THEIR BUFFERS.
34

35 **19.30.045 - GENERAL REQUIREMENTS.**

36 A. AFTER THE EFFECTIVE DATE OF THIS CHAPTER, A PERSON MAKING
37 APPLICATIONS FOR A SUBDIVISION, PROJECT PLAN, GRADING, SEDIMENT
38 CONTROL, PLANNED DEVELOPMENT, SPECIAL EXCEPTION OR SITE PLAN
39 APPROVAL ON UNITS OF LAND FORTY THOUSAND SQUARE FEET OR GREATER,
40 SHALL:

- 41 1. SUBMIT TO THE DEPARTMENT A FOREST STAND DELINEATION AND A
42 FOREST CONSERVATION PLAN FOR THE LOT OR TRACT ON WHICH THE
43 DEVELOPMENT IS LOCATED; AND

1 2. USE METHODS THE DEPARTMENT APPROVES, AS DETAILED IN THE
2 FOREST CONSERVATION TECHNICAL MANUAL, TO PROTECT RETAINED
3 FORESTS AND TREES DURING CONSTRUCTION.

4 B. NOTICE REQUIREMENTS.

5 POSTING OF PROPERTY. UPON INITIAL APPLICATION FOR A FOREST
6 CONSERVATION ACT REVIEW, THE FOLLOWING POSTING MUST BE DONE:

7 1. NOTICE MUST BE POSTED ON THE PROPERTY THAT IS THE SUBJECT OF AN
8 APPLICATION NO LESS THAN FIVE BUSINESS DAYS FOLLOWING AN
9 APPLICATION FOR FOREST STAND DELINEATION REVIEW.

10 2. FAILURE TO POST WITHIN FIVE BUSINESS DAYS MAY RESULT IN THE
11 APPLICANT'S APPLICATION BEING DETERMINED TO BE INVALID BY THE
12 DEPARTMENT AND A NEW APPLICATION WILL NEED TO BE SUBMITTED
13 BEFORE THE PROJECT WILL BE REVIEWED.

14 3. IT IS THE RESPONSIBILITY OF AN APPLICANT TO POST ANY NOTICE
15 REQUIRED UNDER THIS SECTION ON THE PROPERTY THAT IS THE SUBJECT
16 OF AN APPLICATION, UNLESS THE APPLICANT IS NOT THE PROPERTY
17 OWNER, IN WHICH CASE IT IS THE RESPONSIBILITY OF THE PROPERTY
18 OWNER.

19 4. THE POSTED NOTICE MUST BE OBTAINED FROM THE DEPARTMENT AND
20 INCLUDE LANGUAGE INDICATING THAT THE PROPERTY IS UNDER FOREST
21 CONSERVATION ACT REVIEW AND WHERE INTERESTED PARTIES MAY
22 FIND INFORMATION ABOUT THE APPLICATION AND A COPY OF THE PLANS
23 UNDER REVIEW.

24 5. THE PROPERTY MUST REMAIN POSTED UNTIL A FINAL ADMINISTRATIVE
25 DECISION IS RENDERED ON THE FOREST CONSERVATION ACT
26 APPLICATION.

27 6. ANY SIGN POSTED ON A PROPERTY BY AN APPLICANT MUST BE REMOVED
28 BY THE APPLICANT WITHIN SEVEN DAYS FOLLOWING THE APPROVAL OF
29 THE FOREST CONSERVATION PLAN.

30
31 **19.30.050 - LOCAL AGENCY APPLICATION.**

32 IF A LOCAL AGENCY OR PERSON USING STATE FUNDS SUBMITS AN
33 APPLICATION TO CONDUCT AN ACTIVITY REGULATED BY THIS CHAPTER, THE
34 PROVISIONS OF COMAR 08.19.04.01(D) SHALL APPLY.

35
36 **19.30.060 - FOREST STAND DELINEATION.**

37 A. CRITERIA.

38 1. A FOREST STAND DELINEATION SHALL BE SUBMITTED TO THE
39 DEPARTMENT AS THE FIRST STEP OF MAKING APPLICATION FOR THE
40 PLANS OR PERMITS SPECIFIED IN SECTION 19.30.045.

41 2. THE DELINEATION SHALL BE PREPARED BY A LICENSED FORESTER,
42 LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO
43 MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A.

44 3. THE DELINEATION SHALL BE USED DURING THE PRELIMINARY REVIEW
45 PROCESS TO DETERMINE THE MOST SUITABLE AND PRACTICAL AREAS

1 FOR FOREST CONSERVATION AND SHALL CONTAIN THE FOLLOWING
2 COMPONENTS:

- 3 I. A TOPOGRAPHIC MAP DELINEATING INTERMITTENT AND PERENNIAL
4 STREAMS, AND STEEP SLOPES;
- 5 II. A NATURAL RESOURCES INVENTORY;
- 6 III. A SOILS MAP DELINEATING SOILS WITH STRUCTURAL LIMITATIONS,
7 HYDRIC SOILS, OR SOILS WITH A SOIL K VALUE GREATER THAN 0.35
8 ON SLOPES OF FIFTEEN PERCENT OR MORE;
- 9 IV. FOREST STAND MAPS INDICATING SPECIES, LOCATION, AND SIZE OF
10 TREES AND SHOWING DOMINANT AND CO-DOMINANT FOREST TYPES;
- 11 V. LOCATION OF 100-YEAR FLOODPLAINS;
- 12 VI. THE LOCATION AND DELINEATION OF ALL TIDAL AND NON-TIDAL
13 WETLANDS AND THEIR BUFFERS;
- 14 VII. INFORMATION REQUIRED BY THE FOREST CONSERVATION
15 TECHNICAL MANUAL; AND
- 16 VIII. OTHER INFORMATION THE DEPARTMENT DETERMINES IS
17 NECESSARY TO IMPLEMENT THIS CHAPTER, INCLUDING A NONTIDAL
18 WETLANDS PLAN UPON REQUEST.

19 4. THE DEPARTMENT SHALL POST THE FOREST STAND DELINEATION ON ITS
20 WEBSITE WITHIN THREE BUSINESS DAYS OF RECEIPT FOR AT LEAST
21 FIFTEEN CALENDAR DAYS AND PROVIDE DIRECTIONS AS TO HOW THE
22 PUBLIC MAY SEND OR DELIVER WRITTEN COMMENTS, TESTIMONY, OR
23 DOCUMENTATION PERTAINING TO THE FOREST STAND DELINEATION. THE
24 WEBSITE POSTING REQUIREMENT SHALL APPLY TO ANY AMENDMENTS
25 OR REVISIONS TO THE FOREST STAND DELINEATION. THE DEPARTMENT
26 SHALL PROMPTLY POST ALL CORRESPONDENCE BETWEEN THE
27 DEPARTMENT, AND THE APPLICANT. ALL DOCUMENTS SHALL BE
28 RETAINED BY THE DEPARTMENT AS PART OF THE RECORD OF THE
29 APPLICATION.

30 5. IF APPROVED BY THE DEPARTMENT, A SIMPLIFIED FOREST STAND
31 DELINEATION, A CONCEPT PLAN OR PLAT, PRELIMINARY PLAT OR PLAN,
32 SEDIMENT CONTROL PLAN, OR OTHER APPROPRIATE DOCUMENT,
33 VERIFIED BY A SITE VISIT, IF APPROPRIATE, MAY SUBSTITUTE FOR THE
34 FOREST STAND DELINEATION IF:

- 35 I. NO FOREST COVER IS DISTURBED DURING A CONSTRUCTION
36 ACTIVITY; AND
- 37 II. DESIGNATED TO BE UNDER A LONG TERM PROTECTIVE AGREEMENT.

38 6. THE DEPARTMENT SHALL CONSIDER A SIMPLIFIED FOREST STAND
39 DELINEATION, OR OTHER SUBSTITUTE PLAN DESCRIBED IN SUBSECTION
40 A.5. OF THIS SECTION, COMPLETE IF IT INCLUDES:

- 41 I. ALL REQUIREMENTS UNDER SUBSECTION A.3.I., II., III., V., AND VIII. OF
42 THIS SECTION;
- 43 II. A MAP SHOWING EXISTING FOREST COVER AS VERIFIED BY FIELD
44 INSPECTION; AND
- 45 III. OTHER INFORMATION REQUIRED BY THIS CHAPTER.

- 1 7. AN APPROVED FOREST STAND DELINEATION IS VALID FOR FIVE YEARS
2 EXCEPT THAT THE DEPARTMENT MAY REQUIRE SUBMISSION OF A
3 REVISED FOREST STAND DELINEATION IF SITE CONDITIONS CHANGE
4 DURING THE FIVE-YEAR PERIOD.
- 5 8. TIME FOR SUBMITTAL.
 - 6 I. WITHIN THIRTY CALENDAR DAYS AFTER RECEIPT OF THE FSD, THE
7 DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING (BY EMAIL
8 OR POSTAL LETTER) WHETHER THE FOREST STAND DELINEATION IS
9 COMPLETE AND CORRECT. IN THE EVENT A FOREST STAND
10 DELINEATION IS NOT COMPLETE AND CORRECT, THE DEPARTMENT
11 SHALL TRANSMIT TO THE APPLICANT A DETAILED AND SPECIFIC
12 LISTING OF DEFICIENCIES.
 - 13 II. IF THE DEPARTMENT FAILS TO NOTIFY THE APPLICANT IN WRITING
14 WITHIN THIRTY DAYS, THE DELINEATION SHALL BE TREATED AS
15 COMPLETE AND CORRECT.
 - 16 III. THE DEPARTMENT MAY REQUIRE IN WRITING FURTHER
17 INFORMATION OR PROVIDE FOR AN ADDITIONAL FIFTEEN CALENDAR
18 DAYS UNDER EXTENUATING CIRCUMSTANCES AS DETERMINED BY
19 THE DEPARTMENT.
- 20 9. IF THE APPLICANT SUBMITS TWO FOREST STAND DELINEATIONS WHICH
21 ARE NOT FOUND TO BE COMPLETE AND CORRECT BY THE DEPARTMENT,
22 THE DEPARTMENT SHALL, AT THE APPLICANT'S EXPENSE, ENGAGE A
23 LICENSED FORESTER, LICENSED LANDSCAPE ARCHITECT, OR A
24 QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN
25 COMAR 08.19.06.01A TO COMPLETE AND SUBMIT A FOREST STAND
26 DELINEATION ON THE APPLICANT'S BEHALF.

27
28 **19.30.070 - FOREST CONSERVATION PLAN.**

- 29 A. GENERAL PROVISIONS.
 - 30 1. A PRELIMINARY FOREST CONSERVATION PLAN CANNOT BE APPEALED. A
31 FINAL FOREST CONSERVATION PLAN IS APPEALABLE AS PART OF THE
32 APPEAL OF A FINAL ADMINISTRATIVE DECISION, PLANNING COMMISSION
33 DECISION OR BOARD OF APPEALS DECISION SPECIFIED IN CHAPTER 21.08.
34 A STAY PENDING APPEAL SHALL BE IMPOSED DURING THE TIME
35 ALLOWED TO FILE AN APPEAL, AND IF AN APPEAL HAS BEEN FILED, FOR
36 SIXTY DAYS THEREAFTER.
 - 37 2. WITH REGARD TO (1) A PLAN OF SUBDIVISION OR A GRADING OR
38 SEDIMENT CONTROL PLAN THAT WAS ADMINISTRATIVELY APPROVED, OR
39 (2) A PLANNED DEVELOPMENT THAT HAS OBTAINED FINAL PLANNED
40 DEVELOPMENT APPROVAL, PRIOR TO SEPTEMBER 26, 2016, THE
41 DISPOSITION OF WHICH REMAIN GOVERNED BY FORMER SECTION
42 19.20.025.B. OF THE CITY CODE, ANY PERSON AGGRIEVED BY A DECISION
43 OF THE DIRECTOR TO APPROVE OR DISAPPROVE THE FOREST
44 CONSERVATION PLAN ASSOCIATED WITH SUCH APPLICATIONS SHALL BE
45 ENTITLED TO NOTE AN APPEAL TO THE BUILDING BOARD OF APPEALS.

1 ANY PARTY TO THE PROCEEDING BEFORE THE BUILDING BOARD OF
2 APPEALS AGGRIEVED OF THE DECISION OF THE BUILDING BOARD OF
3 APPEALS SHALL BE ENTITLED TO FILE A PETITION FOR JUDICIAL REVIEW
4 OF THE DECISION OF THE BUILDING BOARD OF APPEALS IN THE CIRCUIT
5 COURT FOR ANNE ARUNDEL COUNTY.

- 6 3. THE CITY SHALL USE BEST EFFORTS TO PROVIDE WEEKLY ELECTRONIC
7 MAIL UPDATES TO INTERESTED AND REGISTERED USERS, IF APPLICABLE,
8 OF NEWLY FILED OR UPDATED FCA DOCUMENTS AND NOTICES THAT ARE
9 REQUIRED UNDER THIS CHAPTER.
- 10 4. IN DEVELOPING A FOREST CONSERVATION PLAN, THE APPLICANT SHALL
11 GIVE PRIORITY TO TECHNIQUES FOR RETAINING EXISTING FOREST ON
12 THE SITE. THERE IS A REBUTTABLE PRESUMPTION THAT PRIORITY
13 RETENTION AREAS SHALL BE RETAINED. THE PRESUMPTION CAN ONLY BE
14 REBUTTED UNDER THE CRITERIA SPECIFIED IN SECTION 19.30.080.B. OF
15 THIS ACT.
- 16 5. IF EXISTING FOREST ON THE SITE SUBJECT TO A FOREST CONSERVATION
17 PLAN CANNOT BE RETAINED, THE APPLICANT SHALL DEMONSTRATE TO
18 THE SATISFACTION OF THE DEPARTMENT:
- 19 I. HOW TECHNIQUES FOR FOREST RETENTION HAVE BEEN EXHAUSTED;
20 II. WHY THE PRIORITY FORESTS AND PRIORITY AREAS SPECIFIED IN
21 NATURAL RESOURCES ARTICLE, § 5-1607(C)(1), ANNOTATED CODE OF
22 MARYLAND, CANNOT BE LEFT IN AN UNDISTURBED CONDITION:
- 23 A. IF PRIORITY FORESTS AND PRIORITY AREAS CANNOT BE LEFT
24 UNDISTURBED, HOW THE SEQUENCE FOR AFFORESTATION OR
25 REFORESTATION WILL BE FOLLOWED IN COMPLIANCE WITH
26 NATURAL RESOURCES ARTICLE, § 5-1607, ANNOTATED CODE OF
27 MARYLAND;
- 28 B. WHERE ON THE SITE IN PRIORITY AREAS AFFORESTATION OR
29 REFORESTATION WILL OCCUR IN COMPLIANCE WITH NATURAL
30 RESOURCES ARTICLE, § 5-1607, ANNOTATED CODE OF MARYLAND;
31 AND
- 32 III. HOW THE DISTURBANCE TO THE PRIORITY FORESTS AND PRIORITY
33 AREAS SPECIFIED IN NATURAL RESOURCES ARTICLE, § 5-1607(C)(2),
34 ANNOTATED CODE OF MARYLAND, QUALIFIES FOR A VARIANCE.
- 35 6. THE APPLICANT SHALL DEMONSTRATE TO THE SATISFACTION OF THE
36 DEPARTMENT THAT THE REQUIREMENTS FOR AFFORESTATION OR
37 REFORESTATION ONSITE OR OFFSITE CANNOT BE REASONABLY
38 ACCOMPLISHED IF THE APPLICANT PROPOSES TO MAKE A PAYMENT INTO
39 THE FOREST CONSERVATION FUND OR TO PURCHASE CREDITS FROM A
40 FOREST MITIGATION BANK.
- 41 7. NONTIDAL WETLANDS. A REGULATED ACTIVITY WITHIN THE NET TRACT
42 AREA THAT OCCURS WHOLLY OR PARTLY IN AREAS REGULATED AS
43 NONTIDAL WETLANDS UNDER ENVIRONMENT ARTICLE, TITLE 9,
44 ANNOTATED CODE OF MARYLAND, IS SUBJECT TO BOTH THE NONTIDAL

1 WETLANDS REGULATORY REQUIREMENTS AND THE REQUIREMENTS OF
2 THIS CHAPTER, SUBJECT TO THE FOLLOWING:

3 I. ANY AREA OF FOREST IN THE NET TRACT AREA, INCLUDING FOREST
4 IN NONTIDAL WETLANDS THAT IS RETAINED, SHALL BE COUNTED
5 TOWARDS FOREST CONSERVATION REQUIREMENTS UNDER THIS
6 CHAPTER;

7 II. FOR THE PURPOSE OF CALCULATING REFORESTATION MITIGATION
8 UNDER THIS SECTION, A FORESTED NONTIDAL WETLAND PERMITTED
9 TO BE CUT OR CLEARED AND REQUIRED TO BE MITIGATED UNDER
10 ENVIRONMENT ARTICLE, TITLE 9, ANNOTATED CODE OF MARYLAND,
11 SHALL BE SHOWN ON THE FOREST CONSERVATION PLAN AND
12 SUBTRACTED ON AN ACRE-FOR-ACRE BASIS FROM THE TOTAL
13 AMOUNT OF FOREST TO BE CUT OR CLEARED AS PART OF A
14 REGULATED ACTIVITY;

15 III. NONTIDAL WETLANDS SHALL BE CONSIDERED TO BE PRIORITY
16 AREAS FOR RETENTION AND REPLACEMENT;

17 IV. FORESTED NONTIDAL WETLAND IDENTIFICATION AND
18 DELINEATION SHOULD BE INCLUDED AT THE EARLIEST STAGE OF
19 PLANNING TO ASSIST THE APPLICANT IN AVOIDANCE AND
20 REDUCTION OF IMPACTS TO THE NONTIDAL WETLANDS AND TO
21 AVOID DELAY IN THE APPROVAL PROCESS.

22 8. AN APPROVED FOREST CONSERVATION PLAN IS VALID FOR FIVE YEARS.

23 B. PRELIMINARY FOREST CONSERVATION PLAN.

24 1. A PRELIMINARY FOREST CONSERVATION PLAN SHALL BE PREPARED BY
25 A LICENSED FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A
26 QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN
27 COMAR 08.19.06.01A.

28 2. THE PRELIMINARY FOREST CONSERVATION PLAN SHALL:

29 I. BE SUBMITTED WITH THE PROPOSED DEVELOPMENT PLAN;

30 II. INCLUDE THE APPROVED FOREST STAND DELINEATION FOR THE SITE;

31 III. INCLUDE A TABLE THAT LISTS THE PROPOSED VALUES OF THE
32 FOLLOWING, IN SQUARE FEET:

33 A. NET TRACT AREA,

34 B. AREA OF FOREST CONSERVATION REQUIRED, AND

35 C. AREA OF FOREST CONSERVATION THAT THE APPLICANT
36 PROPOSES TO PROVIDE, INCLUDING BOTH ONSITE AND OFFSITE
37 AREA;

38 IV. INCLUDE A CLEAR GRAPHIC INDICATION OF THE FOREST
39 CONSERVATION PROVIDED ON THE SITE DRAWN TO THE SAME SCALE
40 AS THE PROJECT PLAN SCALE, SHOWING AREAS WHERE RETENTION
41 OF EXISTING FOREST OR AFFORESTATION OR REFORESTATION IS
42 PROPOSED;

43 V. INCLUDE AN EXPLANATION OF HOW THE PROVISIONS OF
44 SUBSECTION A. OF THIS SECTION HAVE BEEN MET;

- 1 VI. IN THE CASE OF AFFORESTATION OR REFORESTATION, INCLUDE A
- 2 PROPOSED AFFORESTATION OR REFORESTATION PLAN;
- 3 VII. INCLUDE A PROPOSED CONSTRUCTION TIMETABLE SHOWING THE
- 4 SEQUENCE OF FOREST CONSERVATION PROCEDURES;
- 5 VIII. SHOW THE PROPOSED LIMITS OF DISTURBANCE;
- 6 IX. SHOW PROPOSED STOCKPILE AREAS;
- 7 X. INCORPORATE A PROPOSED FIVE-YEAR MAINTENANCE AGREEMENT
- 8 THAT SHOWS HOW AREAS DESIGNATED FOR AFFORESTATION OR
- 9 REFORESTATION WILL BE MAINTAINED TO ENSURE PROTECTION AND
- 10 SATISFACTORY ESTABLISHMENT; AND
- 11 XI. OTHER INFORMATION THE DEPARTMENT DETERMINES IS
- 12 NECESSARY TO IMPLEMENT THIS CHAPTER.

- 13 3. THE REVIEW OF THE PRELIMINARY FOREST CONSERVATION PLAN SHALL
- 14 BE CONCURRENT WITH THE REVIEW OF THE PRELIMINARY SITE PLAN.
- 15 4. THE DEPARTMENT SHALL POST THE PRELIMINARY FOREST
- 16 CONSERVATION PLAN ON THEIR WEBSITE FOR AT LEAST FIFTEEN
- 17 CALENDAR DAYS AND PROVIDE DIRECTIONS AS TO HOW THE PUBLIC MAY
- 18 SEND OR DELIVER WRITTEN COMMENTS, TESTIMONY, OR
- 19 DOCUMENTATION PERTAINING TO THE PRELIMINARY FOREST
- 20 CONSERVATION PLAN.
- 21 5. THE DEPARTMENT SHALL HOLD A PUBLIC MEETING AT WHICH THE
- 22 DEPARTMENT SHALL DESCRIBE THE APPROVAL PROCESS AND THE
- 23 APPLICANT SHALL MAKE A PRESENTATION INDICATING THE CONTENTS
- 24 OF THE PROPOSED PRELIMINARY FOREST CONSERVATION PLAN AND THE
- 25 PROPOSED SITE DESIGN PLAN. THE GENERAL PUBLIC MAY PARTICIPATE
- 26 IN THE DISCUSSION OF THE APPLICATION. THE MEETING SHALL BE
- 27 RECORDED AND THE RECORDING SHALL BE RETAINED UNTIL SUCH TIME
- 28 AS THE APPELLATE PERIOD TOLLS AND MADE PUBLICLY AVAILABLE. IN
- 29 THE EVENT THERE ARE SIGNIFICANT MODIFICATIONS TO THE
- 30 PRELIMINARY FOREST CONSERVATION PLAN, THE DEPARTMENT MAY
- 31 REQUIRE AN ADDITIONAL PUBLIC MEETING IF IT DETERMINES SUCH A
- 32 MEETING WOULD SERVE THE PUBLIC INTEREST.
- 33 6. DURING DIFFERENT STAGES OF THE REVIEW PROCESS, THE PRELIMINARY
- 34 FOREST CONSERVATION PLAN MAY BE MODIFIED, PROVIDED THE
- 35 DEPARTMENT APPROVES OF THE CHANGES. ALL SIGNIFICANT
- 36 MODIFICATIONS MUST BE POSTED FOR PUBLIC REVIEW AND COMMENT.
- 37 7. ALL CORRESPONDENCE MATERIAL TO AN APPLICATION SHALL BE
- 38 POSTED ON THE DEPARTMENT WEBSITE. COMMENTS RECEIVED SHALL BE
- 39 MADE PART OF THE APPLICATION RECORD.

40 C. FINAL FOREST CONSERVATION PLAN.

- 41 1. A FINAL FOREST CONSERVATION PLAN SHALL BE PREPARED BY A
- 42 LICENSED FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A
- 43 QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN
- 44 COMAR 08.19.06.01A.
- 45 2. A FINAL FOREST CONSERVATION PLAN SHALL:

- 1 I. BE SUBMITTED BY THE APPLICANT CONSISTENT WITH REQUIREMENTS
2 ESTABLISHED BY THE DEPARTMENT AND THE LAW WITH THE
3 FOLLOWING:
 - 4 A. A FINAL SUBDIVISION PLAN,
 - 5 B. A FINAL PROJECT PLAN,
 - 6 C. AN APPLICATION FOR A GRADING PERMIT, OR
 - 7 D. AN APPLICATION FOR A SEDIMENT CONTROL PERMIT;
- 8 II. SHOW PROPOSED LOCATIONS AND TYPES OF PROTECTIVE DEVICES
9 TO BE USED DURING CONSTRUCTION ACTIVITIES TO PROTECT TREES
10 AND FORESTS DESIGNATED FOR CONSERVATION;
- 11 III. IN THE CASE OF AFFORESTATION OR REFORESTATION, INCLUDE AN
12 AFFORESTATION OR REFORESTATION PLAN, WITH A TIMETABLE AND
13 DESCRIPTION OF NEEDED SITE AND SOIL PREPARATION, SPECIES, SIZE,
14 AND SPACING TO BE USED;
- 15 IV. INCORPORATE JUSTIFICATION FOR ANY PROPOSED DISTURBANCE OF
16 PRIORITY RETENTION AREAS, INCLUDING REASONS WHY SUCH
17 PRIORITY RETENTION AREAS CANNOT BE RETAINED AND HOW THE
18 APPLICANT SHALL REPLACE PROPOSED DISTURBED PRIORITY
19 RETENTION AREAS THROUGH AFFORESTATION AND REFORESTATION,
20 IN COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER.
- 21 V. INCORPORATE A BINDING FIVE-YEAR MAINTENANCE AGREEMENT
22 SPECIFIED IN COMAR 08.19.05.01 THAT DETAILS HOW THE AREAS
23 DESIGNATED FOR AFFORESTATION OR REFORESTATION WILL BE
24 MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY
25 ESTABLISHMENT, INCLUDING:
 - 26 A. WATERING, AND
 - 27 B. A REINFORCEMENT PLANTING PROVISION IF SURVIVAL RATES
28 FALL BELOW REQUIRED STANDARDS, AS PROVIDED IN THE
29 FOREST CONSERVATION TECHNICAL MANUAL;
- 30 VI. INCORPORATE A LONG-TERM BINDING PROTECTIVE AGREEMENT AS
31 SPECIFIED IN COMAR 08.19.05.02 THAT:
 - 32 A. PROVIDES PROTECTION FOR AREAS OF FOREST CONSERVATION,
33 INCLUDING AREAS OF AFFORESTATION, REFORESTATION, AND
34 RETENTION; AND
 - 35 B. LIMITS USES IN AREAS OF FOREST CONSERVATION TO THOSE
36 USES THAT ARE DESIGNATED AND CONSISTENT WITH FOREST
37 CONSERVATION, INCLUDING RECREATIONAL ACTIVITIES AND
38 FOREST MANAGEMENT PRACTICES THAT ARE USED TO PRESERVE
39 FOREST;
- 40 VII. INCLUDE A STATEMENT OF HOW THE PROJECT WILL IMPACT THE
41 CITY'S TREE CANOPY GOALS;
- 42 VIII. INCLUDE THE SUBSTANTIVE ELEMENTS REQUIRED UNDER
43 SUBSECTION B.2.II.—V., VII.—IX., AND XI. OF THIS SECTION, AS
44 FINALIZED ELEMENTS OF THE FOREST CONSERVATION PLAN; AND

1 IX. INCLUDE OTHER INFORMATION THE DEPARTMENT DETERMINES IS
2 NECESSARY TO IMPLEMENT THIS CHAPTER.

3 3. TIME FOR NOTIFICATION.

4 I. WITHIN FORTY-FIVE CALENDAR DAYS AFTER INCORPORATION OF THE
5 PROSPECTIVE FINAL FOREST CONSERVATION PLAN INTO A COMPLETE
6 PLAN OR PERMIT APPLICATION ASSOCIATED WITH A REGULATED
7 ACTIVITY, THE DECISION MAKING AUTHORITY FOR SUCH PLANS
8 SHALL NOTIFY THE APPLICANT IN WRITING WHETHER THE FOREST
9 CONSERVATION PLAN IS COMPLETE AND ACCEPTABLE.

10 II. IF THE DECISION MAKING AUTHORITY FAILS TO NOTIFY THE
11 APPLICANT WITHIN FORTY-FIVE CALENDAR DAYS, THE PLAN SHALL
12 BE TREATED AS COMPLETE AND APPROVED.

13 III. THE DECISION MAKING AUTHORITY MAY REQUIRE FURTHER
14 INFORMATION OR EXTEND THE DEADLINE FOR AN ADDITIONAL
15 FIFTEEN CALENDAR DAYS UNDER EXTENUATING CIRCUMSTANCES IN
16 ITS OWN DISCRETION.

17 IV. AT THE REQUEST OF THE APPLICANT, THE DECISION MAKING
18 AUTHORITY MAY EXTEND THE DEADLINE UNDER EXTENUATING
19 CIRCUMSTANCES.

20 V. THE DEPARTMENT SHALL POST THE NOTIFICATIONS DESCRIBED IN
21 THIS SECTION AND THE FINAL FOREST CONSERVATION PLAN ON
22 THEIR WEBSITE.

23 4. THE DEPARTMENT'S REVIEW OF A FINAL FOREST CONSERVATION PLAN
24 SHALL BE CONCURRENT WITH THE REVIEW OF THE FINAL SUBDIVISION
25 OR PROJECT PLAN, GRADING PERMIT APPLICATION, OR SEDIMENT
26 CONTROL APPLICATION ASSOCIATED WITH THE PROJECT.

27 5. THE DEPARTMENT MAY REVOKE AN APPROVED FOREST CONSERVATION
28 PLAN IF IT FINDS THAT:

29 I. A PROVISION OF THE PLAN HAS BEEN VIOLATED;

30 II. APPROVAL OF THE PLAN WAS OBTAINED THROUGH FRAUD,
31 MISREPRESENTATION, A FALSE OR MISLEADING STATEMENT,
32 OMISSION OF A RELEVANT OR MATERIAL FACTOR;

33 III. CHANGES IN THE DEVELOPMENT OR IN THE CONDITION OF THE SITE
34 NECESSITATE PREPARATION OF A NEW OR AMENDED PLAN; OR

35 IV. THE PROJECT PLAN APPROVAL IS TERMINATED DUE TO THE
36 APPLICANT'S INACTION AS SPECIFIED IN TITLE ~~47~~19 OF THE CITY CODE.

37 6. THE DEPARTMENT MAY ISSUE A STOP WORK ORDER AGAINST A PERSON
38 WHO VIOLATES A PROVISION OF THIS CHAPTER OR A REGULATION,
39 ORDER, APPROVED FOREST CONSERVATION PLAN, OR MAINTENANCE
40 AGREEMENT.

41 7. BEFORE REVOKING APPROVAL OF A FOREST CONSERVATION PLAN, THE
42 DEPARTMENT SHALL NOTIFY THE VIOLATOR IN WRITING AND PROVIDE
43 AN OPPORTUNITY FOR A HEARING BEFORE THE DEPARTMENT DIRECTOR
44 OR DESIGNEE.

- 1 8. UPON APPROVAL OF THE FINAL FOREST CONSERVATION PLAN THE
2 DEPARTMENT SHALL POST THE PLAN ON THE DEPARTMENT'S WEBSITE
3 WITHIN THREE BUSINESS DAYS.
4

5 **19.30.080 - AFFORESTATION AND RETENTION.**

6 A. AFFORESTATION REQUIREMENT. A PERSON SUBMITTING AN
7 APPLICATION AFTER THE EFFECTIVE DATE OF THIS CHAPTER FOR
8 SUBDIVISION OR PROJECT PLAN APPROVAL, A GRADING PERMIT, OR A
9 SEDIMENT CONTROL PERMIT FOR AN AREA OF LAND OF FORTY THOUSAND
10 SQUARE FEET OR GREATER, SHALL:

- 11 1. CONDUCT AFFORESTATION ON THE LOT OR PARCEL IN ACCORDANCE
12 WITH THE FOLLOWING:

13 I. A TRACT HAVING LESS THAN TWENTY PERCENT OF THE NET TRACT
14 AREA IN FOREST COVER SHALL BE AFFORESTED UP TO AT LEAST
15 TWENTY PERCENT OF THE NET TRACT AREA FOR THE FOLLOWING
16 LAND USE CATEGORIES:

- 17 A. AGRICULTURE AND RESOURCE AREAS, AND
18 B. MEDIUM DENSITY RESIDENTIAL AREAS;

19 II. A TRACT WITH LESS THAN TWENTY PERCENT OF ITS NET TRACT AREA
20 IN FOREST COVER SHALL BE AFFORESTED UP TO AT LEAST TWENTY
21 PERCENT OF THE NET TRACT AREA FOR THE FOLLOWING LAND USE
22 CATEGORIES:

- 23 A. INSTITUTIONAL DEVELOPMENT AREAS,
24 B. HIGH DENSITY RESIDENTIAL AREAS,
25 C. MIXED USE AND PLANNED UNIT DEVELOPMENT AREAS, AND
26 D. COMMERCIAL AND INDUSTRIAL USE AREAS;

- 27 2. COMPLY WITH THE FOLLOWING WHEN CUTTING INTO FOREST COVER
28 THAT IS CURRENTLY BELOW THE AFFORESTATION PERCENTAGES
29 DESCRIBED IN SUBSECTION A.1. OF THIS SECTION:

30 I. THE REQUIRED AFFORESTATION LEVEL SHALL BE DETERMINED BY
31 THE AMOUNT OF FOREST EXISTING BEFORE CUTTING OR CLEARING
32 BEGINS; AND

33 II. FOREST CUT OR CLEARED BELOW THE REQUIRED AFFORESTATION
34 LEVEL SHALL BE REFORESTED OR AFFORESTED AT A TWO TO ONE
35 RATIO AND ADDED TO THE AMOUNT OF AFFORESTATION NECESSARY
36 TO REACH THE MINIMUM REQUIRED AFFORESTATION LEVEL, AS
37 DETERMINED BY THE AMOUNT OF FOREST EXISTING BEFORE CUTTING
38 OR CLEARING BEGAN.

39 B. RETENTION.

- 40 1. THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE
41 CONSIDERED PRIORITY FOR RETENTION AND PROTECTION AND SHALL BE
42 LEFT IN AN UNDISTURBED CONDITION UNLESS THE APPLICANT HAS
43 DEMONSTRATED, TO THE SATISFACTION OF THE DEPARTMENT, THAT
44 REASONABLE EFFORTS HAVE BEEN MADE TO PROTECT THEM AND THE
45 PLAN CANNOT REASONABLY BE ALTERED:

- 1 I. TREES, SHRUBS, AND PLANTS LOCATED IN SENSITIVE AREAS
2 INCLUDING THE 100-YEAR FLOODPLAIN, INTERMITTENT AND
3 PERENNIAL STREAMS AND THEIR BUFFERS, COASTAL BAYS AND
4 THEIR BUFFERS, STEEP SLOPES AND THEIR BUFFERS, NONTIDAL
5 WETLANDS, AND CRITICAL HABITATS.
6 II. CONTIGUOUS FOREST THAT CONNECTS THE LARGEST UNDEVELOPED
7 OR MOST VEGETATED TRACTS OF LAND WITHIN AND ADJACENT TO
8 THE SITE.

- 9 2. THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE
10 CONSIDERED PRIORITY FOR RETENTION AND PROTECTION AND SHALL BE
11 LEFT IN AN UNDISTURBED CONDITION UNLESS THE APPLICANT HAS
12 DEMONSTRATED, TO THE SATISFACTION OF THE DEPARTMENT, THAT THE
13 APPLICANT QUALIFIES FOR A VARIANCE IN ACCORDANCE WITH SECTION
14 19.30.170 OF THIS CHAPTER:

- 15 I. TREES, SHRUBS, OR PLANTS DETERMINED TO BE RARE, THREATENED,
16 OR ENDANGERED UNDER:
17 A. THE FEDERAL ENDANGERED SPECIES ACT OF 1973 IN 16 U.S.C. §§
18 1531—1544 AND IN 50 C.F.R. 17,
19 B. THE MARYLAND NONGAME AND ENDANGERED SPECIES
20 CONSERVATION ACT, NATURAL RESOURCES ARTICLE, §§ 10-2A-
21 01—10-2A-09, ANNOTATED CODE OF MARYLAND, AND
22 C. COMAR 08.03.08;

23 II. TREES THAT:

- 24 A. ARE PART OF A SITE DESIGNATED AS HISTORIC BY THE
25 MARYLAND HISTORIC TRUST, THE NATIONAL PARK SERVICE, OR
26 THE CITY OF ANNAPOLIS,
27 B. ARE ASSOCIATED WITH A STRUCTURE DESIGNATED AS HISTORIC
28 BY THE MARYLAND HISTORIC TRUST, THE NATIONAL PARK
29 SERVICE, OR THE CITY OF ANNAPOLIS, OR
30 C. HAVE BEEN DESIGNATED BY THE STATE, COUNTY, OR THE
31 DEPARTMENT AS A NATIONAL, STATE, COUNTY OR MUNICIPALITY
32 CHAMPION TREE; AND

33 III. ANY TREE:

- 34 A. HAVING A DBH OF THIRTY INCHES OR MORE, OR
35 B. WHICH HAS BEEN DESIGNATED AS A SIGNIFICANT TREE
36 PURSUANT TO THIS CHAPTER.

37
38 **19.30.090 - REFORESTATION.**

39 A. FOREST CONSERVATION THRESHOLD.

- 40 1. THERE IS A FOREST CONSERVATION THRESHOLD ESTABLISHED FOR ALL
41 LAND USE CATEGORIES, AS PROVIDED IN SUBSECTION A.2. OF THIS SECTION.
42 THE FOREST CONSERVATION THRESHOLD MEANS THE PERCENTAGE OF THE
43 NET TRACT AREA AT WHICH THE REFORESTATION REQUIREMENT CHANGES
44 FROM A RATIO OF ONE ACRE PLANTED FOR EACH ACRE REMOVED ABOVE THE

1 THRESHOLD TO A RATIO OF TWO ACRES PLANTED FOR EACH ACRE REMOVED
2 BELOW THE THRESHOLD.

3 2. AFTER REASONABLE EFFORTS TO MINIMIZE THE CUTTING OR CLEARING
4 OF TREES AND OTHER WOODY PLANTS HAVE BEEN EXHAUSTED IN THE
5 DEVELOPMENT OF A SUBDIVISION OR PROJECT PLAN, GRADING AND
6 SEDIMENT CONTROL ACTIVITIES, AND IMPLEMENTATION OF THE FOREST
7 CONSERVATION PLAN, THE FOREST CONSERVATION PLAN SHALL PROVIDE
8 FOR REFORESTATION, PURCHASE OF CREDITS FROM A FOREST MITIGATION
9 BANK, OR PAYMENT INTO THE FOREST CONSERVATION FUND, ACCORDING TO
10 THE FORMULA SET FORTH BELOW AND IN SUBSECTION A.3. OF THIS SECTION
11 AND CONSISTENT WITH SECTION 19.30.070.A. OF THIS CHAPTER, AND THE
12 FOLLOWING FOREST CONSERVATION THRESHOLDS FOR THE APPLICABLE
13 LAND USE CATEGORY:

CATEGORY OF USE	THRESHOLD PERCENTAGE
(1) AGRICULTURAL AND RESOURCE AREAS	50 PERCENT
(2) MEDIUM DENSITY RESIDENTIAL AREAS	25 PERCENT
(3) INSTITUTIONAL DEVELOPMENT AREAS	20 PERCENT
(4) HIGH DENSITY RESIDENTIAL AREAS	20 PERCENT
(5) MIXED USE AND PLANNED UNIT DEVELOPMENT AREAS	20 PERCENT
(6) COMMERCIAL AND INDUSTRIAL USE AREAS	20 PERCENT

14
15 3. CALCULATIONS.

16 I. FOR ALL EXISTING FOREST COVER MEASURED TO THE NEAREST ONE-
17 TENTH ACRE CLEARED ON THE NET TRACT AREA ABOVE THE
18 APPLICABLE FOREST CONSERVATION THRESHOLD, THE AREA OF THE
19 FOREST REMOVED SHALL BE REFORESTED AT A RATIO OF ONE ACRE
20 PLANTED FOR EACH ACRE REMOVED.

21 II. FOR ALL EXISTING FOREST COVER MEASURED TO THE NEAREST ONE-
22 TENTH ACRE CLEARED ON THE NET TRACT AREA BELOW THE
23 APPLICABLE FOREST CONSERVATION THRESHOLD, THE AREA OF
24 FOREST REMOVED SHALL BE REFORESTED AT A RATIO OF TWO ACRES
25 PLANTED FOR EACH ACRE REMOVED BELOW THE THRESHOLD.
26

27 **19.30.100 - PRIORITIES AND TIME REQUIREMENTS FOR AFFORESTATION AND**
28 **REFORESTATION.**

29 A. SEQUENCE FOR AFFORESTATION AND REFORESTATION.

30 1. AFTER TECHNIQUES FOR RETAINING EXISTING FOREST ON THE SITE HAVE
31 BEEN EXHAUSTED, THE PREFERRED SEQUENCE FOR AFFORESTATION AND
32 REFORESTATION, AS DETERMINED BY THE DEPARTMENT, IS AS FOLLOWS:

33 I. FOREST CREATION IN ACCORDANCE WITH A FOREST CONSERVATION
34 PLAN USING ONE OR MORE OF THE FOLLOWING:

- 35 A. TRANSPLANTED OR NURSERY STOCK,
36 B. WHIP OR SEEDLING STOCK, OR

- 1 C. NATURAL REGENERATION WHERE IT CAN BE ADEQUATELY
2 SHOWN TO MEET THE OBJECTIVE OF THE FOREST CONSERVATION
3 TECHNICAL MANUAL;
- 4 II. IN A MUNICIPAL CORPORATION WITH A TREE MANAGEMENT PLAN
5 AND IN AN EXISTING POPULATION CENTER DESIGNATED IN A COUNTY
6 MASTER PLAN THAT HAS BEEN ADOPTED TO CONFORM WITH THE
7 ECONOMIC GROWTH, RESOURCE PROTECTION, AND PLANNING ACT OF
8 1992, OR IN ANY OTHER DESIGNATED AREA APPROVED BY THE
9 DEPARTMENT, THE USE OF:
 - 10 A. STREET TREES AS A PERMISSIBLE STEP IN THE PRIORITY
11 SEQUENCE FOR AFFORESTATION OR REFORESTATION AND WITH A
12 MATURE CANOPY COVERAGE MAY BE GRANTED FULL CREDIT AS
13 A MITIGATION TECHNIQUE, AND
 - 14 B. ACQUISITION OF AN OFFSITE PROTECTION EASEMENT ON
15 EXISTING FORESTED AREAS WITHIN THE CITY BOUNDARIES NOT
16 CURRENTLY PROTECTED IN PERPETUITY AS A MITIGATION
17 TECHNIQUE, IN WHICH CASE THE AFFORESTATION OR
18 REFORESTATION CREDIT GRANTED MAY NOT EXCEED FIFTY
19 PERCENT OF THE AREA OF FOREST COVER PROTECTED;
- 20 III. WHEN ALL OTHER OPTIONS, BOTH ONSITE AND OFFSITE, HAVE BEEN
21 EXHAUSTED, LANDSCAPING AS A MITIGATION TECHNIQUE
22 CONDUCTED UNDER AN APPROVED LANDSCAPING PLAN THAT
23 ESTABLISHES A FOREST AT LEAST THIRTY-FIVE FEET WIDE AND
24 COVERING AT LEAST TWO THOUSAND FIVE HUNDRED SQUARE FEET
25 OF AREA.
- 26 2. A SEQUENCE OTHER THAN THE ONE DESCRIBED IN SUBSECTION A.1.
27 OF THIS ARTICLE MAY BE USED FOR A SPECIFIC PROJECT, IF
28 NECESSARY, TO ACHIEVE THE OBJECTIVES OF THE CITY LAND USE
29 PLAN OR CITY LAND USE POLICIES, OR TO TAKE ADVANTAGE OF
30 OPPORTUNITIES TO CONSOLIDATE FOREST CONSERVATION EFFORTS.
- 31 3. THE FOLLOWING ARE CONSIDERED A PRIORITY FOR AFFORESTATION
32 AND REFORESTATION:
 - 33 I. THOSE TECHNIQUES THAT ENHANCE EXISTING FOREST BY
34 SELECTIVE CLEARING OR SUPPLEMENTAL PLANTING ONSITE;
 - 35 II. ONSITE AFFORESTATION AND REFORESTATION WHERE THE
36 RETENTION OPTIONS HAVE BEEN EXHAUSTED, USING METHODS
37 SELECTED IN ACCORDANCE WITH SUBSECTION A.6. OF THIS
38 SECTION, AND THE LOCATION BEING SELECTED IN ACCORDANCE
39 WITH THIS SUBSECTION.
 - 40 III. OFFSITE AFFORESTATION OR REFORESTATION IN THE SAME
41 WATERSHED WITHIN THE CITY BOUNDARIES OR IN ACCORDANCE
42 WITH AN APPROVED MASTER PLAN WHERE THE APPLICANT HAS
43 DEMONSTRATED THAT NO REASONABLE ALTERNATIVE ONSITE
44 EXISTS, OR WHERE:

- 1 A. ANY ONSITE PRIORITY AREAS FOR AFFORESTATION OR
- 2 REFORESTATION HAVE BEEN PLANTED IN ACCORDANCE WITH
- 3 THIS SUBSECTION; AND
- 4 B. THE APPLICANT HAS JUSTIFIED TO THE DEPARTMENT'S
- 5 SATISFACTION THAT ENVIRONMENTAL BENEFITS
- 6 ASSOCIATED WITH OFFSITE AFFORESTATION OR
- 7 REFORESTATION EXCEED THOSE DERIVED FROM ONSITE
- 8 PLANTING.
- 9 4. IN THE CASES CITED IN SUBSECTION A.3. OF THIS SECTION, THE METHOD
- 10 SHALL BE SELECTED IN ACCORDANCE WITH SUBSECTION A.6. OF THIS
- 11 SECTION AND THE LOCATION SHALL BE SELECTED IN ACCORDANCE WITH
- 12 SUBSECTION A.3. OF THIS SECTION.
- 13 5. OFFSITE AFFORESTATION OR REFORESTATION MAY INCLUDE THE USE
- 14 OF FOREST MITIGATION BANKS WITHIN THE CITY BOUNDARIES
- 15 WHICH HAVE BEEN SO DESIGNATED IN ADVANCE BY THE
- 16 DEPARTMENT.
- 17 6. STANDARDS FOR MEETING AFFORESTATION OR REFORESTATION
- 18 REQUIREMENTS SHALL BE ESTABLISHED USING ONE OR MORE OF THE
- 19 FOLLOWING METHODS:
 - 20 I. ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO
 - 21 INTERMITTENT AND PERENNIAL STREAMS, AND COASTAL BAYS AND
 - 22 THEIR BUFFERS, TO WIDTHS OF AT LEAST FIFTY TO ONE HUNDRED
 - 23 FEET TO PREVENT ACTIVITY CAUSING A DETRIMENTAL EFFECT TO
 - 24 THE WATERWAY AS DETERMINED BY THE DIRECTOR;
 - 25 II. ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS TO
 - 26 CONNECT EXISTING FORESTS WITHIN OR ADJACENT TO THE SITE AND,
 - 27 WHERE PRACTICAL, FORESTED CORRIDORS SHOULD BE A MINIMUM
 - 28 OF THREE HUNDRED FEET IN WIDTH TO FACILITATE WILDLIFE
 - 29 MOVEMENT;
 - 30 III. ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO CRITICAL
 - 31 HABITATS WHERE APPROPRIATE;
 - 32 IV. ESTABLISH OR ENHANCE FORESTED AREAS IN THE 100-YEAR
 - 33 FLOODPLAINS;
 - 34 V. ESTABLISH PLANTINGS TO STABILIZE SLOPES OF TWENTY-FIVE
 - 35 PERCENT OR GREATER AND SLOPES OF FIFTEEN PERCENT OR
 - 36 GREATER WITH A SOIL K VALUE GREATER THAN 0.35 INCLUDING THE
 - 37 SLOPES OF RAVINES OR OTHER NATURAL DEPRESSIONS;
 - 38 VI. ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING LAND USE
 - 39 WHEN APPROPRIATE, OR ADJACENT TO HIGHWAYS OR UTILITY
 - 40 RIGHTS-OF-WAY;
 - 41 VII. ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS TO
 - 42 INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST COVER,
 - 43 WHEN APPROPRIATE; AND
 - 44 VIII. USE NATIVE PLANT MATERIALS FOR AFFORESTATION OR
 - 45 REFORESTATION, WHEN APPROPRIATE.

- 1 7. A PERSON REQUIRED TO CONDUCT AFFORESTATION OR REFORESTATION
2 UNDER THIS CHAPTER SHALL ACCOMPLISH IT WITHIN ONE YEAR OR TWO
3 GROWING SEASONS, WHICHEVER IS A GREATER TIME PERIOD,
4 FOLLOWING DEVELOPMENT PROJECT COMPLETION.
5

6 **19.30.110 - PAYMENT INSTEAD OF AFFORESTATION AND REFORESTATION.**

7 A. FOREST CONSERVATION FUND.

- 8 1. THERE IS ESTABLISHED A FOREST CONSERVATION FUND.

- 9 2. IF A PERSON SUBJECT TO THIS CHAPTER DEMONSTRATES TO THE
10 SATISFACTION OF THE DEPARTMENT THAT REQUIREMENTS FOR
11 AFFORESTATION OR REFORESTATION ONSITE OR OFFSITE CANNOT BE
12 REASONABLY ACCOMPLISHED, THE PERSON SHALL CONTRIBUTE MONEY
13 INTO THE CITY FOREST CONSERVATION FUND:

- 14 I. FOR A PROJECT INSIDE A PRIORITY FUNDING AREA, AS DEFINED IN
15 NATURAL RESOURCES ARTICLE, § 5-1610, ANNOTATED CODE OF
16 MARYLAND, AT A RATE PER SQUARE FOOT OF THE AREA OF REQUIRED
17 PLANTING TO BE SET BY RESOLUTION OF THE CITY COUNCIL
18 SUFFICIENT TO PROVIDE FOR SITE IDENTIFICATION, ACQUISITION,
19 PREPARATION, ONGOING MAINTENANCE COSTS AND OVERHEAD, AND
20 II. FOR A PROJECT OUTSIDE A PRIORITY FUNDING AREA, AT A RATE
21 TWENTY PERCENT HIGHER THAN THE RATE ESTABLISHED FOR A
22 PROJECT INSIDE A PRIORITY FUNDING AREA.

- 23 3. MONEY CONTRIBUTED INSTEAD OF AFFORESTATION OR REFORESTATION
24 UNDER THIS CHAPTER SHALL BE PAID PRIOR TO THE ISSUANCE OF A
25 GRADING PERMIT.

- 26 4. THE CITY SHALL ACCOMPLISH THE AFFORESTATION OR REFORESTATION
27 FOR WHICH THE MONEY IS DEPOSITED WITHIN TWO YEARS OR THREE
28 GROWING SEASONS, WHICHEVER IS A GREATER TIME PERIOD, AFTER
29 RECEIPT OF THE MONEY.

- 30 5. MONEY DEPOSITED IN THE CITY FOREST CONSERVATION FUND:

- 31 I. MAY BE SPENT ON THE COSTS DIRECTLY RELATED TO
32 AFFORESTATION AND REFORESTATION, INCLUDING SITE
33 IDENTIFICATION, ACQUISITION, PREPARATION, MAINTENANCE OF
34 EXISTING FORESTS, AND ACHIEVING URBAN CANOPY GOALS;

- 35 II. SHALL BE DEPOSITED IN A SEPARATE FOREST CONSERVATION FUND;
36 AND

- 37 III. MAY NOT REVERT TO THE GENERAL FUND.

- 38 6. SITES FOR AFFORESTATION OR REFORESTATION USING FUND MONEY:

- 39 I. EXCEPT AS PROVIDED IN SUBSECTION A.6.II. OF THIS SECTION, THE
40 AFFORESTATION OR REFORESTATION REQUIREMENT UNDER THIS
41 CHAPTER SHALL OCCUR IN THE WATERSHED IN WHICH THE PROJECT
42 IS LOCATED WITH PRIORITY THAT THE REQUIREMENT BE MET ON
43 LAND IN THE CITY BEFORE CONSIDERATION OF LAND OUTSIDE THE
44 CITY.

1 II. IF THE AFFORESTATION OR REFORESTATION CANNOT BE
2 REASONABLY ACCOMPLISHED IN THE CITY OR WATERSHED IN WHICH
3 THE PROJECT IS LOCATED, THEN THE AFFORESTATION OR
4 REFORESTATION SHALL OCCUR IN A WATERSHED IN ANNE ARUNDEL
5 COUNTY.
6

7 **19.30.120 - PAYMENT BY CREDITS FROM A FOREST MITIGATION BANK.**

8 A. IF A PERSON SUBJECT TO THIS CHAPTER DEMONSTRATES TO THE
9 SATISFACTION OF THE DEPARTMENT THAT REQUIREMENTS FOR
10 AFFORESTATION OR REFORESTATION ONSITE OR OFFSITE CANNOT BE
11 REASONABLY ACCOMPLISHED, THE PERSON MAY CONTRIBUTE CREDITS
12 FROM A FOREST MITIGATION BANK. A CREDIT IS REQUIRED FOR EACH TENTH
13 OF AN ACRE OF AN AREA OF REQUIRED PLANTING.

14 B. THE CREDITS SHALL BE DEBITED FROM AN APPROVED FOREST
15 MITIGATION BANK WITHIN NINETY CALENDAR DAYS AFTER THE
16 DEVELOPMENT PROJECT COMPLETION.
17

18 **19.30.130 - ESTABLISHING FOREST MITIGATION BANKS.**

19 A. UPON APPROVAL BY THE DEPARTMENT, A PERSON MAY CREATE A
20 FOREST MITIGATION BANK FROM WHICH APPLICANTS MAY PURCHASE
21 CREDITS TO MEET THE AFFORESTATION AND REFORESTATION
22 REQUIREMENTS OF THIS CHAPTER.

23 B. THE FOREST MITIGATION BANK SHALL:

- 24 1. AFFOREST OR REFOREST AN AREA OF LAND IN ACCORDANCE WITH A
25 FOREST MITIGATION BANK AGREEMENT;
- 26 2. BE PROTECTED BY AN EASEMENT, DEED RESTRICTIONS, OR COVENANTS
27 WHICH REQUIRE THE LAND IN THE BANK TO REMAIN FORESTED IN
28 PERPETUITY AND ARE ENFORCEABLE BY THE DEPARTMENT AND THE
29 DEPARTMENT OF NATURAL RESOURCES;
- 30 3. LIMIT THE USE OF THE LAND IN THE BANK TO THOSE ACTIVITIES WHICH
31 ARE NOT INCONSISTENT WITH FOREST CONSERVATION SUCH AS
32 RECREATIONAL ACTIVITIES, FOREST MANAGEMENT UNDER A FOREST
33 CONSERVATION AND MANAGEMENT PROGRAM UNDER TAX-PROPERTY
34 ARTICLE, § 8-211, ANNOTATED CODE OF MARYLAND, OR ACTIVITIES
35 SPECIFIED IN A FOREST MANAGEMENT PLAN PREPARED BY A LICENSED
36 FORESTER AND APPROVED BY THE DEPARTMENT;
- 37 4. USE NATIVE PLANT MATERIALS FOR AFFORESTATION OR
38 REFORESTATION UNLESS INAPPROPRIATE; AND
- 39 5. CAUSE TREES TO BE PLANTED WHICH:
 - 40 I. ESTABLISH OR ENHANCE FORESTED BUFFERS ADJACENT TO
41 INTERMITTENT AND PERENNIAL STREAMS AND COASTAL BAYS TO
42 WIDTHS OF AT LEAST FIFTY FEET;
 - 43 II. ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS, WHICH,
44 WHERE PRACTICAL, SHOULD BE A MINIMUM OF THREE HUNDRED

1 FEET IN WIDTH TO FACILITATE WILDLIFE MOVEMENT, TO CONNECT
2 EXISTING FORESTS WITHIN OR ADJACENT TO THE SITE;

3 III. ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO CRITICAL
4 HABITATS WHERE APPROPRIATE;

5 IV. ESTABLISH OR ENHANCE FORESTED AREAS IN 100-YEAR
6 FLOODPLAINS;

7 V. STABILIZE SLOPES OF TWENTY-FIVE PERCENT OR GREATER;

8 VI. STABILIZE SLOPES OF FIFTEEN PERCENT OR GREATER WITH A SOIL K
9 VALUE GREATER THAN 0.35 INCLUDING THE SLOPES OF RAVINES OR
10 OTHER NATURAL DEPRESSIONS;

11 VII. ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING LAND USE
12 WHERE APPROPRIATE, OR ADJACENT TO HIGHWAYS OR UTILITY
13 RIGHTS-OF-WAY; OR

14 VIII. ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS TO
15 INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST COVER,
16 WHEN APPROPRIATE.

17 C. A PERSON PROPOSING TO CREATE A FOREST MITIGATION BANK SHALL
18 SUBMIT TO THE DEPARTMENT A:

19 1. COMPLETED APPLICATION ON A FORM APPROVED BY THE DEPARTMENT
20 WHICH HAS BEEN SIGNED BY AN AUTHORIZED INDIVIDUAL IN
21 CONFORMANCE WITH SECTION 19.30.030 OF THIS CHAPTER;

22 2. FOREST MITIGATION BANK PLAN WHICH CONTAINS A:

23 I. VICINITY MAP OF THE PROPOSED MITIGATION BANK SITE;

24 II. SIMPLIFIED FOREST STAND DELINEATION WHICH MEETS THE
25 CRITERIA IN SECTION 19.30.060.A.6 OF THIS CHAPTER;

26 III. DETAILED AFFORESTATION OR REFORESTATION PLAN, WHICH
27 SHALL INCLUDE A TIMETABLE AND DESCRIPTION OF THE SITE AND
28 SOIL PREPARATION NEEDED, SPECIES, SIZE, AND SPACING TO BE
29 UTILIZED, PREPARED BY A LICENSED MARYLAND FORESTER, A
30 LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL
31 WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A; AND

32 IV. PROPOSED FIVE-YEAR MAINTENANCE AGREEMENT THAT:

33 A. SETS FORTH HOW THE AREAS AFFORESTED OR REFORESTED WILL
34 BE MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY
35 ESTABLISHMENT,

36 B. COMPLIES WITH SECTION 19.30.070.C.1 OF THIS CHAPTER, AND

37 C. INCLUDES WATERING AND REINFORCEMENT PLANTING
38 PROVISIONS IF SURVIVAL FALLS BELOW REQUIRED STANDARDS;

39 3. COPY OF THE DEED TO THE PROPERTY;

40 4. SURVEY OR OTHER LEGALLY SUFFICIENT DESCRIPTION OF THE BANK
41 SITE FOR INCLUSION IN THE DEEDS OF EASEMENT, DEED RESTRICTIONS,
42 OR COVENANTS;

43 5. TITLE REPORT OR OTHER ASSURANCE THAT:

1 I. THE PROPERTY IS NOT ENCUMBERED BY ANY COVENANTS OR OTHER
2 TYPES OF RESTRICTIONS WHICH WOULD IMPAIR THE PROPERTY'S USE
3 AS A FOREST MITIGATION BANK; AND

4 II. THERE IS LEGALLY SUFFICIENT ACCESS TO THE FOREST MITIGATION
5 BANK SITE WHICH CAN BE USED BY THE DEPARTMENT AND ITS
6 ASSIGNEES TO INSPECT THE FOREST MITIGATION BANK; AND

7 6. DESCRIPTION OF THE SYSTEM TO BE USED BY THE PERSON OWNING AND
8 OPERATING THE FOREST MITIGATION BANK TO IDENTIFY AND KEEP
9 TRACK OF WHICH PORTIONS OF THE BANK HAVE BEEN DEBITED TO MEET
10 AN APPLICANT'S OFFSITE AFFORESTATION OR REFORESTATION
11 REQUIREMENTS.

12 D. THE OWNER OF AN APPROVED FOREST MITIGATION BANK SHALL ENTER
13 INTO AN AGREEMENT WITH THE DEPARTMENT WHICH CONTAINS:

14 1. THE APPROVED AFFORESTATION OR REFORESTATION PLAN;

15 2. THE APPROVED SYSTEM FOR MARKETING AND TRACKING WHICH
16 PORTIONS OF THE BANK HAVE BEEN DEBITED; AND

17 3. AN ACKNOWLEDGEMENT THAT THE BANK MAY NOT DEBIT ANY PORTION OF
18 THE AFFORESTED OR REFORESTED LAND UNTIL FIVE YEARS OF SUCCESSFUL
19 GROWTH HAS BEEN ACHIEVED UNLESS THE BANKER HAS POSTED A BOND OR
20 ALTERNATE FORM OF SECURITY.

21
22 **19.30.140 - RECOMMENDED TREE SPECIES.**

23 A. TREE SPECIES USED FOR AFFORESTATION OR REFORESTATION SHALL BE
24 NATIVE TO THE CITY, WHEN APPROPRIATE, AND SELECTED FROM A LIST OF
25 APPROVED SPECIES ESTABLISHED BY THE DEPARTMENT.

26 B. THE DEPARTMENT SHALL ADOPT A LIST OF TREE SPECIES TO BE USED
27 FOR ANY REQUIRED AFFORESTATION OR REFORESTATION AND
28 INCORPORATE IT INTO THE FOREST CONSERVATION TECHNICAL MANUAL.

29
30 **19.30.150 - FINANCIAL SECURITY FOR AFFORESTATION AND REFORESTATION.**

31 A. A PERSON REQUIRED TO CONDUCT AFFORESTATION OR REFORESTATION
32 UNDER THIS CHAPTER SHALL FURNISH FINANCIAL SECURITY IN THE FORM OF
33 A BOND, AN IRREVOCABLE LETTER OF CREDIT, OR OTHER SECURITY
34 APPROVED BY THE DEPARTMENT. THE SURETY SHALL:

35 1. ASSURE THAT THE AFFORESTATION, REFORESTATION, AND THE
36 ASSOCIATED MAINTENANCE AGREEMENT ARE CONDUCTED AND
37 MAINTAINED IN ACCORDANCE WITH THE APPROVED FOREST
38 CONSERVATION PLAN;

39 2. BE IN AN AMOUNT EQUAL TO THE ESTIMATED COST, AS DETERMINED BY
40 THE DEPARTMENT, OF AFFORESTATION AND REFORESTATION; AND

41 3. BE IN A FORM AND OF A CONTENT APPROVED BY THE DEPARTMENT.

42 B. AFTER THREE GROWING SEASONS, THE PERSON REQUIRED TO FILE A
43 BOND MAY REQUEST REDUCTION OF THE AMOUNT OF THE BOND OR OTHER
44 FINANCIAL SECURITY BY SUBMITTING A WRITTEN REQUEST TO THE
45 DEPARTMENT WITH A JUSTIFICATION FOR REDUCING THE BOND OR OTHER

1 FINANCIAL SECURITY AMOUNT, INCLUDING ESTIMATED OR ACTUAL COSTS
2 TO ENSURE AFFORESTATION OR REFORESTATION REQUIREMENTS ARE MET.

3 C. THE DEPARTMENT SHALL DETERMINE WHETHER A LESSER AMOUNT IS
4 SUFFICIENT TO COVER THE COST OF AFFORESTATION OR REFORESTATION,
5 TAKING IN ACCOUNT THE FOLLOWING:

- 6 1. THE NUMBER OF ACRES;
- 7 2. THE PROPOSED METHOD OF AFFORESTATION OR REFORESTATION;
- 8 3. THE COST OF PLANTING MATERIALS OR REPLACEMENT MATERIALS;
- 9 4. THE COST OF MAINTENANCE OF THE AFFORESTATION OR
10 REFORESTATION PROJECT; AND
- 11 5. OTHER RELEVANT FACTORS.

12 D. IF, AFTER FIVE GROWING SEASONS, THE PLANTINGS ASSOCIATED WITH
13 THE AFFORESTATION OR REFORESTATION MEET OR EXCEED THE STANDARDS
14 OF THE FOREST CONSERVATION TECHNICAL MANUAL, THE AMOUNT OF THE
15 CASH BOND, LETTER OF CREDIT, SURETY BOND, OR OTHER SECURITY SHALL
16 BE RETURNED OR RELEASED.

17 E. A LOCAL FOREST CONSERVATION PROGRAM MAY INCORPORATE THE
18 FINANCIAL SECURITY SET FORTH IN SUBSECTIONS A.—D. OF THIS SECTION OR
19 IN COMAR 08.19.05.01B.

20
21 **19.30.160 - STANDARDS FOR PROTECTING TREES FROM CONSTRUCTION**
22 **ACTIVITIES.**

23 A. THE CITY SHALL ADOPT STANDARDS FOR THE PROTECTION OF TREES
24 FROM CONSTRUCTION ACTIVITY.

25 B. BEFORE CUTTING, CLEARING, GRADING, OR CONSTRUCTION BEGINS ON
26 A SITE FOR WHICH A FOREST CONSERVATION PLAN IS REQUIRED BY THIS
27 CHAPTER, THE APPLICANT SHALL DEMONSTRATE TO THE DEPARTMENT THAT
28 PROTECTIVE DEVICES HAVE BEEN ESTABLISHED.

29
30 **19.30.170 - VARIANCES.**

31 A. AN APPLICANT MAY REQUEST A VARIANCE FROM THIS CHAPTER OR THE
32 REQUIREMENTS OF NATURAL RESOURCES ARTICLE, §§ 5-1601—5-1612,
33 ANNOTATED CODE OF MARYLAND, IF THE APPLICANT DEMONSTRATES THAT
34 ENFORCEMENT WOULD RESULT IN UNWARRANTED HARDSHIP TO THE
35 APPLICANT.

36 B. AN APPLICANT FOR A VARIANCE SHALL:

- 37 1. DESCRIBE THE SPECIAL CONDITIONS PECULIAR TO THE PROPERTY WHICH
38 WOULD CAUSE THE UNWARRANTED HARDSHIP;
- 39 2. DESCRIBE HOW ENFORCEMENT OF THESE RULES WILL DEPRIVE THE
40 APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHERS IN SIMILAR
41 AREAS;
- 42 3. VERIFY THAT THE GRANTING OF THE VARIANCE WILL NOT CONFER ON
43 THE APPLICANT A SPECIAL PRIVILEGE THAT WOULD BE DENIED TO OTHER
44 APPLICANTS;

- 1 4. VERIFY THAT THE VARIANCE REQUEST IS NOT BASED ON CONDITIONS OR
2 CIRCUMSTANCES WHICH ARE THE RESULT OF ACTIONS BY THE
3 APPLICANT OR BY ANY PREVIOUS OWNER OF THE PROPERTY;
- 4 5. VERIFY THAT THE REQUEST DOES NOT ARISE FROM A CONDITION
5 RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR
6 NONCONFORMING, ON A NEIGHBORING PROPERTY; AND
- 7 6. VERIFY THAT THE GRANTING OF A VARIANCE WILL NOT ADVERSELY
8 AFFECT WATER QUALITY.
- 9 C. THE DEPARTMENT SHALL MAKE WRITTEN FINDINGS THAT THE
10 APPLICANT HAS MET THE REQUIREMENTS IN SUBSECTIONS A. AND B. OF THIS
11 SECTION BEFORE THE DEPARTMENT MAY GRANT A VARIANCE.
- 12 D. NOTICE OF A REQUEST FOR A VARIANCE SHALL BE GIVEN TO THE
13 DEPARTMENT OF NATURAL RESOURCES WITHIN FIFTEEN DAYS OF RECEIPT
14 OF A REQUEST FOR A VARIANCE.
- 15 E. THERE IS ESTABLISHED BY THIS CHAPTER THE RIGHT AND AUTHORITY
16 OF THE DEPARTMENT OF NATURAL RESOURCES TO INITIATE OR INTERVENE
17 IN AN ADMINISTRATIVE, JUDICIAL, OR OTHER ORIGINAL PROCEEDING OR
18 APPEAL IN THE STATE CONCERNING AN APPROVAL OF A VARIANCE UNDER
19 NATURAL RESOURCES ARTICLE, §§ 5-1601—5-1612, ANNOTATED CODE OF
20 MARYLAND, OR THIS CHAPTER.
- 21 F. ANY VARIANCE MUST BE SUBMITTED TO THE PLANNING COMMISSION OR
22 THE ZONING BOARD OF APPEALS, WHICHEVER THE CASE MAY BE, WITH THE
23 PROJECT OR DEVELOPMENT PLAN APPLICATION FOR FINAL DETERMINATION.
24 IF THE VARIANCE IS SOUGHT IN CONNECTION WITH A SITE DESIGN PLAN
25 APPLICATION NOT REQUIRING PLANNING COMMISSION OR ZONING BOARD OF
26 APPEALS APPROVAL, THE DEPARTMENT SHALL ISSUE A FINAL
27 DETERMINATION ON THE VARIANCE APPLICATION.
- 28 G. VARIANCE CAN ONLY BE APPEALED AS PART OF THE FINAL
29 ADMINISTRATIVE DECISION OR APPROVAL OF THE APPLICATION.

30
31 **19.30.180 - ENFORCEMENT.**

- 32 A. NONCOMPLIANCE FEES.
- 33 1. A PERSON FOUND TO BE IN NONCOMPLIANCE WITH THIS CHAPTER,
34 REGULATIONS ADOPTED UNDER THIS CHAPTER, THE FOREST
35 CONSERVATION PLAN, OR THE ASSOCIATED FIVE-YEAR MAINTENANCE
36 AGREEMENT, SHALL PAY A MINIMUM NONCOMPLIANCE FEE OF TEN
37 DOLLARS PER SQUARE FOOT OF THE AREA FOUND TO BE IN
38 NONCOMPLIANCE WITH THE REQUIRED FOREST CONSERVATION. THE
39 CITY COUNCIL MAY SET A GREATER NONCOMPLIANCE FEE BY
40 RESOLUTION.
- 41 2. IN SETTING THE NONCOMPLIANCE FEE, THE CITY COUNCIL SHALL
42 CONSIDER LAND ACQUISITION COSTS, PLANTING COSTS, ONGOING
43 MAINTENANCE COSTS AND OVERHEAD REQUIRED TO MITIGATE THE
44 NONCOMPLIANCE.

1 3. MONEY COLLECTED UNDER SUBSECTION A.1. OF THIS SECTION SHALL BE
2 DEPOSITED IN THE FOREST CONSERVATION FUND AUTHORIZED BY
3 SECTION 19.30.130 OF THIS CHAPTER, AND MAY BE USED BY THE
4 DEPARTMENT FOR PURPOSES RELATED TO IMPLEMENTING THIS
5 CHAPTER.

6 B. VIOLATION.

7 1. A VIOLATION OF ANY PROVISION OF THIS CHAPTER SHALL CONSTITUTE
8 A MUNICIPAL INFRACTION AND FOR EACH VIOLATION THE PERSON OR
9 ENTITY IN VIOLATION IS SUBJECT TO A FINE AS ESTABLISHED BY
10 RESOLUTION OF THE CITY COUNCIL.

11 2. EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION FOR
12 WHICH A SEPARATE CITATION MAY BE SERVED.

13 C. THE DEPARTMENT MAY SEEK AN INJUNCTION OR OTHER EQUITABLE
14 RELIEF REQUIRING A PERSON TO CEASE VIOLATION OF THIS CHAPTER AND
15 TAKE CORRECTIVE ACTION TO RESTORE OR REFOREST AN AREA.

16 D. THE LOCAL PROGRAM MAY ADOPT THE ENFORCEMENT PROVISIONS
17 UNDER COMAR 08.19.06.03.

18 E. THE LOCAL PROGRAM SHALL PROVIDE TO THE DEPARTMENT OF
19 NATURAL RESOURCES NOTICE OF AN ENFORCEMENT ACTION WITHIN
20 FIFTEEN DAYS AFTER THE COMMENCEMENT OF ENFORCEMENT BY THE
21 LOCAL PROGRAM.

22
23 **19.30.190 - ANNUAL REPORT.**

24 ON OR BEFORE MARCH 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT
25 TO THE DEPARTMENT OF NATURAL RESOURCES A REPORT WHICH CONTAINS THE:

26 A. NUMBER, LOCATION, AND TYPE OF PROJECTS SUBJECT TO THE
27 PROVISIONS OF THIS CHAPTER;

28 B. AMOUNT AND LOCATION OF ACRES CLEARED, CONSERVED, AND
29 PLANTED, INCLUDING ANY AREAS LOCATED IN THE 100-YEAR
30 FLOODPLAIN IN CONNECTION WITH A DEVELOPMENT PROJECT;

31 C. AMOUNT OF AFFORESTATION AND REFORESTATION FEES AND
32 NONCOMPLIANCE PENALTIES COLLECTED AND EXPENDED;

33 D. COSTS OF IMPLEMENTING THE FOREST CONSERVATION PROGRAM;

34 E. LOCATION AND SIZE OF ALL FOREST MITIGATION BANKS APPROVED
35 DURING THE PAST YEAR WITH A DESCRIPTION OF THE PRIORITY AREAS
36 AFFORESTED OR REFORESTED BY THE BANK;

37 F. NUMBER OF ACRES DEBITED FROM EACH FOREST MITIGATION BANK
38 SINCE THE LAST ANNUAL REPORT;

39 G. FOREST MITIGATION BANKS INSPECTED SINCE THE LAST ANNUAL
40 REPORT;

41 H. NUMBER, LOCATION, AND TYPES OF VIOLATIONS AND TYPES OF
42 ENFORCEMENT ACTIVITIES CONDUCTED; AND

43 I. THE SIZE AND LOCATION OF ALL CONSERVED AND PLANTED FOREST
44 AREAS SHALL BE SUBMITTED IN AN ELECTRONIC GEOGRAPHIC
45 INFORMATION SYSTEM OR COMPUTER AIDED DESIGN FORMAT IF

1 POSSIBLE. IF NOT POSSIBLE, THE LOCATION SHALL BE GIVEN BY
2 MARYLAND STATE PLANE GRID COORDINATES AND EIGHT-DIGIT
3 SUBWATERSHED.
4

5 **19.30.200 - BIENNIAL REVIEW BY THE DEPARTMENT OF NATURAL RESOURCES.**

6 THE DEPARTMENT SHALL SUBMIT THE NECESSARY DOCUMENTATION TO
7 COMPLY WITH COMAR 08.19.02.04.
8

9
10 **CHAPTER 19.40 - GRADING, EROSION AND SEDIMENT CONTROL**

11
12 **19.40.010 - PURPOSE.**

13 A. THE PURPOSE OF THIS CHAPTER IS TO PROTECT, MAINTAIN, AND
14 ENHANCE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE BY
15 ESTABLISHING MINIMUM REQUIREMENTS AND PROCEDURES TO CONTROL
16 THE ADVERSE IMPACTS ASSOCIATED WITH LAND DISTURBANCES. THE GOAL
17 IS TO MINIMIZE SOIL EROSION AND PREVENT OFF-SITE SEDIMENTATION BY
18 USING SOIL EROSION AND SEDIMENT CONTROL PRACTICES DESIGNED IN
19 ACCORDANCE WITH THE CODE OF MARYLAND REGULATIONS (COMAR)
20 26.17.01, THE 2011 MARYLAND STANDARDS AND SPECIFICATIONS
21 (STANDARDS AND SPECIFICATIONS) AND THE STORMWATER MANAGEMENT
22 ACT OF 2007 (ACT) OR ITS SUCCESSORS. THIS CHAPTER WILL HELP REDUCE
23 THE NEGATIVE IMPACTS OF LAND DEVELOPMENT ON WATER RESOURCES,
24 MAINTAIN THE CHEMICAL, PHYSICAL, AND BIOLOGICAL INTEGRITY OF
25 STREAMS, AND MINIMIZE DAMAGE TO PUBLIC AND PRIVATE PROPERTY.

26 B. THE PROVISIONS OF THIS CHAPTER ARE MINIMUM REQUIREMENTS. THEY
27 SHALL BE CONFORMED TO IN ADDITION TO, RATHER THAN IN LIEU OF, ALL
28 OTHER LEGAL REQUIREMENTS, AND SHALL BE CONSTRUED LIBERALLY TO
29 ACCOMPLISH THE PURPOSES SET FORTH. NO PERSON SHALL ALLOW AND NO
30 LANDOWNER SHALL PERMIT ANY WORK TO BE PERFORMED WHICH VIOLATES
31 THIS CHAPTER.

32 C. THE PROVISIONS OF THIS CHAPTER ARE ADOPTED PURSUANT TO
33 ANNOTATED CODE OF MARYLAND, ENVIRONMENT ARTICLE, TITLE 4,
34 SUBTITLE 1 (OR ITS SUCCESSORS), AS WELL AS THE AUTHORITY OF THE CITY
35 CHARTER AND THE CITY CODE AND SHALL APPLY TO ALL GRADING
36 OCCURRING WITHIN THE CITY.
37

38 **19.40.020 - LIABILITY FOR DAMAGES.**

39 THE ISSUANCE OF A PERMIT UNDER THE PROVISIONS OF THIS CHAPTER OR
40 COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER DOES NOT RELIEVE A
41 PERSON FROM RESPONSIBILITY FOR DAMAGE TO PERSONS OR PROPERTY
42 OTHERWISE IMPOSED BY LAW, OR IMPOSE LIABILITY ON THE CITY FOR
43 DAMAGES.
44

45 **19.40.030 - GRADING PERMIT—REQUIRED APPLICATION.**

1 EXCEPT AS SET FORTH IN SECTION 19.40.040, NO PERSON SHALL DO AND NO
2 OWNER ALLOW, ANY GRADING OF LAND WITHOUT FIRST HAVING OBTAINED
3 A GRADING PERMIT FROM THE DIRECTOR. EACH PERMIT SHALL AUTHORIZE
4 ONLY THE IMPROVEMENTS SET FORTH IN THE APPLICATION AND
5 ACCOMPANYING DRAWINGS, BUT EACH PERMIT MAY COVER ANY NUMBER
6 OF CONTIGUOUS LOTS.

7 B. THE APPLICATION SHALL BE FILED WITH THE DIRECTOR OR DESIGNEE.
8 BOTH THE OWNER OF THE PROPERTY AND THE CONTRACTOR ENGAGED TO
9 DO THE WORK ARE RESPONSIBLE EQUALLY FOR OBTAINING THE REQUIRED
10 GRADING PERMIT.

11 C. EACH APPLICATION FOR A GRADING PERMIT SHALL BE SUPPORTED BY
12 THE FOLLOWING:

- 13 1. PLANS AND SPECIFICATIONS IN ACCORDANCE WITH SECTION 19.40.060;
- 14 2. THE REQUIRED FEES IN ACCORDANCE WITH SECTION 19.40.080;
- 15 3. THE WRITTEN APPROVAL OF APPROPRIATE STATE AND FEDERAL
16 AGENCIES, WHERE APPLICABLE;
- 17 4. A RIGHT-OF-ENTRY TO THE CITY FOR PERIODIC INSPECTION FOR
18 COMPLIANCE WITH THIS TITLE;
- 19 5. A BOND IN ACCORDANCE WITH SECTION 19.40.092;
- 20 6. PAYMENT TO THE CITY FINANCE DIRECTOR OF ALL APPLICABLE SCHOOL
21 IMPACT FEES ASSESSED BY ANNE ARUNDEL COUNTY, OR PROOF THAT
22 THE PROJECT IS NOT SUBJECT TO THE COUNTY'S SCHOOL IMPACT FEES.

23
24 **19.40.040 - GRADING PERMIT—EXEMPTIONS.**

25 NO PERSON SHALL DISTURB LAND WITHOUT IMPLEMENTING SOIL EROSION
26 AND SEDIMENT CONTROLS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS
27 CHAPTER AND THE STANDARDS AND SPECIFICATIONS EXCEPT AS PROVIDED
28 WITHIN THIS SECTION.

29 A. A GRADING PERMIT IS NOT REQUIRED FOR THE FOLLOWING LIMITATIONS
30 AS SET FORTH BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT'S
31 MOST RECENT STANDARD SEDIMENT AND EROSION CONTROL PLAN
32 LIMITATIONS, PROVIDED THAT THE OTHER PROVISIONS OF THIS CHAPTER
33 AND OF APPLICABLE STATE LAW ARE SATISFIED:

34 LAND ON WHICH THE FOLLOWING EXIST:

- 35 1. AGRICULTURAL LAND MANAGEMENT PRACTICES AND
36 AGRICULTURAL BMPS.
- 37 2. THE LOT WHERE THE WORK IS TO BE PERFORMED IS ON A PAVED,
38 GRAVELED OR PUBLICLY MAINTAINED STREET WHERE STORM
39 DRAINS ARE IN OPERATION AND ROADSIDE DITCHES ARE STABILIZED.
- 40 3. NOT MORE THAN FIVE THOUSAND SQUARE FEET OF GROUND SHALL
41 BE DISTURBED; NO MORE THAN TWO THOUSAND SQUARE FEET FOR
42 WATERFRONT LOTS.
- 43 4. CUTS AND FILLS SHALL NOT EXCEED TEN FEET IN DEPTH OR HEIGHT
44 AND SHALL NOT EXCEED ONE HUNDRED CUBIC YARDS IN VOLUME.

- 1 5. SLOPES WITH A GRADE OF FIFTEEN PERCENT OR GREATER SHALL NOT
2 BE DISTURBED AND SLOPES STEEPER THAN 3:1 MAY NOT BE CREATED.
- 3 6. HIGHLY ERODIBLE SOILS SHALL NOT BE DISTURBED.
- 4 7. NO EARTH DISTURBANCE SHALL OCCUR WITHIN THE FOLLOWING
5 WITH THE EXCEPTION OF SHORELINE STABILIZATION PROJECTS AND
6 RETAINING WALL REPLACEMENTS IN KIND:
 - 7 A. THE LIMITS OF THE ONE HUNDRED-YEAR FLOODPLAIN OF ANY
8 STREAM;
 - 9 B. ONE HUNDRED FEET OF ANY PERENNIAL STREAM OR WATER
10 BODY;
 - 11 C. ONE HUNDRED FEET LANDWARD OF THE MEAN HIGH WATER LINE
12 OF ANY WATER BODY AFFECTED BY TIDAL ACTION (SUBJECT TO
13 VARIANCE PROCEDURES IN TITLE 21 OF THE CITY CODE);
 - 14 D. ONE HUNDRED FEET FROM ANY TIDAL WETLAND OR BOG; OR
 - 15 E. TWENTY-FIVE FEET OF ANY NON-TIDAL WETLAND EXCEPT FOR
16 AN APPROVED BUFFER MANAGEMENT PLAN APPROVED BY THE
17 CITY FOR CLEARING LESS THAN FIVE THOUSAND SQUARE FEET OF
18 VEGETATION.
- 19 8. THE OWNER, BUILDER OR DEVELOPER IS NOT THE SAME OWNER,
20 BUILDER OR DEVELOPER OF ANY CONTIGUOUS LOTS UNDERGOING
21 DEVELOPMENT.
- 22 9. THE PROPOSED CONSTRUCTION IS NOT A SINGLE FAMILY DWELLING
23 OR AN ADDITION OR MODIFICATION THAT IS CLASSIFIED AS A
24 SUBSTANTIAL IMPROVEMENT TO AN EXISTING SINGLE FAMILY
25 DWELLING AS DETERMINED IN ACCORDANCE WITH CITY OF
26 ANNAPOLIS CODE.
- 27 10. ANY PROPOSED GRADING WILL NOT IMPAIR EXISTING SURFACE
28 DRAINAGE, CONSTITUTE A POTENTIAL EROSION HAZARD OR ACT AS
29 A SOURCE OF SEDIMENTATION TO ADJACENT LAND OR WATER
30 RESOURCE OR IMPACT AN EROSION AND SEDIMENT CONTROL PLAN
31 PREVIOUSLY APPROVED BY THE ANNE ARUNDEL SOIL
32 CONSERVATION DISTRICT OR THE CITY OF ANNAPOLIS.
- 33 11. THE SITE CONDITIONS MUST BE SUCH THAT IT IS POSSIBLE TO
34 SATISFY THE REQUIRED EROSION AND SEDIMENT CONTROL
35 REQUIREMENTS BY THE USE OF REINFORCED SILT FENCE, A
36 STABILIZED CONSTRUCTION ENTRANCE AND VEGETATIVE
37 STABILIZATION.
- 38 12. THE APPLICANT HAS SUBMITTED A SITE PLAN ADEQUATELY
39 SHOWING THE PROPERTY LINES, SITE CONDITIONS, AND THE
40 PROPOSED WORK WHICH IS ATTACHED HERETO AND MADE A PART
41 THEREOF.
- 42 13. FOR WORK IN THE CRITICAL AREA, THE APPLICANT HAS SUBMITTED
43 A CRITICAL AREA WORKSHEET DETAILING EXISTING, AND PROPOSED
44 LOT COVERAGE AND IMPERVIOUS COVER.

1 14. THE PROPOSED WORK DOES NOT REQUIRE A STATE WATERWAY OR
2 WETLAND PERMIT EXCEPT WHERE THE PROJECT IS A SHORELINE
3 STABILIZATION PROJECT.

4 B. LAND-DISTURBING ACTIVITIES THAT ARE SUBJECT EXCLUSIVELY TO
5 STATE APPROVAL AND ENFORCEMENT UNDER STATE LAW AND
6 REGULATIONS.

7 C. IF A GRADING PERMIT IS NOT REQUIRED UNDER SUBSECTION A., A
8 STANDARD SEDIMENT AND EROSION CONTROL PLAN SHALL BE ISSUED.

9 D. NOTWITHSTANDING THE PROVISIONS OF SUBSECTION A. AND
10 SUBSECTION C., A GRADING PERMIT SHALL BE REQUIRED FOR REMOVAL OF
11 MULTIPLE TREES HAVING A COMBINED DIAMETER AT BREAST HEIGHT (DBH)
12 OF SIXTY INCHES OR GREATER ON LOTS OF FORTY THOUSAND SQUARE FEET
13 OR GREATER.

14
15 **19.40.050 - VARIANCES—EROSION AND SEDIMENT CONTROL PLAN.**

16 A. THE DIRECTOR, BASED ON WRITTEN RECOMMENDATIONS FROM THE
17 ANNE ARUNDEL SOIL CONSERVATION DISTRICT, MAY GRANT A VARIANCE
18 FROM THE REQUIREMENTS OF THE STANDARDS AND SPECIFICATIONS, IF
19 STRICT ADHERENCE TO THE SPECIFICATIONS WILL RESULT IN EXCEPTIONAL
20 HARDSHIP AND NOT FULFILL THE INTENT OF THIS CHAPTER. THE DEVELOPER
21 SHALL SUBMIT A WRITTEN REQUEST FOR A VARIANCE TO THE DIRECTOR AND
22 THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT. THE REQUEST SHALL
23 STATE THE SPECIFIC VARIANCES SOUGHT AND REASONS FOR REQUESTING
24 THE VARIANCE. THE DIRECTOR SHALL NOT GRANT A VARIANCE UNLESS AND
25 UNTIL SUFFICIENT SPECIFIC REASONS JUSTIFYING THE VARIANCE ARE
26 PROVIDED BY THE OWNER/DEVELOPER TO THE SATISFACTION OF THE ANNE
27 ARUNDEL SOIL CONSERVATION DISTRICT AND THE DIRECTOR.

28 B. THE GRANTING OF A VARIANCE AS NOTED IN THIS SECTION DOES NOT IN
29 ANY WAY EXEMPT THE APPLICANT FROM COMPLIANCE WITH THE OTHER
30 REQUIREMENTS OF THIS CHAPTER.

31
32 **19.40.060 - PERMIT—PLANS AND SPECIFICATIONS.**

33 A. AN APPLICANT IS RESPONSIBLE FOR SUBMITTING EROSION AND
34 SEDIMENT CONTROL PLANS THAT MEET THE REQUIREMENTS OF THE ANNE
35 ARUNDEL SOIL CONSERVATION DISTRICT, THIS CHAPTER OF THE CITY CODE,
36 CHAPTER 19.50 OF THE CITY CODE, THE STANDARDS AND SPECIFICATIONS,
37 AND THE ACT. THE PLANS SHALL INCLUDE SUFFICIENT INFORMATION TO
38 EVALUATE THE ENVIRONMENTAL CHARACTERISTICS OF THE AFFECTED
39 AREAS, THE POTENTIAL IMPACTS OF THE PROPOSED GRADING ON WATER
40 RESOURCES, AND THE EFFECTIVENESS AND ACCEPTABILITY OF MEASURES
41 PROPOSED TO MINIMIZE SOIL EROSION AND OFF-SITE SEDIMENTATION.

42 B. AT A MINIMUM, AN APPLICANT SHALL SUBMIT THE FOLLOWING
43 INFORMATION:

- 44 1. A LETTER OF TRANSMITTAL AND/OR APPLICATION;
45 2. NAME, ADDRESS, AND TELEPHONE NUMBER OF:

- 1 A. THE OWNER OF THE PROPERTY WHERE THE GRADING IS PROPOSED;
- 2 B. THE DEVELOPER; AND
- 3 C. THE APPLICANT;
- 4 3. A VICINITY MAP INDICATING NORTH ARROW, SCALE, SITE LOCATION,
- 5 AND OTHER INFORMATION NECESSARY TO EASILY LOCATE THE
- 6 PROPERTY;
- 7 4. DRAINAGE AREA MAP(S) AT A 1" = 200' MINIMUM SCALE SHOWING
- 8 EXISTING, INTERIM, AND PROPOSED TOPOGRAPHY, PROPOSED
- 9 IMPROVEMENTS, STANDARD SYMBOLS FOR PROPOSED SEDIMENT
- 10 CONTROL FEATURES, AND PERTINENT DRAINAGE INFORMATION
- 11 INCLUDING PROVISIONS TO PROTECT DOWNSTREAM AREAS FROM
- 12 EROSION FOR A MINIMUM OF TWO HUNDRED FEET DOWNSTREAM OR TO
- 13 THE NEXT CONVEYANCE SYSTEM;
- 14 5. THE LOCATION OF NATURAL RESOURCES, WETLANDS, FLOODPLAINS,
- 15 HIGHLY ERODIBLE SOILS, SLOPES FIFTEEN PERCENT AND STEEPER, AND
- 16 ANY OTHER SENSITIVE AREAS;
- 17 6. A GENERAL DESCRIPTION OF THE PREDOMINANT SOIL TYPES ON THE
- 18 SITE, AS DESCRIBED BY THE APPROPRIATE SOIL SURVEY INFORMATION
- 19 AVAILABLE THROUGH THE LOCAL SOIL CONSERVATION DISTRICT OR THE
- 20 USDA NATURAL RESOURCES SOIL CONSERVATION SERVICE;
- 21 7. PROPOSED STORMWATER MANAGEMENT PRACTICES;
- 22 8. EROSION AND SEDIMENT CONTROL PLANS INCLUDING:
 - 23 A. THE EXISTING TOPOGRAPHY AND IMPROVEMENTS AS WELL AS
 - 24 PROPOSED TOPOGRAPHY AND IMPROVEMENTS AT A SCALE BETWEEN
 - 25 1" = 10' AND 1" = 50' WITH TWO-FOOT CONTOURS OR OTHER APPROVED
 - 26 CONTOUR INTERVAL. FOR PROJECTS WITH MORE THAN MINOR
 - 27 GRADING, INTERIM CONTOURS MAY ALSO BE REQUIRED;
 - 28 B. SCALE, PROJECT AND SHEET TITLE, AND NORTH ARROW ON EACH
 - 29 PLAN SHEET;
 - 30 C. THE LIMIT OF DISTURBANCE (LOD) INCLUDING:
 - 31 I. LIMIT OF GRADING (GRADING UNITS, IF APPLICABLE); AND
 - 32 II. INITIAL, INTERIM, AND FINAL PHASES;
 - 33 D. THE PROPOSED GRADING AND EARTH DISTURBANCE INCLUDING:
 - 34 I. TOTAL DISTURBED AREA;
 - 35 II. VOLUME OF CUT AND FILL QUANTITIES; AND
 - 36 III. VOLUME OF BORROW AND SPOIL QUANTITIES;
 - 37 E. STORM DRAINAGE FEATURES, INCLUDING:
 - 38 I. EXISTING AND PROPOSED BRIDGES, STORM DRAINS, CULVERTS,
 - 39 OUTFALLS, ETC.;
 - 40 II. VELOCITIES AND PEAK FLOW RATES AT OUTFALLS FOR THE TWO-
 - 41 YEAR AND TEN-YEAR FREQUENCY STORM EVENTS; AND
 - 42 III. SITE CONDITIONS AROUND POINTS OF ALL SURFACE WATER
 - 43 DISCHARGE FROM THE SITE;

- 1 IV. DRAINAGE AREA MAP AND, WHERE APPLICABLE, SUBDRAINAGE
- 2 AREA BOUNDARIES, ON A SCALE OF NOT LESS THAN ONE INCH TO
- 3 TWO HUNDRED FEET;
- 4 V. HYDROLOGIC AND HYDRAULIC STUDIES, AS REQUIRED BY THE
- 5 DEPARTMENT; AND
- 6 VI. REQUIREMENTS AS STATED IN CHAPTER 19.50, STORMWATER
- 7 MANAGEMENT, OF THE CITY CODE;
- 8 F. EROSION AND SEDIMENT CONTROL PRACTICES TO MINIMIZE ON-SITE
- 9 EROSION AND PREVENT OFF-SITE SEDIMENTATION INCLUDING:
- 10 I. THE SALVAGE AND REUSE OF TOPSOIL;
- 11 II. PHASED CONSTRUCTION AND IMPLEMENTATION OF GRADING
- 12 UNIT(S) TO MINIMIZE DISTURBANCES, BOTH IN EXTENT AND
- 13 DURATION;
- 14 III. LOCATION AND TYPE OF ALL PROPOSED SEDIMENT CONTROL
- 15 PRACTICES;
- 16 IV. DESIGN DETAILS AND DATA FOR ALL EROSION AND SEDIMENT
- 17 CONTROL PRACTICES; AND
- 18 V. SPECIFICATIONS FOR TEMPORARY AND PERMANENT
- 19 STABILIZATION MEASURES INCLUDING, AT A MINIMUM:
- 20 (A) THE "STANDARD STABILIZATION NOTE" ON THE PLAN
- 21 STATING: "FOLLOWING INITIAL SOIL DISTURBANCE OR RE-
- 22 DISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION
- 23 MUST BE COMPLETED WITHIN:
- 24 (I) THREE CALENDAR DAYS AS TO THE SURFACE OF ALL
- 25 PERIMETER DIKES, SWALES, DITCHES, PERIMETER SLOPES,
- 26 AND ALL SLOPES STEEPER THAN 3 HORIZONTAL TO 1
- 27 VERTICAL (3:1); AND
- 28 (II) SEVEN CALENDAR DAYS AS TO ALL OTHER DISTURBED
- 29 OR GRADED AREAS ON THE PROJECT SITE NOT UNDER
- 30 ACTIVE GRADING."
- 31 (B) DETAILS FOR AREAS REQUIRING ACCELERATED
- 32 STABILIZATION; AND
- 33 (C) MAINTENANCE REQUIREMENTS AS DEFINED IN THE
- 34 STANDARDS AND SPECIFICATIONS;
- 35 (D) THE "VERTICAL STABILIZATION NOTE" ON THE PLAN
- 36 STATING: "BUILDING CONSTRUCTION MAY NOT PROCEED
- 37 PAST THE GROUND FLOOR UNTIL THE FOUNDATION HAS BEEN
- 38 BACKFILLED AND ALL REMAINING DISTURBED AREAS HAVE
- 39 BEEN PERMANENTLY OR TEMPORARILY STABILIZED. ONCE
- 40 THE SITE IS STABILIZED, WITH THE DEPARTMENT'S APPROVAL,
- 41 FRAMING MAY COMMENCE ABOVE THE GROUND FLOOR.
- 42 DURING BUILDING CONSTRUCTION BEYOND THE GROUND
- 43 FLOOR, ALL DISTURBED AREAS MUST BE STABILIZED AT THE
- 44 END OF EACH BUSINESS DAY;"

- 1 G. A SEQUENCE OF CONSTRUCTION DESCRIBING THE RELATIONSHIP
2 BETWEEN THE IMPLEMENTATION AND MAINTENANCE OF CONTROLS,
3 INCLUDING PERMANENT AND TEMPORARY STABILIZATION, AND THE
4 VARIOUS STAGES OR PHASES OF EARTH DISTURBANCE AND
5 CONSTRUCTION. ANY CHANGES OR REVISIONS TO THE SEQUENCE OF
6 CONSTRUCTION MUST BE APPROVED BY THE ANNE ARUNDEL SOIL
7 CONSERVATION DISTRICT OR THE DEPARTMENT PRIOR TO
8 PROCEEDING WITH CONSTRUCTION. THE SEQUENCE OF
9 CONSTRUCTION, AT A MINIMUM, MUST INCLUDE THE FOLLOWING:
10 I. REQUEST FOR A PRE-CONSTRUCTION MEETING WITH THE
11 APPROPRIATE ENFORCEMENT AUTHORITY;
12 II. CLEARING AND GRUBBING AS NECESSARY FOR THE
13 INSTALLATION OF PERIMETER CONTROLS;
14 III. CONSTRUCTION AND STABILIZATION OF PERIMETER CONTROLS;
15 IV. REMAINING CLEARING AND GRUBBING WITHIN INSTALLED
16 PERIMETER CONTROLS;
17 V. ROAD GRADING;
18 VI. GRADING FOR THE REMAINDER OF THE SITE;
19 VII. UTILITY INSTALLATION AND CONNECTION TO EXISTING
20 STRUCTURES;
21 VIII. CONSTRUCTION OF BUILDINGS, ROADS, AND OTHER
22 CONSTRUCTION;
23 IX. FINAL GRADING, LANDSCAPING, AND STABILIZATION;
24 X. INSTALLATION OF STORMWATER MANAGEMENT MEASURES;
25 XI. APPROVAL OF THE SEDIMENT CONTROL INSPECTOR PRIOR TO
26 REMOVAL OF SEDIMENT CONTROLS; AND
27 XII. REMOVAL OF CONTROLS AND STABILIZATION OF AREAS THAT
28 ARE DISTURBED BY REMOVAL OF SEDIMENT CONTROLS;
29 H. A STATEMENT REQUIRING THE OWNER/DEVELOPER OR
30 REPRESENTATIVE TO CONTACT THE DEPARTMENT AT THE
31 FOLLOWING STAGES OF THE PROJECT OR IN ACCORDANCE WITH THE
32 APPROVED EROSION AND SEDIMENT CONTROL PLAN, GRADING
33 PERMIT, OR BUILDING PERMIT:
34 I. FORTY-EIGHT HOURS PRIOR TO THE START OF EARTH
35 DISTURBANCE;
36 II. UPON COMPLETION OF THE INSTALLATION OF PERIMETER
37 EROSION AND SEDIMENT CONTROLS, BUT BEFORE PROCEEDING
38 WITH ANY OTHER EARTH DISTURBANCE OR GRADING;
39 III. PRIOR TO THE START OF ANOTHER PHASE OF CONSTRUCTION OR
40 OPENING OF ANOTHER GRADING UNIT; AND
41 IV. PRIOR TO THE REMOVAL OF SEDIMENT CONTROL PRACTICES;
42 I. REQUIREMENTS AS STATED IN CHAPTER 19.60, FLOODPLAIN
43 MANAGEMENT, OF THE CITY CODE;
44 J. REQUIREMENTS AS STATED IN CHAPTER 19.20, TREES IN
45 DEVELOPMENT AREAS, OF THE CITY CODE;

- 1 K. AN ENGINEER'S CERTIFICATION WHERE DETERMINED TO BE
2 NECESSARY BY THE DEPARTMENT;
- 3 L. SUPPLEMENTAL REPORTS, DATA OR ADDITIONAL INFORMATION AS
4 THE DEPARTMENT MAY REQUIRE TO THE ADEQUACY OF THE
5 PROPOSED PLAN. THIS INFORMATION MAY INCLUDE, BUT IS NOT
6 LIMITED TO:
7 I. A RECORD OF FIELD OBSERVATIONS;
8 II. FIELD OR LABORATORY TEST DATA;
9 III. AN OUTFALL SURVEY THAT DOCUMENTS THE PRE-
10 CONSTRUCTION AND POST-CONSTRUCTION CONDITIONS OF THE
11 DEVELOPMENT SITE'S DRAINAGE AREA OUTFALL, AND WHICH
12 MAY INCLUDE A TOPOGRAPHICAL OR BATHYMETRIC SURVEY,
13 VEGETATION DESCRIPTION, PHOTOGRAPHIC OR VIDEO
14 DOCUMENTATION, AND SOIL SURVEY. MONITORING DEVICES MAY
15 BE REQUIRED;
- 16 M. THE DEPARTMENT MAY WAIVE THE FILING OF PARTICULAR
17 INFORMATION WHEREVER IN ITS JUDGMENT THE INFORMATION WILL
18 SERVE NO USEFUL PURPOSE FOR THE PARTICULAR PROJECT AND THE
19 WAIVER DOES NOT CONTRAVENE THE PURPOSES OF THIS TITLE;
- 20 N. CERTIFICATION BY THE OWNER/DEVELOPER THAT ANY CLEARING,
21 GRADING, CONSTRUCTION, OR DEVELOPMENT WILL BE DONE
22 PURSUANT TO THE APPROVED EROSION AND SEDIMENT CONTROL
23 PLAN. THE CERTIFICATION MUST ALSO REQUIRE THAT THE
24 RESPONSIBLE PERSONNEL INVOLVED IN THE CONSTRUCTION
25 PROJECT HAVE A CERTIFICATE OF TRAINING AT A MARYLAND
26 DEPARTMENT OF THE ENVIRONMENT (MDE) APPROVED TRAINING
27 PROGRAM FOR THE CONTROL OF EROSION AND SEDIMENT PRIOR TO
28 BEGINNING THE PROJECT. THE CERTIFICATE OF TRAINING FOR
29 RESPONSIBLE PERSONNEL MAY BE WAIVED BY THE ANNE ARUNDEL
30 SOIL CONSERVATION DISTRICT ON ANY PROJECT INVOLVING FOUR OR
31 FEWER RESIDENTIAL LOTS. ADDITIONALLY, THE OWNER/DEVELOPER
32 SHALL ALLOW RIGHT OF ENTRY FOR PERIODIC ON-SITE EVALUATION
33 BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT, THE
34 DEPARTMENT, AND/OR MDE;
- 35 O. CERTIFICATION BY A PROFESSIONAL ENGINEER, LAND SURVEYOR,
36 LANDSCAPE ARCHITECT, ARCHITECT, OR FORESTER (FOR FOREST
37 HARVEST OPERATIONS ONLY) REGISTERED IN THE STATE THAT THE
38 PLANS HAVE BEEN DESIGNED IN ACCORDANCE WITH EROSION AND
39 SEDIMENT CONTROL LAWS, REGULATIONS, AND STANDARDS, IF
40 REQUIRED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT,
41 THE DEPARTMENT, OR THE MARYLAND DEPARTMENT OF THE
42 ENVIRONMENT;
- 43 P. ANY ADDITIONAL INFORMATION OR DATA DEEMED APPROPRIATE BY
44 THE DEPARTMENT.
45

1 **19.40.065 - REVIEW AND APPROVAL OF EROSION AND SEDIMENT CONTROL**
2 **PLANS.**

3 A. A PERSON MAY NOT GRADE LAND WITHOUT AN EROSION AND SEDIMENT
4 CONTROL PLAN APPROVED BY THE ANNE ARUNDEL SOIL CONSERVATION
5 DISTRICT AND THE DEPARTMENT.

6 B. THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT AND THE
7 DEPARTMENT SHALL REVIEW EROSION AND SEDIMENT CONTROL PLANS TO
8 DETERMINE COMPLIANCE WITH THIS CHAPTER AND THE STANDARDS AND
9 SPECIFICATIONS PRIOR TO APPROVAL. IN APPROVING THE PLAN, THE ANNE
10 ARUNDEL SOIL CONSERVATION DISTRICT AND THE DEPARTMENT MAY
11 IMPOSE SUCH CONDITIONS THAT MAY BE DEEMED NECESSARY TO ENSURE
12 COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER, COMAR 26.17.01, THE
13 STANDARDS AND SPECIFICATIONS, AND THE PRESERVATION OF PUBLIC
14 HEALTH AND SAFETY.

15 C. THE REVIEW AND APPROVAL PROCESS SHALL BE IN ACCORDANCE WITH
16 THE COMPREHENSIVE AND INTEGRATED PLAN APPROVAL PROCESS
17 DESCRIBED IN THE STANDARDS AND SPECIFICATIONS, CHAPTER 19.50 OF THE
18 CITY CODE.

19 D. AT A MINIMUM, A CONCEPT PLAN MUST INCLUDE THE MAPPING OF
20 NATURAL RESOURCES AND SENSITIVE AREAS INCLUDING HIGHLY ERODIBLE
21 SOILS AND SLOPES GREATER THAN FIFTEEN PERCENT, WATER RESOURCES,
22 AS WELL AS INFORMATION REQUIRED UNDER CHAPTER 19.50 OF THE CITY
23 CODE, OR ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT. THESE
24 AREAS ARE TO REMAIN UNDISTURBED OR AN EXPLANATION MUST BE
25 INCLUDED WITH EITHER THE CONCEPT OR SITE DEVELOPMENT PLAN
26 DESCRIBING ENHANCED PROTECTION STRATEGIES FOR THESE AREAS
27 DURING CONSTRUCTION.

28 E. A SITE DEVELOPMENT PLAN SUBMITTAL MUST INCLUDE ALL CONCEPT
29 PLAN INFORMATION AND INDICATE HOW PROPOSED EROSION AND SEDIMENT
30 CONTROL PRACTICES WILL BE INTEGRATED WITH PROPOSED STORMWATER
31 MANAGEMENT PRACTICES. THE LATTER IS TO BE DONE THROUGH A
32 NARRATIVE AND AN OVERLAY PLAN SHOWING BOTH ESD AND EROSION AND
33 SEDIMENT CONTROL PRACTICES. AN INITIAL SEQUENCE OF CONSTRUCTION
34 AND PROPOSED PROJECT PHASING TO ACHIEVE THE GRADING UNIT
35 RESTRICTION SHALL BE SUBMITTED AT THIS TIME.

36 F. AN APPLICANT SHALL SUBMIT A FINAL EROSION AND SEDIMENT
37 CONTROL PLAN TO THE DEPARTMENT FOR REVIEW AND APPROVAL. THE
38 PLAN MUST INCLUDE ALL OF THE INFORMATION REQUIRED BY THE CONCEPT
39 AND SITE DEVELOPMENT PLANS AS WELL AS ANY INFORMATION IN SECTION
40 19.40.060 OF THE CITY CODE NOT ALREADY SUBMITTED, AND ANY OTHER
41 INFORMATION REQUIRED BY THE DEPARTMENT.

42 G. A FINAL EROSION AND SEDIMENT CONTROL PLAN SHALL NOT BE
43 CONSIDERED APPROVED WITHOUT THE INCLUSION OF THE SIGNATURE AND
44 DATE OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT ON THE PLAN.

1 H. APPROVED PLANS REMAIN VALID FOR TWO YEARS FROM THE DATE OF
2 APPROVAL UNLESS EXTENDED OR RENEWED BY THE ANNE ARUNDEL SOIL
3 CONSERVATION DISTRICT AND THE DEPARTMENT.

4 I. GRANDFATHERING OF APPROVED SEDIMENT AND EROSION CONTROL
5 PLANS:

6 1. ANY PLANS THAT RECEIVE FINAL APPROVAL AFTER JANUARY 9, 2013
7 MUST BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS ORDINANCE
8 AND THE STANDARDS AND SPECIFICATIONS.

9 2. A PLAN THAT RECEIVES FINAL APPROVAL BY JANUARY 9, 2013 MAY BE
10 REAPPROVED UNDER ITS EXISTING CONDITIONS IF GRADING ACTIVITIES
11 HAVE BEGUN ON THE SITE BY JANUARY 9, 2015, WITH THE EXCEPTION OF
12 STABILIZATION REQUIREMENTS.

13 3. STABILIZATION PRACTICES ON ALL SITES MUST BE IN COMPLIANCE WITH
14 THE REQUIREMENTS OF THIS CHAPTER AND THE STANDARDS AND
15 SPECIFICATIONS BY JANUARY 9, 2013 REGARDLESS OF WHEN AN
16 APPROVED EROSION AND SEDIMENT CONTROL PLAN WAS APPROVED.
17

18 **19.40.070 - PERMIT—APPROVALS.**

19 NO GRADING PERMIT SHALL BE ISSUED UNLESS:

20 A. THE DEPARTMENT HAS REVIEWED AND APPROVED ALL SITE PLANS AND
21 SPECIFICATIONS, AND VERIFIED THE ESTIMATED COSTS; AND

22 B. AN EROSION AND SEDIMENT CONTROL PLAN HAS BEEN APPROVED BY
23 THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT. THE APPROVED
24 PLAN SHALL INCLUDE THE SIGNATURE AND DATE OF APPROVAL BY THE
25 APPROVAL AGENCY; AND

26 C. ALL PLANS HAVE RECEIVED WRITTEN APPROVAL BY THE APPROPRIATE
27 STATE AND FEDERAL AGENCIES, WHERE APPLICABLE; AND

28 D. SPECIAL EXCEPTION OR SUBDIVISION APPROVAL, AS APPROPRIATE, HAS
29 BEEN OBTAINED FOR LAND DEVELOPMENT PROJECTS; AND

30 E. FOR A USE WHICH IS DESIGNATED UNDER TITLE 21 AS A PERMITTED USE
31 SUBJECT TO STANDARDS, THE PROJECT FIRST HAS BEEN APPROVED BY
32 THE DEPARTMENT OF PLANNING AND ZONING IN ACCORDANCE WITH
33 CHAPTER 21.64 OF THE CODE; AND

34 F. ALL OTHER PROVISIONS WITHIN THE CODE HAVE BEEN SATISFIED, AS
35 REQUIRED. THE DEPARTMENT MAY IMPOSE SUCH CONDITIONS AS MAY BE
36 DETERMINED TO BE NECESSARY TO ENSURE COMPLIANCE WITH THE
37 PROVISIONS OF THIS TITLE, THE STATE SEDIMENT CONTROL
38 REGULATIONS, COMAR 26.17.01, THE STANDARDS AND SPECIFICATIONS,
39 OR FOR THE PRESERVATION OF PUBLIC HEALTH AND SAFETY.
40

41 **19.40.080 - GRADING PERMIT—FEES—REINSPECTION.**

42 A. THE FEE FOR A GRADING PERMIT SHALL BE BASED UPON THE ESTIMATED
43 COST OF SITE WORK PROPOSED, AND INCLUDES THE COST OF MATERIALS
44 AND LABOR FOR INSTALLATION AND CONSTRUCTION OF SUCH ITEMS AS
45 EARTHMOVING, SEDIMENT CONTROL MEASURES, STORM DRAINAGE

1 SYSTEMS AND STORMWATER MANAGEMENT FACILITIES, AND ROADWAYS.
2 ESTIMATED COSTS AND QUANTITIES SHALL BE SUBMITTED TO THE
3 DEPARTMENT. THE FEE SHALL BE ESTABLISHED BY RESOLUTION OF THE CITY
4 COUNCIL.

5 1. THE APPLICATION FEE WILL NOT BE REFUNDABLE FOR ANY REASON
6 EXCEPT IF THE PERMIT APPLICATION HAS BEEN DENIED. THE
7 APPLICATION FEE WILL BE APPLIED TO THE FINAL COST OF THE GRADING
8 PERMIT AT THE TIME OF ISSUANCE PER THE PROCEDURES AS
9 ESTABLISHED BY THE DEPARTMENT.

10 B. REINSPECTION FEE. A FEE AS ESTABLISHED BY RESOLUTION OF THE CITY
11 COUNCIL MUST BE PAID BEFORE ANOTHER INSPECTION IS MADE IF, FOR THE
12 ORIGINAL INSPECTION, ONE OR MORE OF THE FOLLOWING OCCURRED:

- 13 1. REQUESTING PARTY CALLED FOR INSPECTION, BUT WORK WAS NOT
14 READY;
15 2. REQUESTING PARTY WAS NOT ON SITE;
16 3. BUILDING WAS LOCKED;
17 4. SAFETY FEATURES NOT ON SITE;
18 5. APPROVED DRAWINGS NOT ON SITE;
19 6. PERMIT NOT POSTED ON SITE.
20

21 **19.40.090 - BONDING—PURPOSE.**

22 THE PURPOSE OF THE BOND IS TO GUARANTEE AND INSURE, IN THE EVENT OF
23 FAILURE, THAT ALL WORK AUTHORIZED BY THE PERMIT WILL BE COMPLETED
24 SATISFACTORILY, AND THAT THE SITE WILL BE RESTORED TO A CONDITION
25 MEETING THE MINIMUM REQUIREMENTS OF THIS CHAPTER.
26

27 **19.40.092 - BONDING—REQUIRED.**

28 A. A PERFORMANCE BOND SHALL BE A PREREQUISITE TO OBTAINING A
29 GRADING PERMIT WHEN:

- 30 1. GREATER THAN FIVE THOUSAND SQUARE FEET IS DISTURBED; OR
31 2. MORE THAN ONE HUNDRED CUBIC YARDS ARE GRADED; OR
32 3. ANY PUBLIC FACILITY OR STORMWATER MANAGEMENT FACILITY IS
33 PROPOSED.

34 B. THE BOND AMOUNT SHALL BE BASED UPON THE TOTAL ESTIMATED COST
35 OF LABOR AND MATERIALS FOR CONSTRUCTION AND INSTALLATION OF:

- 36 1. EARTHMOVING;
37 2. EROSION AND SEDIMENT CONTROL MEASURES;
38 3. VEGETATIVE STABILIZATION;
39 4. STORMWATER MANAGEMENT SYSTEMS AND FACILITIES;
40 5. PUBLIC SANITARY SEWERS AND WATER MAINS;
41 6. ROADWAYS AND ROADWAY IMPROVEMENTS; AND
42 7. ANY OTHER PUBLIC IMPROVEMENTS.

43 C. A MAINTENANCE BOND SHALL BE REQUIRED UPON SATISFACTORY
44 COMPLETION OF ALL REQUIREMENTS SET FORTH IN THE GRADING PERMIT.
45 THE MAINTENANCE BOND SHALL REPRESENT A MINIMUM OF TEN PERCENT

1 OF THE PERFORMANCE BOND AND IS IN EFFECT FOR A MINIMUM OF ONE
2 YEAR. THE DIRECTOR OR HIS OR HER DESIGNEE MAY MAKE ADJUSTMENTS
3 BASED ON CURRENT ESTIMATES OR SITE CONDITIONS.

4 D. BONDING ESTIMATES SHALL BE CERTIFIED BY A REGISTERED ENGINEER
5 OR LAND SURVEYOR.

6 E. BEFORE ACCEPTANCE, ALL BONDS SHALL BE APPROVED BY THE
7 DIRECTOR OR HIS OR HER DESIGNEE AND THE CITY ATTORNEY.

8 F. IN LIEU OF A BOND, A CASH DEPOSIT, CERTIFIED CHECK OR AN
9 IRREVOCABLE LETTER OF CREDIT FROM A LOCAL BANK OR OTHER
10 ACCREDITED INSTITUTION IN LIKE AMOUNT, MAY BE FILED WITH THE
11 DEPARTMENT SUBJECT TO THE SAME TERMS AND CONDITIONS AS
12 APPLICABLE TO A PERFORMANCE BOND. ALL BONDS AND LETTERS OF CREDIT
13 SHALL BE SUBMITTED IN CITY FORMAT.

14 G. IF A CORPORATION BOND IS OFFERED, IT SHALL BE EXECUTED BY A
15 SURETY OR GUARANTY COMPANY QUALIFIED TO TRANSACT BUSINESS IN
16 THE STATE, AND IF A CASH BOND IS OFFERED, IT IS TO BE DEPOSITED WITH
17 THE DIRECTOR OF FINANCE, WHO SHALL GIVE AN OFFICIAL RECEIPT
18 STIPULATING THAT THE CASH HAS BEEN DEPOSITED IN COMPLIANCE WITH,
19 AND SUBJECT TO, THE PROVISIONS OF THIS SECTION.

20 H. IF ALL WORK OF THE PERMIT IS NOT COMPLETED WITHIN THE TIME
21 SPECIFIED IN SECTION 19.40.140, OR IF ANY PORTION OF THE WORK VIOLATES ANY
22 OTHER TERMS OR CONDITIONS, THE CASH DEPOSIT SHALL BE FORFEITED, OR IF A
23 BOND OR LETTER OF CREDIT HAS BEEN POSTED, PAYMENT IN FULL TO THE CITY
24 WILL BE ORDERED. THE FUNDS SO RECEIVED SHALL BE USED BY THE CITY FOR
25 DEFRAYING THE COST OF CONTRACTING, INCLUDING ENGINEERING AND
26 ADMINISTRATION, FOR THE RESTORATION OF THE SITE TO MEET THE MINIMUM
27 REQUIREMENTS OF THIS CHAPTER, WITH PARTICULAR EMPHASIS ON
28 STABILIZATION, SAFETY, DRAINAGE AND EROSION CONTROL. IF THOSE COSTS
29 EXCEED THAT AMOUNT OF DEPOSIT OR BOND OR LETTER OF CREDIT, THE EXCESS
30 CONSTITUTES A LIEN ON THE PROPERTY, AND THE PERMITTEE CONTINUES TO BE
31 BOUND FIRMLY UNDER A CONTINUING OBLIGATION FOR PAYMENT OF ANY AND
32 ALL COSTS AND EXPENSES OF ANY NATURE INCURRED BY THE CITY. ANY
33 UNUSED PORTION OF MONEYS FORFEITED SHALL BE RETURNED. NO MONEY
34 SHALL BE RETURNED TO ANY SURETY OR GUARANTY COMPANY IF SUCH FUNDS
35 WERE ACQUIRED, OBTAINED OR PAID PURSUANT TO A COURT ORDER OR
36 JUDGMENT.

37
38 **19.40.100 - PERMIT—BOND PROVISIONS.**

39 THE BOND OR LETTER OF CREDIT SHALL INCLUDE THE FOLLOWING
40 PROVISIONS:

41 A. THE APPLICANT SHALL COMPLY WITH SECTION 19.20.092, THIS SECTION
42 AND ALL OTHER APPLICABLE LAWS AND ORDINANCES.

43 B. THE APPLICANT SHALL COMPLY WITH ALL OF THE TERMS AND
44 CONDITIONS OF THE GRADING PERMIT.

- 1 C. ANY EXTENSION OF COMPLETION TIME PURSUANT TO THE PROVISIONS
2 OF SECTION 19.40.140 SHALL NOT RELEASE THE APPLICANT.
- 3 D. UPON DEFAULT, THE APPLICANT SHALL CONTINUE TO BE BOUND FIRMLY
4 UNDER A CONTINUING OBLIGATION FOR PAYMENT OF ONE OF THE
5 FOLLOWING, AT THE ELECTION OF THE SURETY:
- 6 1. ALL COSTS AND EXPENSES NECESSARY TO COMPLETE THE WORK IN
7 ACCORDANCE WITH THE APPROVED PLANS AND SPECIFICATIONS OR
8 ANY APPROVED MODIFICATION TO THE APPROVED PLANS OR
9 SPECIFICATIONS; OR
- 10 2. ALL NECESSARY COSTS AND EXPENSES OR LIABILITIES WHICH MAY
11 BE INCURRED TO STABILIZE IN ACCORDANCE WITH THE
12 STABILIZATION PLAN FOR EROSION CONTROL PRESENTED BY THE
13 APPLICANT TO AND APPROVED BY THE CITY; OR
- 14 3. PAYMENT TO THE CITY IN CASH OR BY CERTIFIED CHECK IN A
15 SUFFICIENT AMOUNT TO EQUAL THE COST OF PERFORMING THE
16 NECESSARY WORK. IF THE COST FOR RESTORATION OF A SITE TO
17 MEET THE MINIMUM REQUIREMENTS OF THIS SECTION (WITH
18 PARTICULAR EMPHASIS ON STABILITY, SAFETY, DRAINAGE AND
19 EROSION CONTROL) EXCEEDS THE AMOUNT OF THE CASH OR
20 CERTIFIED CHECK, THE PERMITTEE SHALL CONTINUE TO BE BOUND
21 UNDER A CONTINUING OBLIGATION FOR PAYMENT OF ALL EXCESS
22 COSTS AND EXPENSES INCURRED BY THE CITY.
- 23 E. THE SECURITY SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL A
24 CERTIFICATE OF COMPLETION HAS BEEN ISSUED BY THE DEPARTMENT
25 CERTIFYING THAT THE WORK HAS BEEN PERFORMED IN ACCORDANCE WITH
26 THE PLANS AND SPECIFICATIONS, OR CERTIFYING THAT THE PERMIT HAS
27 BEEN UNUSED; PROVIDED, HOWEVER, THAT THE DIRECTOR MAY INCREASE
28 OR REDUCE SECURITY BASED ON CURRENT ESTIMATES OR SITE CONDITIONS.
29 UPON ISSUANCE OF THIS CERTIFICATE, ANY UNUSED PORTION OF ANY CASH
30 OR CERTIFIED CHECK SHALL BE RETURNED TO THE APPLICANT, AND THE
31 APPLICANT AND HIS/HER SURETY SHALL BE RELEASED FROM ALL FURTHER
32 OBLIGATIONS UNDER THIS SECTION (PROVIDED DEFAULT HAS NOT
33 OCCURRED). THE CERTIFICATE OF COMPLETION SHALL BE ISSUED WITHIN
34 SIXTY-DAYS FROM THE DATE THE DEPARTMENT RECEIVES WRITTEN NOTICE
35 OF COMPLETION, PROVIDED THAT DURING THE SIXTY-DAY PERIOD, THE
36 DEPARTMENT INSPECTS THE WORK PERFORMED AND IS SATISFIED THAT THE
37 PERMITTEE HAS COMPLIED WITH THE PROVISIONS OF THIS SECTION.

38
39 **19.40.110 - PERMIT—DENIAL.**

- 40 A. NO PERMIT AUTHORIZING GRADING SHALL BE ISSUED BY THE DIRECTOR
41 IF IT IS FOUND THAT THE WORK PROPOSED BY THE APPLICANT IS LIKELY TO
42 ENDANGER ANY PROPERTY OR PUBLIC WAY, TO POLLUTE ANY WATER, OR TO
43 DAMAGE WETLANDS OR MARINE HABITAT. FACTORS TO BE CONSIDERED BY
44 THE DIRECTOR INCLUDE, BUT ARE NOT LIMITED TO, POSSIBLE SATURATION
45 BY RAINS, EARTH MOVEMENT, SURFACE WATER RUNOFF, SOIL EROSION,

1 SEDIMENTATION, SILTATION AND SUBSURFACE CONDITIONS SUCH AS THE
2 STRATIFICATION AND FAULTING OF ROCK, AND THE NATURE AND TYPE OF
3 SOIL AND ROCK.

4 B. FAILURE OF THE DIRECTOR OR HIS OR HER DESIGNEE TO OBSERVE OR
5 RECOGNIZE HAZARDOUS CONDITIONS OR FAILURE TO DENY THE GRADING
6 PERMIT SHALL NOT RELIEVE THE OWNER OR THE OWNER'S AGENT FROM
7 RESPONSIBILITY FOR THE CONDITIONS OR DAMAGES RESULTING FROM THE
8 FAILURES, AND SHALL NOT RESULT IN THE CITY OR ITS OFFICERS OR AGENTS
9 BEING RESPONSIBLE FOR THE DAMAGES RESULTING FROM THE FAILURES.

10 C. NO PERMITS SHALL BE ISSUED TO ANY APPLICANT WHO HAS
11 OUTSTANDING PERMIT OR CODE VIOLATIONS ON OTHER PROJECTS AND
12 ACTIVITIES WITHIN THE CITY UNTIL THOSE VIOLATIONS HAVE BEEN
13 RESOLVED SATISFACTORILY AS DETERMINED BY THE DIRECTOR OR HIS OR
14 HER DESIGNEE.

15
16 **19.40.120 - PERMIT—SUSPENSION OR REVOCATION.**

17 THE DIRECTOR MAY SUSPEND OR REVOKE ANY GRADING OR BUILDING
18 PERMITS AFTER PROVIDING WRITTEN NOTIFICATION TO THE PERMITTEE BASED
19 ON ANY OF THE FOLLOWING REASONS:

- 20 A. ANY VIOLATION(S) OF THE TERMS OR CONDITIONS OF THE APPROVED
21 EROSION AND SEDIMENT CONTROL PLAN OR PERMITS;
22 B. NONCOMPLIANCE WITH VIOLATION NOTICE(S) OR STOP WORK ORDER(S);
23 C. CHANGES IN SITE CHARACTERISTICS UPON WHICH PLAN APPROVAL AND
24 PERMIT ISSUANCE WERE BASED; OR
25 D. ANY VIOLATION(S) OF THIS CHAPTER OR ANY RULES AND REGULATIONS
26 ADOPTED UNDER IT.
27 E. ANY VIOLATION(S) OF THE PROCEDURES SET FORTH IN THE STANDARDS
28 AND SPECIFICATIONS.

29
30 **19.40.130 - PLAN MODIFICATION.**

31 A. THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT MAY REVISE APPROVED
32 PLANS AS NECESSARY. MODIFICATIONS MAY BE REQUESTED BY THE
33 OWNER/DEVELOPER OR DEPARTMENT IN ACCORDANCE WITH THE ANNE
34 ARUNDEL SOIL CONSERVATION DISTRICT'S "MAJOR/MINOR CHANGE LIST FOR
35 APPROVED SEDIMENT AND EROSION CONTROL PLANS." THE DEPARTMENT MAY
36 MAKE MINOR CHANGES TO APPROVED SEDIMENT AND EROSION CONTROL PLANS
37 AS LISTED ON THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT RESOLUTION
38 TITLED, "MAJOR/MINOR CHANGE LIST FOR APPROVED SEDIMENT AND EROSION
39 CONTROL PLANS." MAJOR CHANGES MUST BE APPROVED BY THE ANNE ARUNDEL
40 SOIL CONSERVATION DISTRICT.

41
42 **19.40.140 - EXPIRATION, RENEWAL, DEADLINE EXTENSION AND**
43 **NONTRANSFERABILITY.**

44 A. THE APPLICANT HAS THIRTY CALENDAR DAYS AFTER THE
45 DEPARTMENT'S VERBAL OR WRITTEN NOTIFICATION OF PERMIT APPROVAL

1 TO CLAIM THE APPROVED GRADING PERMIT FOR ISSUANCE, OTHERWISE THE
2 PERMIT WILL BE CONSIDERED VOID.

3 B. A GRADING PERMIT EXPIRES IF NO WORK IS COMMENCED WITHIN
4 NINETY DAYS AFTER ISSUANCE. A ONE-TIME RENEWAL IS PERMITTED WITHIN
5 A PERIOD OF SIX MONTHS AFTER THE DATE OF EXPIRATION IF THE
6 CONDITIONS UNDER WHICH THE PERMIT WAS ISSUED ORIGINALLY HAVE
7 REMAINED UNCHANGED, EXCEPT THAT THE CONSTRUCTION PHASE TIME
8 SCHEDULE MUST BE REVISED. AN APPLICATION FOR PERMIT RENEWAL SHALL
9 BE MADE AT LEAST TWO MONTHS PRIOR TO THE PERMIT EXPIRATION DATE,
10 AND MUST BE RENEWED BY THE DEPARTMENT AND ANNE ARUNDEL SOIL
11 CONSERVATION DISTRICT. A PERMIT MAY NOT BE RENEWED MORE THAN
12 ONCE.

13 C. A GRADING PERMIT AND THE APPROVED EROSION AND SEDIMENT
14 CONTROL PLAN SHALL BE VALID FOR TWO YEARS FROM THE DATE OF
15 ISSUANCE, UNLESS A SHORTER TIME PERIOD IS DESIGNATED BY THE
16 DIRECTOR OR DESIGNEE.

17 D. IF THE APPLICANT IS UNABLE TO COMPLETE THE WORK WITHIN THE TIME
18 SPECIFIED IN THE APPROVED APPLICATION, THE APPLICANT SHALL PRESENT
19 A WRITTEN REQUEST FOR EXTENSION TO THE DIRECTOR OR DESIGNEE
20 WITHIN THIRTY DAYS BEFORE THE EXPIRATION OF THE PERMIT. THE
21 EXTENSION REQUEST SHALL SET FORTH THE REASONS FOR THE EXTENSION.
22 WHERE, IN THE SOLE DISCRETION OF THE DIRECTOR OR DESIGNEE, THE
23 EXTENSION IS WARRANTED, THE DIRECTOR MAY ALLOW ADDITIONAL TIME
24 AS MAY BE NECESSARY TO COMPLETE THE APPROVED WORK.

25 E. NO PERMIT ISSUED UNDER THIS TITLE IS TRANSFERABLE WITHOUT THE
26 CONCURRENCE OF THE DIRECTOR OR DESIGNEE. A WRITTEN REQUEST FOR
27 THE TRANSFER SHALL BE SUBMITTED BY THE ORIGINAL APPLICANT AND THE
28 TRANSFEREE SHALL ACKNOWLEDGE ACCEPTANCE OF THE CONDITIONS
29 UNDER WHICH THE ORIGINAL PERMIT WAS ISSUED.

30
31 **19.40.150 - FLOODPLAIN.**

32 GRADING WITHIN THE NONTIDAL ONE HUNDRED-YEAR FLOODPLAIN WITHIN
33 OPEN DRAINAGE WAYS SHALL NOT BE PERMITTED, EXCEPT AT THE DISCRETION
34 OF THE DIRECTOR AND ONLY AFTER APPROVAL BY THE APPROPRIATE STATE
35 AND FEDERAL AGENCIES. GRADING WITHIN THE TIDAL ONE HUNDRED-YEAR
36 FLOODPLAIN SHALL COMPLY WITH ALL PROVISIONS OF THIS CHAPTER AND
37 CHAPTER 19.60, FLOODPLAIN MANAGEMENT.

38
39 **19.40.160 - EROSION AND SEDIMENT CONTROL—GENERAL REQUIREMENTS.**

40 A. EFFECTIVE CONTROL OF SOIL TO PREVENT EROSION SHALL INCLUDE THE
41 FOLLOWING:

- 42 1. DEVELOPMENT SHALL BE FITTED TO THE TOPOGRAPHY AND SOILS TO
43 CREATE THE LEAST EROSION POTENTIAL.
- 44 2. NATURAL VEGETATION SHALL BE RETAINED WHEREVER POSSIBLE.

- 1 3. THE SMALLEST PRACTICAL AREA OF LAND SHALL BE EXPOSED AT ANY
2 ONE PERIOD DURING DEVELOPMENT FOR THE SHORTEST PRACTICAL
3 PERIOD OF TIME IN ORDER TO REDUCE THE AMOUNT OF LAND AREA AND
4 THE DURATION OF SOIL EXPOSURE.
- 5 4. TEMPORARY VEGETATION OR MULCHING SHALL BE USED TO PROTECT
6 SOILS EXPOSED DURING THE TIME OF DEVELOPMENT.
- 7 5. EROSION-CONTROL PRACTICES CONSISTENT WITH STANDARDS AND
8 SPECIFICATIONS SHALL BE INSTALLED TO MINIMIZE SOIL AND WATER
9 LOSSES.
- 10 6. DURING AND AFTER DEVELOPMENT, PROVISIONS SHALL BE MADE TO
11 ACCOMMODATE IN AN EFFECTIVE MANNER THE INCREASED WATER
12 RUNOFF CAUSED BY CHANGES IN SOIL AND SURFACE CONDITIONS AND
13 TO AVOID SILTATION OF RECEIVING STREAMS.
- 14 7. SATISFACTORY COVER SHALL BE MAINTAINED DURING THE LIFE OF THE
15 PROJECT AND IS SUBJECT TO INSPECTION.
- 16 8. ROADS AND STREETS SHALL BE PLACED AS CLOSE TO THE PRE-EXISTING
17 CONTOUR AS POSSIBLE IN ORDER TO MINIMIZE CUTTING OR FILLING.
- 18 9. ALL GRADED SURFACES, EROSION-CONTROL MEASURES, VEGETATIVE
19 COVERS AND OTHER PROTECTIVE MEASURES DISTURBED OR DESTROYED
20 DURING THE COURSE OF OPERATIONS SHALL BE REPAIRED, RESTORED
21 AND MAINTAINED PROMPTLY IN ACCORDANCE WITH THE APPROVED
22 PLANS AND SPECIFICATIONS UNTIL PERMANENT MEASURES ARE
23 ACCEPTED BY THE DEPARTMENT.
- 24 10. THE OWNER MUST PROVIDE CONTACT INFORMATION FOR A PERSON(S)
25 WHOM IS RESPONSIBLE FOR THE MAINTENANCE OF THE SEDIMENT AND
26 EROSION CONTROL MEASURES, WHOM IS AVAILABLE TWENTY-FOUR
27 HOURS A DAY AND SEVEN DAYS A WEEK, AND WHOM CAN RESPOND
28 IMMEDIATELY TO RESOLVE ANY EMERGENCY OR NECESSARY FIELD
29 CORRECTION. IF SAID PERSON(S) IS UNREACHABLE VIA THE SUBMITTED
30 CONTACT INFORMATION DURING AN EMERGENCY, OR UNABLE TO
31 PERFORM REQUIRED CORRECTIVE ACTIONS, THE OWNER AND/OR
32 CONTRACTOR MAY BE ISSUED A CITATION.
- 33 B. THE DEPARTMENT SHALL INVESTIGATE COMPLAINTS OR ACCEPT
34 COMPLAINTS FROM ANY INTERESTED PARTY AND APPLY THEIR
35 ENFORCEMENT PROCEDURE WHEN VIOLATIONS ARE CONFIRMED. ANY
36 EROSION AND SEDIMENT CONTROL COMPLAINT RECEIVED SHALL BE ACTED
37 UPON, ROUTINELY WITH THREE WORKING DAYS, AND THE COMPLAINANT
38 SHALL BE NOTIFIED OF ANY ACTION OR PROPOSED ACTION ROUTINELY
39 WITHIN SEVEN WORKING DAYS AFTER RECEIPT OF THE COMPLAINT.

40
41 **19.40.180 - PROHIBITED DISCHARGES AND PROHIBITED USE OF COAL TAR**
42 **PAVEMENT PRODUCTS.**

- 43 A. NO DEBRIS, SEDIMENT, WASTEWATER, LANDSCAPING/YARD WASTE,
44 REFUSE, OR OTHER POLLUTANT SHALL BE DEPOSITED IN FLOODPLAINS,
45 WATER RESOURCES, PUBLIC STREETS, HIGHWAYS, SIDEWALKS, STORM

1 DRAINS, OR OTHER PUBLIC THOROUGHFARES PER THIS CHAPTER OF THE CITY
2 CODE, MARYLAND ENVIRONMENT TITLE 4 AS MAY BE AMENDED FROM TIME
3 TO TIME, COMAR 26.08.04, UNLESS OTHERWISE PERMITTED BY THE CITY OF
4 ANNAPOLIS OR THE MARYLAND DEPARTMENT OF THE ENVIRONMENT. SUCH
5 MATERIALS SHALL BE STORED PROPERLY TO MINIMIZE ANY THREAT OF
6 DISCHARGE.

7 B. THE FOLLOWING APPLIES TO ALL PUBLIC AND PRIVATE USES OF COAL
8 TAR:

- 9 1. A PERSON MAY NOT SELL, OFFER FOR SALE, USE, OR PERMIT THE USE OF
10 A COAL TAR PAVEMENT PRODUCT IN THE CITY. A PROPERTY OWNER WHO
11 KNOWINGLY PERMITS THE APPLICATION OF A PRODUCT CONTAINING
12 COAL TAR PAVEMENT PRODUCT ON THEIR PROPERTY SHALL BE IN
13 VIOLATION OF THIS SECTION AND MAY BE CITED, IN ADDITION TO THE
14 APPLICATOR OF THE PRODUCT, PURSUANT TO SUBSECTION (B)(3).
- 15 2. THE DIRECTOR SHALL PUBLISH, UPDATE AS NEEDED, AND MAINTAIN ON
16 ITS WEBSITE, A LIST OF ALTERNATIVE PRODUCTS FOR USE ON ASPHALT
17 AND CONCRETE THAT DO NOT CONTAIN A COAL TAR PAVEMENT
18 PRODUCT.
- 19 3. VIOLATORS OF THIS SECTION SHALL BE REQUIRED TO REMEDIATE THE
20 SURFACE OF THE COAL TAR PAVEMENT PRODUCT. A VIOLATION OF THIS
21 SECTION SHALL BE A MUNICIPAL INFRACTION AND SUBJECT TO A FINE AS
22 ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. EACH DAY THAT A
23 VIOLATION OCCURS SHALL BE CONSIDERED A SEPARATE OFFENSE. THE
24 PENALTIES SET FORTH IN THIS SECTION ARE IN ADDITION TO ANY OTHER
25 REMEDIES AND PENALTIES PROVIDED UNDER FEDERAL, STATE, COUNTY,
26 OR LOCAL LAW.

27
28 **19.40.200 - STATE AND FEDERAL STANDARDS FOR EROSION AND SEDIMENT**
29 **CONTROL.**

30 THE STANDARDS AND SPECIFICATIONS ESTABLISHED BY THE MARYLAND
31 DEPARTMENT OF THE ENVIRONMENT AND ANY OTHER STANDARDS AND
32 PROCEDURES ESTABLISHED BY THE ANNE ARUNDEL SOIL CONSERVATION
33 DISTRICT SUPPLEMENT THIS CHAPTER AND ESTABLISH MINIMUM STANDARDS
34 FOR THE CONTROL OF SOIL EROSION AND SEDIMENT. FAILURE TO COMPLY WITH
35 THESE STANDARDS IS CONSIDERED A VIOLATION OF THIS CHAPTER AND MAY
36 LEAD TO REVOCATION OF A GRADING PERMIT IN ACCORDANCE WITH SECTION
37 19.40.110 OF THE CITY CODE.

38
39 **19.40.210 - DRAINAGE.**

- 40 A. SURFACE WATER RUNOFF SHALL BE DISPOSED OF OR CONVEYED IN
41 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.
- 42 B. DRAINAGE FACILITIES SHALL BE DESIGNED TO PREVENT EROSION,
43 UNCONTROLLED OVERFLOW, AND PONDING WHEN PONDING IS NOT AN
44 INTEGRAL PART OF THE DESIGN AND FUNCTION OF THE DRAINAGE
45 FACILITY. THE WATER SHALL BE CONVEYED TO AN ACCEPTABLE OUTLET

1 IN ACCORDANCE WITH THE DESIGN CRITERIA, STANDARDS AND
2 PROCEDURES REQUIRED BY THE DEPARTMENT. THE PONDING OF WATER IS
3 NOT PERMITTED ABOVE A CUT OR FILL SLOPE. ADEQUATE DRAINAGE
4 FACILITIES SHALL BE PROVIDED TO PREVENT PONDING ABOVE A CUT OR
5 FILL SLOPE.

6 C. SURFACE WATER OR GROUNDWATER MAY NOT DAMAGE THE FACE OF A
7 CUT OR FILL. EACH SLOPE SHALL BE PROTECTED FROM SURFACE WATER
8 RUNOFF BY A BERM OR SWALE. SUITABLE UNDERDRAINS SHALL BE
9 INSTALLED TO INTERCEPT AND CARRY GROUND WATER SEEPAGE TO AN
10 ACCEPTABLE OUTLET.

11 D. EACH AREA SHALL BE GRADED TO PROVIDE FOR POSITIVE DRAINAGE
12 AWAY FROM THE BUILDING AND TOWARD THE APPROVED DISPOSAL AREA.

13 E. THE CONSTRUCTION OF ALL STRUCTURES SHALL BE PRECEDED BY THE
14 INSTALLATION OF STORM DRAINAGE SYSTEMS AND STABILIZATION
15 MEASURES.

16 F. STORMWATER MANAGEMENT DESIGNS SHALL COMPLY WITH CHAPTER
17 19.50, STORMWATER MANAGEMENT, AND CHAPTER 19.60, FLOODPLAIN
18 MANAGEMENT.

19
20 **19.40.220 - INSPECTIONS.**

21 A. THE PERMITTEE SHALL BE RESPONSIBLE FOR MAINTAINING A COPY OF
22 THE APPROVED EROSION AND SEDIMENT CONTROL PLANS, AND OTHER
23 APPROVED SITE PLANS ON SITE.

24 B. THE DIRECTOR OR DESIGNEE MAY MAKE ADDITIONAL INSPECTIONS AS
25 HE OR SHE DETERMINES TO BE APPROPRIATE. NO WORK APPROVED IN
26 ACCORDANCE WITH THIS CHAPTER SHALL PROCEED BEYOND ANY ONE
27 STAGE UNTIL THE DIRECTOR INSPECTS THE SITE AND APPROVES THE WORK
28 PREVIOUSLY COMPLETED. UPON NOTIFICATION FROM THE PERMITTEE THE
29 INSPECTOR SHALL INSPECT THE SITE AND NOTIFY THE PERMITTEE OF
30 APPROVAL OR REJECTION WITHIN FORTY-EIGHT HOURS (EXCLUSIVE OF
31 SATURDAYS, SUNDAYS AND LEGAL HOLIDAYS). IF THE INSPECTOR DOES NOT
32 MAKE AN INSPECTION WITHIN THE SPECIFIED TIME PERIOD, WORK MAY
33 PROCEED. HOWEVER, IT WILL BE WITHOUT PRESUMPTION OF APPROVAL AND
34 AT THE SOLE RISK OF THE PERMITTEE.

35 C. EVERY ACTIVE SITE HAVING AN APPROVED EROSION AND SEDIMENT
36 CONTROL PLAN SHOULD BE INSPECTED FOR COMPLIANCE WITH THE PLAN ON
37 THE AVERAGE OF ONCE EVERY TWO WEEKS.

38 D. A WRITTEN REPORT SHALL BE PREPARED BY THE DEPARTMENT AFTER
39 EVERY INSPECTION. THE REPORT SHALL DESCRIBE:

- 40 1. THE DATE AND LOCATION OF THE SITE INSPECTION;
- 41 2. WHETHER THE APPROVED PLAN HAS BEEN PROPERLY IMPLEMENTED
42 AND MAINTAINED;
- 43 3. PRACTICE DEFICIENCIES OR EROSION AND SEDIMENT CONTROL PLAN
44 DEFICIENCIES;

1 4. IF A VIOLATION EXISTS, THE TYPE OF ENFORCEMENT ACTION TAKEN;
2 AND

3 5. IF APPLICABLE, A DESCRIPTION OF ANY MODIFICATIONS TO THE PLAN.

4 E. THE DIRECTOR SHALL NOTIFY THE ON-SITE PERSONNEL, AND THE
5 OWNER/DEVELOPER IN WRITING, WHEN VIOLATIONS ARE OBSERVED,
6 DESCRIBING:

7 1. THE NATURE OF THE VIOLATION;

8 2. THE REQUIRED CORRECTIVE ACTION; AND

9 3. THE TIME PERIOD IN WHICH TO HAVE THE VIOLATION CORRECTED.

10 F. DEPARTMENT INSPECTION NOTIFICATION IS THE RESPONSIBILITY OF THE
11 PERMITTEE PRIOR TO THE INSTALLATION OF ANY PUBLIC IMPROVEMENTS OR
12 STORMWATER MANAGEMENT FACILITIES.

13 G. IT IS A CONDITION OF EACH GRADING PERMIT THAT THE CITY, ITS
14 AUTHORIZED AGENTS HAVE THE RIGHT OF ENTRY TO THE SITE IN ORDER TO
15 INSPECT PERIODICALLY FOR COMPLIANCE WITH THE APPROVED PLAN AND
16 THIS TITLE.

17 H. IN THE EVENT OF A VALID COMPLAINT CONCERNING EROSION AND
18 SEDIMENT CONTROL, AN INVESTIGATIVE INSPECTION SHALL BE MADE BY
19 THE DEPARTMENT WITHIN THREE DAYS OF THE COMPLAINT. A RESPONSE TO
20 THE COMPLAINT SHALL BE MADE WITHIN SEVEN DAYS OF THE COMPLAINT.

21
22 **19.40.230 - SUPPLEMENTAL TESTING AND INSPECTIONS.**

23 A. WHEN REQUIRED BY THE DIRECTOR OR HIS OR HER DESIGNEE,
24 INSPECTIONS AND TESTING SHALL BE PERFORMED UNDER THE DIRECTION OF
25 A PROFESSIONAL ENGINEER WHO SHALL CERTIFY ALL INSPECTION REPORTS
26 AND TEST RESULTS. THE REPORTS SHALL INCLUDE CERTIFICATION BY AN
27 ENGINEER OF THE ADEQUACY OF:

28 1. CLEARED AREAS AND BENCHED OR KEYED SURFACES PREPARED TO
29 RECEIVE FILLS; AND

30 2. REMOVAL OF UNSUITABLE MATERIALS; AND

31 3. CONSTRUCTION OF EROSION-CONTROL OR DRAINAGE DEVICES,
32 BUTTRESS FILLS, UNDERDRAINS, RETAINING WALLS, AND OTHER
33 GRADING APPURTENANCES; AND

34 4. THE DEGREE OF COMPACTION WHERE TESTS ARE PERFORMED.

35 B. ALL CERTIFIED INSPECTION REPORTS AND CERTIFIED TEST RESULTS
36 SHALL BE SUBMITTED PERIODICALLY TO THE DIRECTOR DURING THE
37 PERFORMANCE OF THE WORK.

38
39 **19.40.240 - EXISTING HAZARDS.**

40 WHENEVER THE DIRECTOR OR HIS OR HER DESIGNEE DETERMINES THAT ANY
41 EXISTING GRADE, EXCAVATION, EMBANKMENT OR FILL ENDANGERS OR
42 ADVERSELY AFFECTS THE SAFETY, USE OR STABILITY OF ANY PUBLIC OR
43 PRIVATE PROPERTY, OR WATER RESOURCE, THE OWNER OF THE PROPERTY UPON
44 WHICH THE CONDITION EXISTS, OR OTHER PERSON OR AGENT IN CONTROL OF
45 THE PROPERTY, UPON RECEIPT OF NOTICE IN WRITING FROM THE DIRECTOR OR

1 HIS OR HER DESIGNEE, WITHIN THE PERIOD SPECIFIED IN THE NOTICE, SHALL
2 REPAIR OR ELIMINATE THE CONDITIONS IN ORDER TO ERADICATE THE HAZARD.

3
4 **19.40.250 - APPEALS.**

- 5 A. A PERSON AGGRIEVED BY AN ORDER FROM THE DIRECTOR OR THE
6 DIRECTOR'S DESIGNEE MADE PURSUANT TO THIS CHAPTER, OTHER THAN
7 THE ISSUANCE OF A MUNICIPAL CITATION OR THE CHARGING OF A
8 MISDEMEANOR, MAY APPEAL TO THE BUILDING BOARD OF APPEALS
9 WITHIN FIFTEEN CALENDAR DAYS OF THE DATE OF THE ORDER. THE
10 PETITION FOR APPEAL SHALL BE IN WRITING STATING THE GROUNDS FOR
11 APPEAL AND SHALL BE FILED WITH THE DEPARTMENT ALONG WITH A
12 NONREFUNDABLE FEE IN AN AMOUNT ESTABLISHED BY THE CITY
13 COUNCIL. ANY RIGHT TO APPEAL SHALL BE WAIVED IF NOT TIMELY FILED.
- 14 B. THE BUILDING BOARD OF APPEALS SHALL CONSIDER THE APPEAL BASED
15 UPON THE INFORMATION PROVIDED TO THE DEPARTMENT AT THE TIME OF
16 THE ORDER FROM WHICH THE APPEAL IS TAKING. IF THE BOARD FINDS
17 THAT THE ORDER WAS IN ERROR OR CONTRARY TO THE PROVISIONS OF
18 THIS CODE OR OTHER APPLICABLE LAW, THE BOARD MAY REVERSE OR
19 MODIFY THE ORDER. THE DECISION OF THE BOARD ON ALL APPEALS SHALL
20 BE IN WRITING AND SHALL CONTAIN THE FACTUAL FINDINGS OF THE
21 BOARD AND THE REASONS FOR THE DECISION.
- 22 C. A PERSON AGGRIEVED BY A DECISION OF THE BUILDING BOARD OF
23 APPEALS MADE PURSUANT TO THIS SECTION MAY APPEAL THAT DECISION
24 TO THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY PURSUANT TO
25 MARYLAND RULE TITLE 7, CHAPTER 200 OR ITS SUCCESSOR. FOR PURPOSES
26 OF THIS SUBSECTION, A PERSON SHALL NOT BE CONSIDERED AGGRIEVED
27 BY A DECISION OF THE BOARD UNLESS THE PERSON HAS APPEARED AS A
28 PARTY AT THE HEARING BEFORE THE BOARD. AN APPEAL UNDER THIS
29 SECTION SHALL BE TAKEN WITHIN THIRTY DAYS OF THE DATE OF THE
30 DECISION APPEALED AND SHALL BE THE EXCLUSIVE REMEDY OF THE
31 AGGRIEVED PARTY FROM THAT DECISION.

32
33 **19.40.260 - ENFORCEMENT AND NONCOMPLIANCE.**

- 34 A. WHENEVER A VIOLATION OF THIS TITLE IS FOUND ON ANY SITE,
35 WHETHER OR NOT A PERMIT HAS BEEN ISSUED, THE DEPARTMENT, OR ITS
36 AUTHORIZED AGENT, SHALL NOTIFY THE ON-SITE PERSONNEL AND THE
37 PERMITTEE OF THE VIOLATION, AND DESCRIBE THE REQUIRED CORRECTIVE
38 ACTION AND THE TIME PERIOD IN WHICH TO HAVE THE VIOLATION
39 CORRECTED.
- 40 B. IF THE VIOLATION PERSISTS AFTER THE DATE SPECIFIED BY THE
41 DEPARTMENT FOR CORRECTIVE ACTION, THEN THE DEPARTMENT SHALL
42 ISSUE A STOP WORK ORDER TO ON-SITE PERSONNEL AND PLACE A STOP WORK
43 ORDER ON THE PROPERTY.
- 44 C. WITHIN SEVEN CALENDAR DAYS AFTER THE STOP WORK ORDER IS
45 ISSUED OR PLACED ON SITE AS DESCRIBED IN THIS SECTION, A COPY OF THE

1 ORDER SHALL BE SENT BY CERTIFIED MAIL TO THE PERMITTEE AND THE
2 OWNER. THE DEPARTMENT SHALL DETERMINE THE EXTENT TO WHICH WORK
3 IS STOPPED, WHICH MAY INCLUDE ALL WORK ON THE SITE EXCEPT THAT
4 WORK NECESSARY TO CORRECT A VIOLATION.

5 D. IF, IN THE JUDGMENT OF THE DEPARTMENT, REMEDIAL ACTION HAS NOT
6 TAKEN PLACE WITHIN THE REQUIRED TIME SPECIFIED IN THE CERTIFIED
7 NOTIFICATION DESCRIBED IN THIS SECTION, THE PERMITTEE AND THE
8 OWNER SHALL BE GUILTY OF A MUNICIPAL INFRACTION AND SHALL BE
9 SUBJECT TO A FINE AS SET BY RESOLUTION OF THE CITY COUNCIL. EACH DAY
10 AFTER THE DEADLINE STATED IN THE CERTIFIED NOTIFICATION SHALL
11 CONSTITUTE A SEPARATE OFFENSE.

12 E. THE CITY SHALL PURSUE VIOLATIONS THAT AFFECT SECURED WORK AS
13 FOLLOWS:

14 1. WHENEVER SECURED WORK DOES NOT COMPLY WITH OR CONFORM TO
15 A PERMIT OR APPROVED PLANS AND SPECIFICATIONS AND IF THE CITY
16 DESIRES TO OBTAIN THE SECURITY POSTED, A WRITTEN NOTICE OF
17 NONCOMPLIANCE SHALL BE SENT BY CERTIFIED MAIL TO THE PERMITTEE
18 AND THE SURETY.

19 2. THE NOTICE SHALL SET FORTH THE NATURE OF THE CORRECTIONS
20 REQUIRED AND THE TIME WITHIN WHICH THE CORRECTIONS SHALL BE
21 MADE. IF THE PERMITTEE DOES NOT ACT ON THE NOTICE WITHIN THE
22 TIME SET FORTH, A STOP-WORK NOTICE SHALL BE POSTED ON THE SITE
23 AND EXCEPT AS PERMITTED BY THE DIRECTOR, NO FURTHER WORK IS
24 PERMITTED ON THE SITE.

25 3. IF THE CORRECTIONS ARE NOT COMMENCED AND PURSUED IN A
26 DILIGENT MANNER WITHIN THE TIME SPECIFIED IN THE NOTICE, THE
27 PERMITTEE IS CONSIDERED TO BE IN DEFAULT OF THE OBLIGATIONS
28 IMPOSED BY THIS TITLE, AND THE CITY MAY TAKE IMMEDIATE ACTION
29 TO OBTAIN THE SECURITY POSTED.

30 F. THE DEPARTMENT MAY SEEK AN INJUNCTION AGAINST ANY PERSON
31 WHO VIOLATES OR THREATENS TO VIOLATE ANY PROVISION OF THIS
32 CHAPTER.

33 G. IN ADDITION TO ANY OTHER SANCTION UNDER THIS CHAPTER, A PERSON
34 WHO FAILS TO INSTALL OR TO MAINTAIN EROSION AND SEDIMENT CONTROLS
35 IN ACCORDANCE WITH AN APPROVED EROSION AND SEDIMENT CONTROL
36 PLAN IS, UNDER SECTION 4-116 OF THE ENVIRONMENT ARTICLE, ANNOTATED
37 CODE OF MARYLAND, GUILTY OF A MISDEMEANOR, AND UPON CONVICTION
38 IN A COURT OF COMPETENT JURISDICTION IS SUBJECT TO A FINE NOT
39 EXCEEDING TEN THOUSAND DOLLARS OR IMPRISONMENT NOT EXCEEDING
40 ONE YEAR OR BOTH FOR EACH VIOLATION WITH COSTS IMPOSED IN THE
41 DISCRETION OF THE COURT. FURTHER, THE CITY MAY BRING A CIVIL ACTION
42 AGAINST A PERSON FOR A VIOLATION OF THIS CHAPTER, IN AN AMOUNT
43 EQUAL TO DOUBLE THE COST OF INSTALLING OR MAINTAINING THE
44 CONTROLS OR OF ANY RESTORATION OF DAMAGE CAUSED TO THE
45 ENVIRONMENT.

1 H. ANY GOVERNING AUTHORITY THAT RECOVERS DAMAGES IN
2 ACCORDANCE WITH THIS SUBSECTION SHALL DEPOSIT THEM IN A SPECIAL
3 FUND, TO BE USED SOLELY FOR:

- 4 1. CORRECTING, TO THE EXTENT POSSIBLE, THE FAILURE TO IMPLEMENT OR
5 MAINTAIN EROSION AND SEDIMENT CONTROLS, AND
- 6 2. ADMINISTRATION OF THE SEDIMENT CONTROL PROGRAM.

7 I. FAILURE TO OBTAIN A PERMIT AS REQUIRED IN THIS CHAPTER SHALL
8 RESULT IN A STOP WORK ORDER UNTIL THE APPROPRIATE PERMITS HAVE
9 BEEN APPROVED. ALL WORK, EXCEPT FOR THE INSTALLATION OF EROSION
10 AND SEDIMENT CONTROL MEASURES NECESSARY TO CONTAIN AND
11 STABILIZE THE SITE, SHALL CEASE IN COMPLIANCE WITH THE STOP WORK
12 ORDER.

13 J. IT SHALL BE THE RESPONSIBILITY OF THE OWNER, CONTRACTOR OR
14 AUTHORIZED AGENT TO MAINTAIN EROSION AND SEDIMENT CONTROLS AT
15 ALL TIMES DURING DEMOLITION, GRADING, CONSTRUCTION AND VACANT
16 LAND AFTER HOURS, WEEKENDS AND HOLIDAYS.

17 K. ANY STEP IN THE ENFORCEMENT PROCESS CAN BE TAKEN AT ANY TIME,
18 DEPENDING ON THE SEVERITY OF THE VIOLATION.

19 L. A PERSON WHO FAILS TO COMPLY WITH ANY OR ALL OF THE
20 REQUIREMENTS OR PROVISIONS OF THIS CHAPTER OR ANY ORDER OR
21 REQUIREMENT OF THE DIRECTOR OR ANY OTHER AUTHORIZED EMPLOYEE OF
22 THE CITY IS GUILTY OF A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE
23 AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL FOR EACH REPEAT
24 OR CONTINUING VIOLATION. EACH DAY AFTER THE EXPIRATION OF THE
25 ALLOWED REMEDIAL WORK PERIOD SHALL CONSTITUTE A SEPARATE
26 OFFENSE. IN ADDITION, NO OTHER INSPECTIONS SHALL BE MADE BY THE
27 DEPARTMENT FOR THE PROJECT IN QUESTION UNTIL REMEDIAL ACTION HAS
28 BEEN SATISFACTORILY COMPLETED AND THE SUBJECT FINE HAS BEEN PAID
29 IN FULL.

30
31 **19.40.270 - EMERGENCIES.**

32 A. WHENEVER, IN THE JUDGMENT OF THE DIRECTOR OR HIS OR HER
33 DESIGNEE, AN EMERGENCY EXISTS WHICH REQUIRES IMMEDIATE ACTION TO
34 PROTECT THE PUBLIC HEALTH, SAFETY, PROPERTY OR GENERAL WELFARE,
35 AN ORDER MAY BE ISSUED WITHOUT NOTICE, CONFERENCE OR HEARING,
36 DIRECTING THE OWNER, OCCUPANT, OPERATOR OR AGENT TO TAKE THAT
37 ACTION APPROPRIATE OR NECESSARY TO CORRECT OR ABATE THE
38 EMERGENCY. IF CIRCUMSTANCES WARRANT, THE DIRECTOR OR HIS OR HER
39 DESIGNEE MAY ACT TO CORRECT OR ABATE THE EMERGENCY.

40 B. THE OWNER, OCCUPANT, OPERATOR OR AGENT SHALL BE GRANTED A
41 CONFERENCE ON THE MATTER UPON HIS OR HER REQUEST AS SOON AS
42 PRACTICABLE, BUT THE CONFERENCE SHALL NOT STAY THE ABATEMENT OR
43 CORRECTION OF THE EMERGENCY.

44
45 **19.40.280 - RECORDS AND AS-BUILT DRAWINGS.**

1 UPON COMPLETION OF WORK FOR WHICH A GRADING PERMIT WAS ISSUED,
2 THE DEPARTMENT SHALL REQUIRE THE FOLLOWING:

- 3 A. AS-BUILT DRAWINGS;
4 B. CERTIFICATION BY THE OWNER OR THE PERMITTEE, OR, UPON REQUEST
5 BY THE DIRECTOR, BY A REGISTERED PROFESSIONAL, ON THE AS-BUILT
6 DRAWINGS THAT GRADING, DRAINAGE STRUCTURES, UTILITIES,
7 ROADWAYS, SYSTEMS AND EROSION AND SEDIMENT CONTROL
8 PRACTICES, INCLUDING FACILITIES AND VEGETATIVE MEASURES, HAVE
9 BEEN COMPLETED IN CONFORMANCE WITH THE APPROVED PLANS AND
10 SPECIFICATIONS; AND
11 C. UPON REQUEST OF THE DIRECTOR OR HIS OR HER DESIGNEE, A REPORT
12 SUMMARIZING THE INSPECTION REPORTS, FIELD AND LABORATORY
13 TESTS, AND LOCATIONS OF TEST AND FIELD OBSERVATIONS.
14 D. SURETY WILL NOT BE RELEASED UNTIL THE AS-BUILT DRAWINGS HAVE
15 BEEN REVIEWED AND APPROVED BY THE CITY.
16

17 **19.40.290 - SEVERABILITY.**

18 IF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE OR PHRASE OF
19 THIS TITLE IS HELD INVALID OR UNCONSTITUTIONAL FOR ANY REASON BY ANY
20 COURT OF COMPETENT JURISDICTION, THAT PORTION SHALL BE CONSIDERED TO
21 BE A SEPARATE, DISTINCT AND INDEPENDENT PROVISION AND THE HOLDING
22 SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTION OF THIS TITLE,
23 IT BEING THE INTENT OF THE CITY THAT THIS TITLE SHALL STAND,
24 NOTWITHSTANDING THE INVALIDITY OF ANY PORTION, SECTION, SUBSECTION,
25 SENTENCE, CLAUSE OR PHRASE.
26

27 **19.40.295 - GRADING, EROSION, SEDIMENT CONTROL.**

28 UNLESS NOTED OTHERWISE, ANY PERSON WHO VIOLATES ANY SECTION OF
29 THIS CHAPTER SHALL BE GUILTY OF A MUNICIPAL INFRACTION AND IS SUBJECT
30 TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. ALL FINES
31 MUST BE PAID IN FULL PRIOR TO ANY CONTINUATION OF WORK OR PRIOR TO ANY
32 FURTHER INSPECTIONS. IF A PERSON OR ENTITY IS FOUND TO HAVE VIOLATED
33 THIS SECTION AT ONE OR MORE DISCRETE SITES WITHIN THE CITY TWO OR MORE
34 TIMES IN ANY TWO-YEAR PERIOD, SUCH VIOLATION SHALL CONSTITUTE A
35 REPEAT VIOLATION.
36

37 **CHAPTER 19.50 - STORMWATER MANAGEMENT**

38 **19.50.010 - PURPOSE, APPLICATION AND AUTHORITY.**

- 39 A. THE PURPOSE OF THIS CHAPTER IS TO PROTECT AND PROMOTE THE
40 PUBLIC HEALTH, SAFETY AND GENERAL WELFARE THROUGH THE
41 MANAGEMENT OF STORMWATER, TO PROTECT PUBLIC AND PRIVATE
42 PROPERTY FROM DAMAGE, TO REDUCE THE EFFECTS OF LAND USE CHANGES
43 ON STREAM CHANNEL EROSION, TO MAINTAIN AND ASSIST IN THE
44 IMPROVEMENT OF WATER QUALITY, AND TO PRESERVE AND ENHANCE THE
45 ENVIRONMENTAL QUALITY OF STREAMS AND STREAM VALLEYS. IT IS THE

1 EXPRESSED INTENT OF THIS CHAPTER TO REQUIRE THAT STORMWATER
2 MANAGEMENT, AS IT ADDRESSES WATER QUALITY, BE PROVIDED FOR ALL
3 DEVELOPED LAND WITHIN THE CITY. THE PROVISIONS OF THIS CHAPTER ARE
4 ADOPTED PURSUANT TO ANNOTATED CODE OF MARYLAND, ENVIRONMENT
5 ARTICLE, TITLE 4, SUBTITLE 2, (OR ITS SUCCESSORS) AND THE CHARTER OF
6 THE CITY OF ANNAPOLIS AND SHALL APPLY TO ALL DEVELOPMENT
7 OCCURRING WITHIN THE CORPORATE LIMITS OF THE CITY OF ANNAPOLIS.

8 B. THE APPLICATION OF THIS CHAPTER AND THE REQUIREMENTS SET
9 FORTH HEREIN SHALL BE THE MINIMUM STORMWATER MANAGEMENT
10 REQUIREMENTS APPLICABLE IN THE CITY AND SHALL NOT BE DEEMED A
11 LIMITATION OR REPEAL OF ANY OTHER POWERS GRANTED BY STATE
12 STATUTE.

13 C. THE CITY OF ANNAPOLIS, DEPARTMENT OF THE ENVIRONMENT SHALL BE
14 RESPONSIBLE FOR THE ADMINISTRATION AND ENFORCEMENT OF THE
15 PROVISIONS OF THIS CHAPTER.

16 D. THIS CHAPTER APPLIES TO ALL NEW AND REDEVELOPMENT PROJECTS
17 THAT HAVE NOT RECEIVED FINAL APPROVAL FOR EROSION AND SEDIMENT
18 CONTROL AND STORMWATER MANAGEMENT PLANS BY MAY 4, 2010.

19
20 **19.50.030 - DIRECTOR OF THE DEPARTMENT OF THE ENVIRONMENT —**
21 **AUTHORITY.**

22 IN ADDITION TO SUCH OTHER AUTHORITY AS MAY BE ASSIGNED TO THE
23 DIRECTOR OF THE DEPARTMENT OF THE ENVIRONMENT, PURSUANT TO THIS
24 CHAPTER, ALL STORMWATER MANAGEMENT PLANS REQUIRED BY THIS CHAPTER
25 ARE SUBJECT TO THE APPROVAL OF THE DIRECTOR. THE DIRECTOR OR HIS/HER
26 DESIGNEE MAY INCLUDE IN THE APPROVAL OF SUCH PLANS, ANY
27 RECOMMENDATION OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT
28 THAT THE DIRECTOR DETERMINES TO BE APPROPRIATE.

29
30 **19.50.040 - GUIDE FOR STORMWATER MANAGEMENT.**

31 THE 2000 MARYLAND STORMWATER DESIGN MANUAL, VOLUMES I & II
32 (MARYLAND DEPARTMENT OF THE ENVIRONMENT, APRIL 2000) AND ALL
33 SUBSEQUENT REVISIONS, AND THE USDA NATURAL RESOURCES CONSERVATION
34 SERVICE MARYLAND CONSERVATION PRACTICE STANDARD POND CODE 378
35 (JANUARY 2000) SHALL SERVE AS THE GUIDE FOR STORMWATER MANAGEMENT
36 PRINCIPLES, METHODS, AND PRACTICES IN THE CITY OF ANNAPOLIS.

37
38 **19.50.050 - DEFINITIONS.**

39 FOR THE PURPOSE OF THIS CHAPTER, THE FOLLOWING TERMS SHALL HAVE
40 THE DEFINITIONS INDICATED:

- 41 A. "ADMINISTRATION" MEANS THE MARYLAND DEPARTMENT OF THE
42 ENVIRONMENT (MDE) WATER MANAGEMENT ADMINISTRATION (WMA).
43 B. "ADVERSE IMPACT" MEANS ANY DELETERIOUS EFFECT ON WATERS OR
44 WETLANDS, INCLUDING THEIR QUALITY, QUANTITY, SURFACE AREA,
45 SPECIES COMPOSITION, AESTHETICS OR USEFULNESS FOR HUMAN OR

1 NATURAL USES WHICH ARE OR MAY POTENTIALLY BE HARMFUL OR
2 INJURIOUS TO HUMAN HEALTH, WELFARE, SAFETY OR PROPERTY, TO
3 BIOLOGICAL PRODUCTIVITY, DIVERSITY, OR STABILITY OR WHICH
4 UNREASONABLY INTERFERE WITH THE ENJOYMENT OF LIFE OR
5 PROPERTY, INCLUDING OUTDOOR RECREATION.

6 C. "AGRICULTURAL LAND MANAGEMENT PRACTICES" MEANS THOSE
7 METHODS AND PROCEDURES USED IN THE CULTIVATION OF LAND IN
8 ORDER TO FURTHER CROP AND LIVESTOCK PRODUCTION AND
9 CONSERVATION OF RELATED SOIL AND WATER RESOURCES.

10 D. "APPLICANT" MEANS ANY PERSON, FIRM, OR GOVERNMENTAL AGENCY
11 THAT EXECUTES THE NECESSARY FORMS TO PROCURE OFFICIAL
12 APPROVAL OF A PROJECT OR OF A PERMIT TO CARRY OUT CONSTRUCTION
13 OF A PROJECT.

14 E. "APPROVING AGENCY" MEANS THE ENTITY RESPONSIBLE FOR THE
15 REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS.

16 F. "AQUIFER" MEANS A POROUS WATER BEARING GEOLOGIC FORMATION
17 GENERALLY RESTRICTED TO MATERIALS CAPABLE OF YIELDING AN
18 APPRECIABLE SUPPLY OF WATER.

19 G. "BEST MANAGEMENT PRACTICES" (BMP) MEANS A STRUCTURAL OR
20 NONSTRUCTURAL PRACTICE DESIGNED TO TEMPORARILY STORE OR
21 TREAT STORMWATER RUNOFF IN ORDER TO MITIGATE FLOODING,
22 REDUCE POLLUTION, AND PROVIDE OTHER AMENITIES.

23 H. "CHANNEL PROTECTION STORAGE VOLUME (CPV)" MEANS THE VOLUME
24 USED TO DESIGN STRUCTURAL MANAGEMENT PRACTICES TO CONTROL
25 STREAM CHANNEL EROSION. METHODS FOR CALCULATING THE CHANNEL
26 PROTECTION STORAGE VOLUME ARE SPECIFIED IN THE 2000 MARYLAND
27 STORMWATER DESIGN MANUAL, VOLUMES I & II.

28 I. "CLEARING" MEANS THE REMOVAL OF TREES AND BRUSH FROM THE
29 LAND BUT SHALL NOT INCLUDE THE ORDINARY MOWING OF GRASS.

30 J. "DESIGN MANUAL" MEANS THE 2000 MARYLAND STORMWATER DESIGN
31 MANUAL VOLUMES I & II (MARYLAND DEPARTMENT OF THE
32 ENVIRONMENT, APRIL 2000), AND ALL SUBSEQUENT REVISIONS, THAT
33 SERVES AS THE OFFICIAL GUIDE FOR STORMWATER MANAGEMENT
34 PRINCIPLES, METHODS, AND PRACTICES.

35 K. "DETENTION STRUCTURE" MEANS A PERMANENT STRUCTURE FOR THE
36 TEMPORARY STORAGE OF RUNOFF, WHICH IS DESIGNED SO AS NOT TO
37 CREATE A PERMANENT POOL OF WATER.

38 L. "DEVELOP LAND" MEANS TO CHANGE THE RUNOFF CHARACTERISTICS OF
39 A PARCEL OF LAND IN CONJUNCTION WITH RESIDENTIAL, COMMERCIAL,
40 INDUSTRIAL, OR INSTITUTIONAL CONSTRUCTION OR ALTERATION.

41 M. "DIRECT DISCHARGE" MEANS THE CONCENTRATED RELEASE OF
42 STORMWATER TO TIDAL WATERS OR VEGETATED TIDAL WETLANDS
43 FROM NEW DEVELOPMENT OR REDEVELOPMENT PROJECTS IN THE
44 CRITICAL AREA.

- 1 N. "DRAINAGE AREA" MEANS THAT AREA CONTRIBUTING RUNOFF TO A
2 SINGLE POINT MEASURED IN A HORIZONTAL PLANE, WHICH IS ENCLOSED
3 BY A RIDGELINE.
- 4 O. "EASEMENT" MEANS A GRANT OR RESERVATION BY THE OWNER OF
5 LAND FOR THE USE OF SUCH LAND BY OTHERS FOR A SPECIFIC PURPOSE
6 OR PURPOSES, AND WHICH MUST BE INCLUDED IN THE CONVEYANCE OF
7 LAND AFFECTED BY SUCH EASEMENT.
- 8 P. "ENVIRONMENTAL SITE DESIGN (ESD)" MEANS USING SMALL-SCALE
9 STORMWATER MANAGEMENT PRACTICES, NONSTRUCTURAL
10 TECHNIQUES, AND BETTER SITE PLANNING TO MIMIC NATURAL
11 HYDROLOGIC RUNOFF CHARACTERISTICS AND MINIMIZE THE IMPACT OF
12 LAND DEVELOPMENT ON WATER RESOURCES. METHODS FOR DESIGNING
13 ESD PRACTICES ARE SPECIFIED IN THE DESIGN MANUAL.
- 14 Q. "EXEMPTION" MEANS THOSE LAND DEVELOPMENT ACTIVITIES THAT ARE
15 NOT SUBJECT TO THE STORMWATER MANAGEMENT REQUIREMENTS
16 CONTAINED IN THIS CHAPTER.
- 17 R. "EXTENDED DETENTION" MEANS A STORMWATER DESIGN FEATURE
18 THAT PROVIDES GRADUAL RELEASE OF A VOLUME OF WATER IN ORDER
19 TO INCREASE SETTLING OF POLLUTANTS AND PROTECT DOWNSTREAM
20 CHANNELS FROM FREQUENT STORM EVENTS. METHODS FOR DESIGNING
21 EXTENDED DETENTION BMP'S ARE SPECIFIED IN THE DESIGN MANUAL.
- 22 S. "EXTREME FLOOD VOLUME (QF)" MEANS THE STORAGE VOLUME
23 REQUIRED CONTROLLING THOSE INFREQUENT BUT LARGE STORM
24 EVENTS IN WHICH OVERBANK FLOWS REACH OR EXCEED THE
25 BOUNDARIES OF THE ONE HUNDRED-YEAR FLOODPLAIN.
- 26 T. "FINAL STORMWATER MANAGEMENT PLAN" MEANS THE LAST OF THREE
27 REQUIRED PLAN APPROVALS THAT INCLUDES ALL REQUIRED
28 INFORMATION TO ALLOW ALL APPROVALS AND PERMITS TO BE ISSUED
29 BY THE APPROVING AGENCY.
- 30 U. "FLOW ATTENUATION" MEANS PROLONGING THE FLOW TIME OF RUNOFF
31 TO REDUCE THE PEAK DISCHARGE.
- 32 V. "GRADING," MEANS ANY ACT BY WHICH SOIL IS CLEARED, STRIPPED,
33 STOCKPILED, EXCAVATED, SCARIFIED, FILLED OR ANY COMBINATION
34 THEREOF.
- 35 W. "IMPERVIOUS AREA" MEANS ANY SURFACE THAT DOES NOT ALLOW
36 STORMWATER TO INFILTRATE INTO THE GROUND.
- 37 X. "INFILTRATION" MEANS THE PASSAGE OR MOVEMENT OF WATER INTO
38 THE SOIL SURFACE.
- 39 Y. "MAXIMUM EXTENT PRACTICABLE (MEP)" MEANS DESIGNING
40 STORMWATER MANAGEMENT SYSTEMS SO THAT ALL REASONABLE
41 OPPORTUNITIES FOR USING ESD PLANNING TECHNIQUES AND
42 TREATMENT PRACTICES ARE EXHAUSTED AND ONLY WHERE
43 ABSOLUTELY NECESSARY, A STRUCTURAL BMP IS IMPLEMENTED.
- 44 Z. "MODIFICATION" MEANS THE CHANGE TO THE MINIMUM STORMWATER
45 MANAGEMENT REQUIREMENTS FOR SPECIFIC CIRCUMSTANCES GRANTED

1 BY THE DIRECTOR BASED UPON A SHOWING BY THE APPLICANT THAT
2 STRICT ADHERENCE TO THE REQUIREMENTS WOULD RESULT IN AN
3 UNREASONABLE NECESSARY HARDSHIP AND NOT FULFILL THE INTENT
4 OF THIS CHAPTER.

5 AA. "NEW DEVELOPMENT" MEANS ANY CONSTRUCTION, ALTERATION, OR
6 IMPROVEMENT EXCEEDING FIVE THOUSAND SQUARE FEET OF LAND
7 DISTURBANCE PERFORMED ON SITES WHERE EXISTING LAND USE IS
8 RURAL, AGRICULTURAL OR SINGLE FAMILY RESIDENTIAL OR ANY SITE
9 WITH IMPERVIOUS COVERAGE OF LESS THAN FORTY PERCENT
10 IMPERVIOUSNESS.

11 BB. "OFF-SITE STORMWATER MANAGEMENT" MEANS THE DESIGN AND
12 CONSTRUCTION OF A STORMWATER MANAGEMENT FACILITY
13 NECESSARY TO CONTROL STORMWATER FROM MORE THAN ONE
14 DEVELOPMENT.

15 CC. "ON-SITE STORMWATER WATER MANAGEMENT" MEANS THE DESIGN
16 AND CONSTRUCTION OF FACILITIES NECESSARY TO CONTROL
17 STORMWATER WITHIN A SITE.

18 DD. "OVERBANK FLOOD PROTECTION VOLUME (QP)" MEANS THE VOLUME
19 CONTROLLED BY STRUCTURAL PRACTICES TO PREVENT AN INCREASE IN
20 THE FREQUENCY OF OUT OF BANK FLOODING GENERATED BY
21 DEVELOPMENT. METHODS FOR CALCULATING THE OVERBANK FLOOD
22 PROTECTION VOLUME ARE SPECIFIED IN THE DESIGN MANUAL.

23 EE. "PERSON" MEANS THE FEDERAL GOVERNMENT, THE STATE, ANY
24 COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION
25 OF THE STATE, OR ANY OF THEIR UNITS, OR AN INDIVIDUAL RECEIVER,
26 TRUSTEE, GUARDIAN, EXECUTOR, ADMINISTRATOR, FIDUCIARY, OR
27 REPRESENTATIVE OF ANY KIND, OR ANY PARTNERSHIP, FIRM,
28 ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, OR ANY OTHER
29 ENTITY.

30 FF. "PLANNING TECHNIQUES" MEANS A COMBINATION OF STRATEGIES
31 EMPLOYED EARLY IN PROJECT DESIGN TO REDUCE THE IMPACT FROM
32 DEVELOPMENT AND TO INCORPORATE NATURE FEATURES INTO A
33 STORMWATER MANAGEMENT PLAN.

34 GG. "RECHARGE VOLUME (REV)" MEANS THAT PORTION OF THE WATER
35 QUALITY VOLUME USED TO MAINTAIN GROUNDWATER RECHARGE
36 RATES AT DEVELOPMENT SITES. METHODS FOR CALCULATING THE
37 RECHARGE VOLUME ARE SPECIFIED IN THE DESIGN MANUAL.

38 HH. "REDEVELOPMENT" MEANS ANY CONSTRUCTION, ALTERATION, OR
39 IMPROVEMENT EXCEEDING FIVE THOUSAND SQUARE FEET OF LAND
40 DISTURBANCE PERFORMED ON SITES WHERE EXISTING LAND USE IS
41 COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, MULTIFAMILY RESIDENTIAL
42 AND EXISTING SITE IMPERVIOUS AREA EXCEEDS FORTY PERCENT.

43 II. "REGIONAL STORMWATER MANAGEMENT FACILITY" MEANS A
44 STORMWATER MANAGEMENT FACILITY INTENDED TO CONTROL
45 STORMWATER RUNOFF FROM SEVERAL SEPARATELY OWNED PARCELS

1 OR DEVELOPMENTS WITHIN A WATERSHED. "REGIONAL STORMWATER
2 MANAGEMENT FACILITY" DOES NOT INCLUDE MULTI-LOT STORMWATER
3 MANAGEMENT FACILITIES, SUBDIVISION FACILITIES OR OTHER
4 STORMWATER MANAGEMENT FACILITIES CONSTRUCTED IN CONNECTION
5 WITH DEVELOPMENT OR REDEVELOPMENT, WHETHER CONCURRENTLY
6 OR IN PHASES, OF A SITE, OR CONTIGUOUS SITES, BY A SINGLE OWNER OR
7 A SINGLE OWNER'S SUCCESSOR IN TITLE.

8 JJ. "RETENTION STRUCTURE" MEANS A PERMANENT STRUCTURE THAT
9 PROVIDES FOR THE STORAGE OF RUNOFF BY MEANS OF A PERMANENT
10 POOL OF WATER.

11 KK. "RETROFITTING" MEANS THE IMPLEMENTATION OF ESD PRACTICES,
12 THE CONSTRUCTION OF A STRUCTURAL BMP IN A PREVIOUSLY
13 DEVELOPED AREA, THE MODIFICATION OF AN EXISTING STRUCTURAL
14 BMP, OR THE IMPLEMENTATION OF A NONSTRUCTURAL PRACTICE TO
15 IMPROVE WATER QUALITY OVER CURRENT CONDITIONS.

16 LL. "SEDIMENT" MEANS SOILS OR OTHER SURFICIAL MATERIALS
17 TRANSPORTED OR DEPOSITED BY THE ACTION OF WIND, WATER, ICE, OR
18 GRAVITY AS A PRODUCT OF EROSION.

19 MM. "SITE" MEANS ANY TRACT, LOT, OR PARCEL OF LAND, OR
20 COMBINATION OF TRACTS, LOTS, PARCELS OF LAND THAT ARE IN ONE
21 OWNERSHIP, OR ARE CONTIGUOUS AND IN DIVERSE OWNERSHIP, WHERE
22 DEVELOPMENT IS TO BE PERFORMED AS PART OF A UNITY, SUBDIVISION,
23 OR PROJECT.

24 NN. "SITE DEVELOPMENT PLAN" MEANS THE SECOND OF THREE REQUIRED
25 PLAN APPROVALS THAT INCLUDES THE INFORMATION NECESSARY TO
26 ALLOW A DETAILED EVALUATION OF A PROPOSED PROJECT.

27 OO. "STABILIZATION" MEANS THE PREVENTION OF SOIL MOVEMENT BY
28 ANY OF VARIOUS VEGETATIVE AND/OR STRUCTURAL MEANS.

29 PP. "STORMWATER" MEANS WATER THAT ORIGINATES FROM A
30 PRECIPITATION EVENT.

31 QQ. "STORMWATER MANAGEMENT SYSTEM" MEANS NATURAL AREAS, ESD
32 PRACTICES, STORMWATER MANAGEMENT MEASURES, AND ANY OTHER
33 STRUCTURE THROUGH WHICH STORMWATER FLOWS, INFILTRATES, OR
34 DISCHARGES FROM A SITE.

35 RR. "STRIPPING" MEANS ANY ACTIVITY THAT REMOVES THE VEGETATIVE
36 SURFACE COVER INCLUDING TREE REMOVAL, CLEARING, GRUBBING AND
37 STORAGE OR REMOVAL OF TOPSOIL.

38 SS. "WAIVER" MEANS THE RELINQUISHMENT FROM STORMWATER
39 MANAGEMENT REQUIREMENTS BY THE DIRECTOR FOR A SPECIFIC
40 DEVELOPMENT ON A CASE-BY-CASE REVIEW BASIS.

41 1. "QUALITATIVE STORMWATER MANAGEMENT WAIVER" MEANS A
42 REDUCTION OF WATER QUALITY VOLUME AND RECHARGE VOLUME
43 PARAMETERS.

44 2. "QUANTITATIVE STORMWATER MANAGEMENT WAIVER" MEANS A
45 REDUCTION OF CHANNEL PROTECTION STORAGE VOLUME,

1 OVERBANK FLOOD PROTECTION VOLUME, AND EXTREME FLOOD
2 VOLUME DESIGN PARAMETER.

3 TT. "WATERCOURSE" MEANS ANY NATURAL OR ARTIFICIAL STREAM,
4 RIVER, CREEK, DITCH, CHANNEL, CANAL, CONDUIT, CULVERT, DRAIN,
5 WATERWAY, GULLY, RAVINE OR WASH, IN AND INCLUDING ANY
6 ADJACENT AREA THAT IS SUBJECT TO INUNDATION FROM OVERFLOW OR
7 FLOOD WATER.

8 UU. "WATERSHED" MEANS THE TOTAL DRAINAGE AREA CONTRIBUTING
9 RUNOFF TO A SINGLE POINT.

10 VV. "WATER QUALITY VOLUME (WQV)" MEANS THE VOLUME NEEDED TO
11 CAPTURE AND TREAT THE RUNOFF FROM NINETY PERCENT OF THE
12 AVERAGE ANNUAL RAINFALL AT A DEVELOPMENT SITE. METHODS FOR
13 CALCULATING THE WATER QUALITY VOLUME ARE SPECIFIED IN THE
14 DESIGN MANUAL.

15
16 **19.50.060 - APPLICATION.**

17 A. SCOPE. NO PERSON SHALL DEVELOP ANY LAND FOR RESIDENTIAL,
18 COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL USES WITHOUT HAVING
19 PROVIDED STORMWATER MANAGEMENT MEASURES THAT CONTROL OR
20 MANAGE RUNOFF FROM SUCH DEVELOPMENT, EXCEPT AS PROVIDED WITHIN
21 THIS CHAPTER. THE STORMWATER MANAGEMENT MEASURES SHALL BE
22 DESIGNED CONSISTENT WITH THE DESIGN MANUAL AND SHALL BE
23 CONSTRUCTED ACCORDING TO: (I) FOR NEW DEVELOPMENT, THE POLICIES
24 STATED IN SECTION 19.50.080(A), OR (II) FOR REDEVELOPMENT, THE POLICIES
25 STATED IN SECTION 19.50.080(B).

26 B. APPLICATION—REQUIRED.

27 1. PRELIMINARY APPROVAL MAY NOT BE GRANTED FOR ANY SUBDIVISION
28 PLAT UNLESS AN APPLICANT INCLUDES PRELIMINARY STORMWATER
29 MANAGEMENT PLANS AND DESIGNS AS REQUIRED BY THE DEPARTMENT
30 FOR THE PROPOSED ON-SITE DEVELOPMENT AND FOR RELATED OFF-SITE
31 STORMWATER CONTROLS ACCORDING TO THE PROVISIONS OF THIS
32 CHAPTER.

33 2. FINAL APPROVAL MAY NOT BE GRANTED FOR A SUBDIVISION PLAT
34 UNLESS AN APPLICANT INCLUDES STORMWATER MANAGEMENT PLANS
35 AND DESIGNS FOR THE PROPOSED DEVELOPMENT IN SUFFICIENT DETAIL
36 AS REQUIRED BY THE DEPARTMENT ACCORDING TO THE PROVISIONS OF
37 THIS CHAPTER. EASEMENTS SHALL BE PLATTED AND RECORDED FOR ALL
38 STORMWATER MANAGEMENT FACILITIES AS REQUIRED BY THE
39 DEPARTMENT. STORMWATER MANAGEMENT FACILITIES SHALL BE
40 PUBLICLY OWNED AND MAINTAINED UPON THE REQUEST OF THE
41 DEPARTMENT AND IN ACCORDANCE WITH THE CITY'S WATERSHED
42 MANAGEMENT PROGRAM.

43 3. AN APPLICATION FOR A BUILDING OR GRADING PERMIT SHALL INCLUDE
44 A STORMWATER WATER MANAGEMENT PLAN IN ACCORDANCE WITH THE
45 PROVISIONS OF THIS CHAPTER PROVIDING FOR STORMWATER

1 MANAGEMENT OF THE APPLICANT'S PROPOSED DEVELOPMENT OR
2 REDEVELOPMENT. NO BUILDING OR GRADING PERMIT MAY BE ISSUED
3 UNLESS A STORMWATER MANAGEMENT PLAN FOR THE DEVELOPMENT
4 OR REDEVELOPMENT HAS BEEN APPROVED BY THE DEPARTMENT
5 ACCORDING TO THE PROVISIONS OF THIS CHAPTER. CONSTRUCTION OF
6 THE DEVELOPMENT OR REDEVELOPMENT SHALL BE IN ACCORDANCE
7 WITH THE STORMWATER MANAGEMENT PLAN APPROVED BY THE
8 DEPARTMENT.
9

10 **19.50.070 - EXEMPTIONS.**

11 THE FOLLOWING DEVELOPMENT ACTIVITIES ARE EXEMPT FROM THE
12 PROVISIONS OF THIS CHAPTER AND ARE NOT REQUIRED TO PROVIDE
13 STORMWATER MANAGEMENT:

- 14 A. AGRICULTURAL LAND MANAGEMENT ACTIVITIES;
15 B. AN ADDITION OR MODIFICATION TO AN EXISTING SINGLE-FAMILY
16 DETACHED RESIDENTIAL STRUCTURE PROVIDED THE ADDITION OR
17 MODIFICATION COMPLIES WITH SUBSECTION C OR D OF THIS SECTION;
18 C. DEVELOPMENT ON A NON-WATERFRONT LOT THAT DOES NOT DISTURB
19 MORE THAN FIVE THOUSAND SQUARE FEET OF LAND AREA EXCEPT IN THE
20 CASE OF A NEW SINGLE FAMILY DWELLING WHICH IS NOT EXEMPTED
21 FROM THE REQUIREMENTS OF THIS CHAPTER REGARDLESS OF THE
22 EXTENT OF THE AREA OF DISTURBANCE;
23 D. DEVELOPMENT ON A WATERFRONT LOT THAT DOES NOT DISTURB MORE
24 THAN TWO THOUSAND SQUARE FEET OF LAND AREA AND DOES NOT
25 REQUIRE A GRADING PERMIT, EXCEPT IN THE CASE OF A NEW SINGLE
26 FAMILY DWELLING WHICH IS NOT EXEMPTED FROM THE REQUIREMENTS
27 OF THIS CHAPTER REGARDLESS OF THE EXTENT OF THE AREA OF
28 DISTURBANCE;
29 E. ANY LAND DEVELOPMENT ACTIVITY THAT THE ADMINISTRATION
30 DETERMINES IS REGULATED BY SPECIFIC STATE LAWS GOVERNING THE
31 MANAGEMENT OF STORMWATER RUNOFF.
32

33 **19.50.080 - STORMWATER MANAGEMENT CRITERIA.**

- 34 A. THE MINIMUM CONTROL REQUIREMENTS ESTABLISHED IN THIS SECTION
35 AND THE DESIGN MANUAL ARE AS FOLLOWS:
36 1. THE DEPARTMENT REQUIRES THAT THE PLANNING TECHNIQUES,
37 NONSTRUCTURAL PRACTICES, AND DESIGN METHODS SPECIFIED IN THE
38 DESIGN MANUAL ARE TO BE USED TO IMPLEMENT ESD TO THE MEP. THE
39 USE OF ESD PLANNING TECHNIQUES AND TREATMENT PRACTICES MUST
40 BE EXHAUSTED BEFORE ANY STRUCTURAL BMP IS IMPLEMENTED.
41 STORMWATER MANAGEMENT PLANS FOR DEVELOPMENT PROJECTS
42 SUBJECT TO THIS ORDINANCE SHALL BE DESIGNED USING ESD SIZING
43 CRITERIA, RECHARGE VOLUME, WATER QUALITY VOLUME, AND
44 CHANNEL PROTECTION STORAGE VOLUME CRITERIA ACCORDING TO THE
45 DESIGN MANUAL. THE MEP STANDARD IS MET WHEN CHANNEL STABILITY

1 IS MAINTAINED, PREDEVELOPMENT GROUNDWATER RECHARGE IS
2 REPLICATED, NONPOINT SOURCE POLLUTION IS MINIMIZED, AND
3 STRUCTURAL STORMWATER MANAGEMENT PRACTICES ARE USED ONLY
4 IF DETERMINED TO BE ABSOLUTELY NECESSARY.

5 2. CONTROL OF THE TWO AND TEN-YEAR FREQUENCY STORM EVENT SHALL
6 BE REQUIRED ACCORDING TO THE DESIGN MANUAL IF THE DEPARTMENT
7 DETERMINES THAT HISTORICAL FLOODING PROBLEMS EXIST AND
8 IMPACT EXISTING DOWNSTREAM FLOODPLAIN DEVELOPMENT.

9 3. THE DEPARTMENT MAY REQUIRE MORE THAN THE MINIMUM CONTROL
10 REQUIREMENTS SPECIFIED IN THIS SECTION IF HYDROLOGIC OR
11 TOPOGRAPHIC CONDITIONS WARRANT OR IF FLOODING, STREAM
12 CHANNEL EROSION, OR WATER QUALITY PROBLEMS EXIST DOWNSTREAM
13 FROM A PROPOSED PROJECT.

14 4. ALTERNATIVE MINIMUM CONTROL REQUIREMENTS MAY BE ADOPTED
15 SUBJECT TO ADMINISTRATION APPROVAL. THE ADMINISTRATION SHALL
16 REQUIRE A DEMONSTRATION THAT ALTERNATIVE REQUIREMENTS WILL
17 IMPLEMENT ESD TO THE MEP AND CONTROL FLOOD DAMAGES,
18 ACCELERATED STREAM EROSION, WATER QUALITY, AND
19 SEDIMENTATION. COMPREHENSIVE WATERSHED STUDIES MAY ALSO BE
20 REQUIRED.

21 5. STORMWATER MANAGEMENT AND DEVELOPMENT PLANS WHERE
22 APPLICABLE, SHALL BE CONSISTENT WITH ADOPTED AND APPROVED
23 WATERSHED MANAGEMENT PLANS OR FLOOD MANAGEMENT PLANS AS
24 APPROVED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT IN
25 ACCORDANCE WITH THE FLOOD HAZARD MANAGEMENT ACT OF 1976.

26 B. IN THE CASE OF REDEVELOPMENT, EVERY STORMWATER MANAGEMENT
27 PLAN SHALL SATISFY THE FOLLOWING REQUIREMENTS.

28 1. THE STORMWATER MANAGEMENT PLAN SHALL BE CONSISTENT WITH
29 THE DESIGN MANUAL.

30 2. THE STORMWATER MANAGEMENT PLAN SHALL REDUCE EXISTING SITE
31 IMPERVIOUS AREAS BY AT LEAST FIFTY PERCENT. WHERE SITE
32 CONDITIONS PREVENT THE REDUCTION OF IMPERVIOUS AREA BY FIFTY
33 PERCENT, THE STORMWATER MANAGEMENT PLAN SHALL PROVIDE
34 QUALITATIVE CONTROL FOR AT LEAST FIFTY PERCENT OF THE SITE'S
35 EXISTING IMPERVIOUS AREA. WHEN A COMBINATION OF IMPERVIOUS
36 AREA REDUCTION AND STORMWATER PRACTICE IMPLEMENTATION IS
37 USED, THE COMBINED AREA SHALL EQUAL OR EXCEED FIFTY PERCENT OF
38 THE SITE'S IMPERVIOUS AREA. ANY PERMIT APPLICATION LEGALLY
39 SUBMITTED PRIOR TO APRIL 9, 2007, SHALL MEET THE REQUIREMENTS OF
40 THE UNAMENDED REGULATION.

41 3. UPON APPLICATION BY THE OWNER OR HIS OR HER AGENT, THE
42 DIRECTOR MAY WAIVE THE REQUIREMENTS OF THE PRECEDING
43 PARAGRAPH IF HYDROLOGIC AND HYDRAULIC DESIGN CONDITIONS
44 PREVENT IMPERVIOUS AREA REDUCTION OR ON-SITE STORMWATER
45 MANAGEMENT. WAIVERS SHALL BE CONSISTENT WITH SECTION 19.50.120

1 OF THIS CODE. IN GRANTING SUCH A WAIVER, THE DIRECTOR SHALL
2 DIRECT THE APPLICANT TO THE FOLLOWING PRACTICAL ALTERNATIVES:

- 3 A. OFF-SITE BMP IMPLEMENTATION FOR A DRAINAGE AREA AT LEAST
4 ONE AND ONE-HALF TIMES THE SIZE AND PERCENT IMPERVIOUSNESS
5 TO THAT OF THE PROJECT;
- 6 B. WATERSHED OR STREAM RESTORATION;
- 7 C. RETROFITTING; AND/OR
- 8 D. OTHER PRACTICES TO REDUCE IMPERVIOUS SURFACES OR THE
9 IMPACT OF STORMWATER RUNOFF NOT INCONSISTENT WITH THE
10 PURPOSES OF THIS CHAPTER.

- 11 4. THE DEPARTMENT MAY DEVELOP SEPARATE POLICIES FOR PROVIDING
12 WATER QUALITY TREATMENT FOR REDEVELOPMENT PROJECTS. ANY
13 SEPARATE REDEVELOPMENT POLICY SHALL BE REVIEWED AND
14 APPROVED BY THE ADMINISTRATION AND MAY INCLUDE, BUT NOT BE
15 LIMITED TO:

- 16 A. A COMBINATION OF ESD AND AN ON-SITE OR OFF-SITE STRUCTURAL
17 BMP;
- 18 B. RETROFITTING INCLUDING EXISTING BMP UPGRADES, FILTERING
19 PRACTICES, AND OFF-SITE ESD IMPLEMENTATION;
- 20 C. PARTICIPATION IN A STREAM RESTORATION PROJECT;
- 21 D. POLLUTION TRADING WITH ANOTHER ENTITY;
- 22 E. PAYMENT OF A FEE-IN-LIEU; OR
- 23 F. A PARTIAL WAIVER OF THE TREATMENT REQUIREMENTS IF ESD IS
24 NOT PRACTICABLE.

- 25 5. THE DETERMINATION OF WHAT ALTERNATIVES WILL BE AVAILABLE
26 MAY BE MADE BY THE DEPARTMENT AT THE APPROPRIATE POINT IN THE
27 DEVELOPMENT REVIEW PROCESS. THE DEPARTMENT SHALL
28 CONSIDERATION THE PRIORITIZATION OF ALTERNATIVES IN SECTION
29 19.50.080.B.4. OF THIS CODE AFTER IT HAS BEEN DETERMINED THAT IT IS
30 NOT PRACTICABLE TO MEET THE 2009 REGULATORY REQUIREMENTS
31 USING ESD. IN DECIDING WHAT ALTERNATIVES MAY BE REQUIRED, THE
32 DEPARTMENT MAY CONSIDER FACTORS INCLUDING, BUT NOT LIMITED
33 TO:

- 34 A. WHETHER THE PROJECT IS IN AN AREA TARGETED FOR
35 DEVELOPMENT INCENTIVES SUCH AS A PRIORITY FUNDING AREA, A
36 DESIGNATED TRANSIT ORIENTED DEVELOPMENT AREA, OR A
37 DESIGNATED BASE REALIGNMENT AND CLOSURE REVITALIZATION
38 AND INCENTIVE ZONE;
- 39 B. WHETHER THE PROJECT IS NECESSARY TO ACCOMMODATE GROWTH
40 CONSISTENT WITH COMPREHENSIVE PLANS; OR
- 41 C. WHETHER BONDING AND FINANCING HAVE ALREADY BEEN SECURED
42 BASED ON AN APPROVED DEVELOPMENT PLAN.

43
44 **19.50.085 - STORMWATER MANAGEMENT MEASURES.**

1 THE ESD PLANNING TECHNIQUES AND PRACTICES AND STRUCTURAL AND
2 NONSTRUCTURAL STORMWATER MANAGEMENT MEASURES ESTABLISHED IN
3 THIS SECTION SHALL BE USED, EITHER ALONE OR IN A COMBINATION, IN
4 DEVELOPING A STORMWATER MANAGEMENT PLAN.

5 1. ESD PLANNING TECHNIQUES AND PRACTICES.

6 A. THE FOLLOWING PLANNING TECHNIQUES SHALL BE APPLIED
7 ACCORDING TO THE DESIGN MANUAL TO SATISFY THE APPLICABLE
8 MINIMUM CONTROL REQUIREMENTS ESTABLISHED IN 19.50.080 OF
9 THIS ORDINANCE:

10 I. PRESERVING AND PROTECTING NATURAL RESOURCES;

11 II. CONSERVING NATURAL DRAINAGE PATTERNS;

12 III. MINIMIZING IMPERVIOUS AREA;

13 IV. REDUCING RUNOFF VOLUME;

14 V. USING ESD PRACTICES TO MAINTAIN ONE HUNDRED PERCENT OF
15 THE ANNUAL PREDEVELOPMENT GROUNDWATER RECHARGE
16 VOLUME;

17 VI. USING GREEN ROOFS, PERMEABLE PAVEMENT, REINFORCED
18 TURF, AND OTHER ALTERNATIVE SURFACES;

19 VII. LIMITING SOIL DISTURBANCE, MASS GRADING, AND
20 COMPACTION;

21 VIII. CLUSTERING DEVELOPMENT; AND

22 IX. ANY PRACTICES APPROVED BY THE ADMINISTRATION.

23 B. THE FOLLOWING ESD TREATMENT PRACTICES SHALL BE DESIGNED
24 ACCORDING TO THE DESIGN MANUAL TO SATISFY THE APPLICABLE
25 MINIMUM CONTROL REQUIREMENTS ESTABLISHED IN SECTION
26 19.50.080 OF THIS ORDINANCE:

27 I. DISCONNECTION OF ROOFTOP RUNOFF;

28 II. DISCONNECTION OF NON-ROOFTOP RUNOFF;

29 III. SHEETFLOW TO CONSERVATION AREAS;

30 IV. RAINWATER HARVESTING;

31 V. SUBMERGED GRAVEL WETLANDS;

32 VI. LANDSCAPE INFILTRATION;

33 VII. INFILTRATION BERMS;

34 VIII. DRY WELLS

35 IX. MICRO-BIORETENTION;

36 X. RAIN GARDENS;

37 XI. SWALES;

38 XII. ENHANCED FILTERS; AND

39 XIII. ANY PRACTICES APPROVED BY THE ADMINISTRATION.

40 C. THE USE OF ESD PLANNING TECHNIQUES AND TREATMENT
41 PRACTICES SPECIFIED IN THIS SECTION SHALL NOT CONFLICT WITH
42 EXISTING STATE LAW OR LOCAL ORDINANCES, REGULATIONS, OR
43 POLICIES. THE CITY SHALL MODIFY ITS CODES TO ELIMINATE ANY
44 IMPEDIMENTS TO IMPLEMENTING ESD TO THE MEP ACCORDING TO
45 THE DESIGN MANUAL.

- 1 2. STRUCTURAL STORMWATER MANAGEMENT MEASURES.
 - 2 A. THE FOLLOWING STRUCTURAL STORMWATER MANAGEMENT
3 PRACTICES SHALL BE DESIGNED ACCORDING TO THE DESIGN
4 MANUAL TO SATISFY THE APPLICABLE MINIMUM CONTROL
5 REQUIREMENTS ESTABLISHED IN SECTION 19.50.080(A) OF THIS CODE.
 - 6 I. STORMWATER MANAGEMENT PONDS;
 - 7 II. STORMWATER MANAGEMENT WETLANDS;
 - 8 III. STORMWATER MANAGEMENT INFILTRATION;
 - 9 IV. STORMWATER MANAGEMENT FILTERING SYSTEMS; AND
 - 10 V. STORMWATER MANAGEMENT OPEN CHANNEL SYSTEMS.
 - 11 B. THE PERFORMANCE CRITERIA SPECIFIED IN THE DESIGN MANUAL
12 WITH REGARD TO GENERAL FEASIBILITY, CONVEYANCE,
13 PRETREATMENT, TREATMENT AND GEOMETRY, ENVIRONMENT AND
14 LANDSCAPING, AND MAINTENANCE SHALL BE CONSIDERED WHEN
15 SELECTING STRUCTURAL STORMWATER MANAGEMENT PRACTICES.
 - 16 C. STRUCTURAL STORMWATER MANAGEMENT PRACTICES SHALL BE
17 SELECTED TO ACCOMMODATE THE UNIQUE HYDROLOGIC OR
18 GEOLOGIC REGIONS OF THE STATE.
- 19 3. ESD PLANNING TECHNIQUES AND TREATMENT PRACTICES AND
20 STRUCTURAL STORMWATER MANAGEMENT MEASURES USED TO SATISFY
21 THE MINIMUM REQUIREMENTS IN SECTION 19.50.080 OF THIS ORDINANCE
22 MUST BE RECORDED IN THE LAND RECORDS OF ANNE ARUNDEL COUNTY
23 AND REMAIN UNALTERED BY SUBSEQUENT PROPERTY OWNERS, UNLESS
24 PRIOR APPROVAL FROM THE DEPARTMENT SHALL BE OBTAINED BEFORE
25 ANY STORMWATER MANAGEMENT PRACTICE IS ALTERED OR REMOVED.
- 26 4. ALTERNATIVE ESD PLANNING TECHNIQUES AND TREATMENT PRACTICES
27 AND STRUCTURAL STORMWATER MEASURES MAY BE USED FOR NEW
28 DEVELOPMENT RUNOFF CONTROL IF THEY MEET THE PERFORMANCE
29 CRITERIA ESTABLISHED IN THE DESIGN MANUAL AND ALL SUBSEQUENT
30 REVISIONS AND ARE APPROVED BY THE ADMINISTRATION. PRACTICES
31 USED FOR REDEVELOPMENT PROJECTS SHALL BE APPROVED BY THE
32 DEPARTMENT.
- 33 5. FOR THE PURPOSES OF MODIFYING THE MINIMUM CONTROL
34 REQUIREMENTS OR DESIGN CRITERIA, THE OWNER/DEVELOPER SHALL
35 SUBMIT TO THE DEPARTMENT AN ANALYSIS OF THE IMPACTS OF
36 STORMWATER FLOWS DOWNSTREAM IN THE WATERSHED. THE ANALYSIS
37 SHALL INCLUDE HYDROLOGIC AND HYDRAULIC CALCULATIONS
38 NECESSARY TO DETERMINE THE IMPACT OF HYDROGRAPH TIMING
39 MODIFICATIONS OF THE PROPOSED DEVELOPMENT UPON A DAM,
40 HIGHWAY, STRUCTURE, OR NATURAL POINT OF RESTRICTED
41 STREAMFLOW. THE POINT OF INVESTIGATION IS TO BE ESTABLISHED
42 WITH THE CONCURRENCE OF THE DEPARTMENT, DOWNSTREAM OF THE
43 FIRST DOWNSTREAM TRIBUTARY WHOSE DRAINAGE AREA EQUALS OR
44 EXCEEDS THE CONTRIBUTING AREA TO THE PROJECT OR STORMWATER
45 MANAGEMENT FACILITY.

- 1 6. INCORPORATION OF GREEN ROOFS AS PART OF THE SITE DESIGN IS
2 ENCOURAGED. APPLICANT MUST SHOW THE QUANTITY OF STORAGE FOR
3 THE DESIGN PROPOSED WHICH WILL BE CONSIDERED AS AN OFFSET FOR
4 THE OVERALL STORMWATER MANAGEMENT REQUIREMENT.
- 5 7. ALTERNATIVE STRUCTURAL AND NONSTRUCTURAL STORMWATER
6 MANAGEMENT PRACTICES MAY BE USED FOR NEW DEVELOPMENT
7 WATER QUALITY CONTROL IF THEY MEET THE PERFORMANCE CRITERIA
8 ESTABLISHED IN THE DESIGN MANUAL AND APPROVED BY THE
9 ADMINISTRATION. PRACTICES USED FOR REDEVELOPMENT PROJECTS
10 SHALL BE APPROVED BY THE DEPARTMENT.
- 11 8. FOR THE PURPOSES OF MODIFYING THE MINIMUM CONTROL
12 REQUIREMENTS OR DESIGN CRITERIA, THE OWNER/DEVELOPER SHALL
13 SUBMIT TO THE DEPARTMENT AN ANALYSIS OF THE IMPACTS OF
14 STORMWATER FLOWS DOWNSTREAM IN THE WATERSHED. THE ANALYSIS
15 SHALL INCLUDE HYDROLOGIC AND HYDRAULIC CALCULATIONS
16 NECESSARY TO DETERMINE THE IMPACT OF HYDROGRAPH TIMING
17 MODIFICATIONS OF THE PROPOSED DEVELOPMENT UPON ANY
18 DOWNSTREAM AREA AND ANY DOWNSTREAM APPURTENANCES,
19 STRUCTURE, OBSTRUCTIONS AND HYDRAULICALLY SIGNIFICANT
20 NATURAL FEATURES. THE POINTS OF INVESTIGATION ARE TO BE
21 ESTABLISHED WITH THE CONCURRENCE OF THE DEPARTMENT.
- 22 9. STORMWATER MANAGEMENT AND DEVELOPMENT PLANS WHERE
23 APPLICABLE, SHALL BE CONSISTENT WITH ADOPTED AND APPROVED
24 WATERSHED MANAGEMENT PLANS, FLOOD MANAGEMENT OR
25 FLOODPLAIN MANAGEMENT PLANS AS APPROVED BY THE MARYLAND
26 DEPARTMENT OF THE ENVIRONMENT IN ACCORDANCE WITH THE FLOOD
27 HAZARD MANAGEMENT ACT OF 1976 AND ANY SUBSEQUENT REVISIONS.

28
29 **19.50.090 - SPECIFIC DESIGN CRITERIA AND ANALYTICAL METHODS.**

- 30 A. STORMWATER MANAGEMENT DESIGN CRITERIA, METHODOLOGIES, AND
31 CONSTRUCTION SPECIFICATIONS SHALL BE SUBJECT TO THE APPROVAL OF
32 THE DEPARTMENT, AND SHALL SATISFY THE REQUIREMENTS OF THE OF THE
33 DESIGN MANUAL.
- 34 B. WHEREVER POSSIBLE, THE APPLICANT SHALL INCORPORATE AND
35 ENHANCE EXISTING NATURAL TOPOGRAPHY AND LAND COVER SUCH AS
36 WETLANDS, PONDS, NATURAL SWALES, AND DEPRESSIONS INTO THE
37 PROPOSED DEVELOPMENT DESIGN.
- 38 C. STORMWATER MANAGEMENT PRACTICES SHALL BE DESIGNED FOR
39 WATER QUALITY ENHANCEMENT AND TO FACILITATE MAINTENANCE OF THE
40 STORMWATER MANAGEMENT FACILITY.
- 41 D. ALL RETENTION AND DETENTION BASINS SHALL CONTAIN FOREBAYS TO
42 FACILITATE THE MAINTENANCE OF THE BASINS. THE FOREBAYS SHALL
43 ACCOMMODATE AN APPROVED PERCENTAGE OF THE TOTAL VOLUME OF THE
44 BASIN, BASED ON ACCEPTED ENGINEERING PRACTICES.

1 E. WHEREVER POSSIBLE AND FEASIBLE, THE STORMWATER MANAGEMENT
2 DESIGN WILL MIMIC PRE-DEVELOPMENT HYDROLOGY.
3

4 **19.50.100 - STORMWATER MANAGEMENT PLANS.**

5 A. REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS.

6 1. UNLESS OTHERWISE EXEMPTED, FOR ANY PROPOSED DEVELOPMENT, THE
7 OWNER OR HIS/HER AGENT SHALL SUBMIT TO THE DEPARTMENT FOR
8 REVIEW AND APPROVAL, PHASED STORMWATER MANAGEMENT PLANS
9 OR WAIVER APPLICATION AS PART OF THE GRADING PERMIT
10 APPLICATION. AT A MINIMUM, PLANS SHALL BE SUBMITTED FOR THE
11 CONCEPT, SITE DEVELOPMENT, AND FINAL STORMWATER MANAGEMENT
12 CONSTRUCT PHASES OF PROJECT DESIGN. THE STORMWATER
13 MANAGEMENT PLAN SHALL CONTAIN SUPPORTING COMPUTATIONS,
14 DRAWINGS, AND SUFFICIENT INFORMATION DESCRIBING THE MANNER,
15 LOCATION, AND TYPE OF MEASURES IN WHICH STORMWATER RUNOFF
16 FROM THE ENTIRE DEVELOPMENT WILL BE MANAGED, AND SHALL BE
17 CONSISTENT WITH THE REQUIREMENT OF THE DESIGN MANUAL. THE
18 DEPARTMENT SHALL REVIEW THE PLANS TO DETERMINE COMPLIANCE
19 WITH THE REQUIREMENTS OF THIS CHAPTER PRIOR TO APPROVAL. THE
20 PLANS SHALL SERVE AS THE BASIS FOR ALL SUBSEQUENT
21 CONSTRUCTION.

22 2. THE DEPARTMENT SHALL PERFORM A COMPREHENSIVE REVIEW OF THE
23 STORMWATER MANAGEMENT PLANS FOR EACH PHASE OF SITE DESIGN.
24 COORDINATED COMMENTS WILL BE PROVIDED FOR EACH PLAN PHASE
25 THAT REFLECTS INPUT FROM ALL APPROPRIATE AGENCIES INCLUDING,
26 BUT NOT LIMITED TO, THE ANNE ARUNDEL COUNTY SOIL CONSERVATION
27 DISTRICT (SCD) AND THE DEPARTMENTS OF PLANNING AND ZONING AND
28 THE DEPARTMENT OF PUBLIC WORKS. ALL COMMENTS FROM OTHER
29 APPROPRIATE AGENCIES SHALL BE ADDRESSED AND APPROVAL
30 RECEIVED AT EACH PHASE OF PROJECT DESIGN BEFORE SUBSEQUENT
31 SUBMISSIONS.

32 3. ISSUANCE OF THE GRADING PERMIT SHALL CONSTITUTE APPROVAL OF
33 THE STORMWATER MANAGEMENT PLAN FOR CONSTRUCTION.

34 B. CONTENTS AND SUBMISSION OF THE STORMWATER MANAGEMENT PLAN.

35 1. THE OWNER/DEVELOPER SHALL SUBMIT A CONCEPT PLAN THAT
36 PROVIDES SUFFICIENT INFORMATION FOR AN INITIAL ASSESSMENT OF
37 THE PROPOSED PROJECT AND WHETHER STORMWATER MANAGEMENT
38 CAN BE PROVIDED ACCORDING TO SECTION 19.50.080 OF THIS ORDINANCE
39 AND THE DESIGN MANUAL. PLANS SUBMITTED FOR CONCEPT APPROVAL
40 SHALL INCLUDE, BUT ARE NOT LIMITED TO:

41 A. A MAP AT A SCALE SPECIFIED BY THE DEPARTMENT SHOWING SITE
42 LOCATION, EXISTING NATURAL FEATURES, WATER AND OTHER
43 SENSITIVE RESOURCES, TOPOGRAPHY, AND NATURAL DRAINAGE
44 PATTERNS AT A SCALE OF 1:10, 1:20 OR 1:50;

- 1 B. THE ANTICIPATED LOCATION OF ALL PROPOSED IMPERVIOUS AREAS,
2 BUILDINGS, ROADWAYS PARKING, SIDEWALKS, UTILITIES, AND
3 OTHER SITE IMPROVEMENTS;
- 4 C. THE LOCATION OF THE PROPOSED LIMIT OF DISTURBANCE, ERODIBLE
5 SOILS, STEEP SLOPES, AND AREAS TO BE PROTECTED DURING
6 CONSTRUCTION;
- 7 D. PRELIMINARY ESTIMATES OF STORMWATER MANAGEMENT
8 REQUIREMENTS, THE SELECTION AND LOCATION OF ESD PRACTICES
9 TO BE USED, AND THE LOCATION OF ALL POINTS OF DISCHARGE FROM
10 THE SITE;
- 11 E. A NARRATIVE THAT SUPPORTS THE CONCEPT DESIGN AND DESCRIBES
12 HOW ESD WILL BE IMPLEMENTED TO THE MEP; AND
- 13 F. ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.
- 14 2. FOLLOWING CONCEPT PLAN APPROVAL BY THE DEPARTMENT, THE
15 OWNER/DEVELOPER SHALL SUBMIT SITE DEVELOPMENT PLANS THAT
16 REFLECT COMMENTS RECEIVED DURING THE PREVIOUS REVIEW PHASE.
17 PLANS SUBMITTED FOR SITE DEVELOPMENT APPROVAL SHALL BE OF
18 SUFFICIENT DETAIL TO ALLOW SITE DEVELOPMENT TO BE REVIEWED
19 AND INCLUDE BUT NOT BE LIMITED TO:
 - 20 A. ALL INFORMATION PROVIDED DURING THE CONCEPT PLAN REVIEW
21 PHASE;
 - 22 B. FINAL SITE LAYOUT, EXACT IMPERVIOUS AREA LOCATIONS AND
23 ACREAGES, PROPOSED TOPOGRAPHY, DELINEATED DRAINAGE AREAS
24 AT ALL POINTS OF DISCHARGE FROM THE SITE, AND STORMWATER
25 VOLUME COMPUTATIONS FOR ESD PRACTICES AND QUANTITY
26 CONTROL STRUCTURES;
 - 27 C. A PROPOSED EROSION AND SEDIMENT CONTROL PLAN THAT
28 CONTAINS THE CONSTRUCTION SEQUENCE, ANY PHASING
29 NECESSARY TO LIMIT EARTH DISTURBANCES AND IMPACTS TO
30 NATURAL RESOURCES AND AN OVERLAY PLAN SHOWING THE TYPES
31 AND LOCATIONS OF ESD AND EROSION AND SEDIMENT CONTROL
32 PRACTICES TO BE USED;
 - 33 D. A NARRATIVE THAT SUPPORTS THE SITE DEVELOPMENT DESIGN,
34 DESCRIBES HOW ESD WILL BE USED TO MEET THE MINIMUM CONTROL
35 REQUIREMENTS, AND JUSTIFIES ANY PROPOSED STRUCTURAL
36 STORMWATER MANAGEMENT MEASURE; AND
 - 37 E. ANY OTHER INFORMATION REQUIRED BY THE APPROVING AGENCY.
- 38 3. FOLLOWING SITE DEVELOPMENT APPROVAL BY THE DEPARTMENT, THE
39 OWNER/DEVELOPER SHALL SUBMIT FINAL EROSION AND SEDIMENT
40 CONTROL AND STORMWATER MANAGEMENT PLANS THAT REFLECT THE
41 COMMENTS RECEIVED DURING THE PREVIOUS REVIEW PHASE. PLANS
42 SUBMITTED FOR FINAL APPROVAL SHALL BE OF SUFFICIENT DETAIL TO
43 ALLOW ALL APPROVALS AND PERMITS TO BE ISSUED ACCORDING TO THE
44 FOLLOWING:

- 1 A. FINAL EROSION AND SEDIMENT CONTROL PLANS SHALL BE
- 2 SUBMITTED ACCORDING TO COMAR 26.17.01.05; AND
- 3 B. FINAL STORMWATER MANAGEMENT PLANS SHALL BE SUBMITTED
- 4 FOR APPROVAL IN THE FORM OF CONSTRUCTION DRAWINGS AND BE
- 5 ACCOMPANIED BY A REPORT THAT INCLUDES SUFFICIENT
- 6 INFORMATION TO EVALUATE THE EFFECTIVENESS OF THE PROPOSED
- 7 RUNOFF CONTROL DESIGN.
- 8 4. REPORTS SUBMITTED FOR FINAL STORMWATER MANAGEMENT PLAN
- 9 APPROVAL SHALL INCLUDE, BUT ARE NOT LIMITED TO:
- 10 A. GEOTECHNICAL INVESTIGATIONS INCLUDING SOIL MAPS, BORINGS,
- 11 SITE SPECIFIC RECOMMENDATIONS, AND ANY ADDITIONAL
- 12 INFORMATION NECESSARY FOR THE FINAL STORMWATER
- 13 MANAGEMENT DESIGN;
- 14 B. DRAINAGE AREA MAPS DEPICTING PREDEVELOPMENT AND POST
- 15 DEVELOPMENT RUNOFF FLOW PATH SEGMENTATION AND LAND USE;
- 16 C. HYDROLOGIC COMPUTATIONS OF THE APPLICABLE ESD AND UNIFIED
- 17 SIZING CRITERIA ACCORDING TO THE DESIGN MANUAL FOR ALL
- 18 POINTS OF DISCHARGE FROM THE SITE;
- 19 D. HYDRAULIC AND STRUCTURAL COMPUTATIONS FOR ALL ESD
- 20 PRACTICES AND STRUCTURAL STORMWATER MANAGEMENT
- 21 MEASURES TO BE USED;
- 22 E. A NARRATIVE THAT SUPPORTS THE FINAL STORMWATER
- 23 MANAGEMENT DESIGN; AND
- 24 F. ANY OTHER INFORMATION REQUIRED BY THE.
- 25 5. CONSTRUCTION DRAWINGS SUBMITTED FOR FINAL STORMWATER
- 26 MANAGEMENT PLAN APPROVAL SHALL INCLUDE, BUT ARE NOT LIMITED
- 27 TO:
- 28 A. A VICINITY MAP;
- 29 B. EXISTING AND PROPOSED TOPOGRAPHY AND PROPOSED DRAINAGE
- 30 AREAS, INCLUDING AREAS NECESSARY TO DETERMINE DOWNSTREAM
- 31 ANALYSIS FOR PROPOSED STORMWATER MANAGEMENT FACILITIES;
- 32 C. ANY PROPOSED IMPROVEMENTS INCLUDING LOCATION OF
- 33 BUILDINGS OR OTHER STRUCTURES, IMPERVIOUS SURFACES, STORM
- 34 DRAINAGE FACILITIES, AND ALL GRADING;
- 35 D. THE LOCATION OF EXISTING AND PROPOSED STRUCTURES AND
- 36 UTILITIES;
- 37 E. ANY EASEMENTS AND RIGHTS-OF-WAY;
- 38 F. THE DELINEATION, IF APPLICABLE, OF THE ONE HUNDRED-YEAR
- 39 FLOODPLAIN, ON-SITE WETLANDS OR CRITICAL AREA DESIGNATION
- 40 AND ONE HUNDRED-FOOT BUFFER;
- 41 G. STRUCTURAL AND CONSTRUCTION DETAILS INCLUDING
- 42 REPRESENTATIVE CROSS SECTIONS FOR ALL COMPONENTS OF THE
- 43 PROPOSED DRAINAGE SYSTEM OR SYSTEMS, AND STORMWATER
- 44 MANAGEMENT FACILITIES;
- 45 H. ALL NECESSARY CONSTRUCTION SPECIFICATIONS;

- 1 I. A SEQUENCE OF CONSTRUCTION;
- 2 J. DATA FOR TOTAL SITE AREA, DISTURBED AREA, NEW IMPERVIOUS
- 3 AREA, AND TOTAL IMPERVIOUS AREA;
- 4 K. A TABLE SHOWING ESD AND UNIFIED SIZING CRITERIA VOLUMES
- 5 REQUIRED IN THE DESIGN MANUAL;
- 6 L. A TABLE OF MATERIALS TO BE USED FOR STORMWATER
- 7 MANAGEMENT FACILITY PLANTING;
- 8 M. ALL SOIL BORINGS LOGS AND LOCATIONS;
- 9 N. AN INSPECTION AND MAINTENANCE SCHEDULE;
- 10 O. CERTIFICATION BY THE OWNER/DEVELOPER THAT ALL
- 11 STORMWATER MANAGEMENT CONSTRUCTION WILL BE DONE
- 12 ACCORDING TO THIS PLAN;
- 13 P. AN AS-BUILT CERTIFICATION SIGNATURE BLOCK TO BE EXECUTED
- 14 AFTER PROJECT COMPLETION; AND
- 15 Q. ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.
- 16 C. PREPARATION OF THE STORMWATER MANAGEMENT PLAN.
- 17 1. THE STORMWATER MANAGEMENT PLAN SHALL BE PREPARED UNDER
- 18 THE GENERAL SUPERVISION OF A PROFESSIONAL ENGINEER REGISTERED
- 19 TO PRACTICE IN THE STATE OF MARYLAND. THE PROFESSIONAL
- 20 ENGINEER AND ANY OTHER DESIGN PROFESSIONAL INVOLVED IN THE
- 21 PREPARATION OF ANY STORMWATER MANAGEMENT PLAN SUBMITTED
- 22 TO THE DEPARTMENT, SHALL SIGN AND SEAL THE PLAN.
- 23 2. IF A STORMWATER MANAGEMENT PLAN REQUIRES EITHER A DAM
- 24 SAFETY PERMIT FROM THE MARYLAND DEPARTMENT OF ENVIRONMENT
- 25 OR A SMALL POND APPROVAL FROM THE ANNE ARUNDEL SOIL
- 26 CONSERVATION DISTRICT, THEN THE DAM AND/OR POND DESIGN SHALL
- 27 BE PREPARED, SIGNED AND SEALED BY A PROFESSIONAL ENGINEER
- 28 REGISTERED TO PRACTICE IN THE STATE OF MARYLAND.
- 29 D. DESIGN REQUIREMENTS.
- 30 1. STORMWATER MANAGEMENT FACILITIES SHALL BE DESIGNED TO
- 31 MINIMIZE THE NEED OF MAINTENANCE, TO PROVIDE ACCESS FOR
- 32 MAINTENANCE PURPOSES AND TO BE STRUCTURALLY SOUND.
- 33 ADDITIONALLY, A STORMWATER MANAGEMENT FACILITY SHALL BE
- 34 DESIGNED IN ACCORDANCE WITH STANDARD CONSTRUCTION
- 35 SPECIFICATIONS AND DETAILS ESTABLISHED AND PROMULGATED BY THE
- 36 DEPARTMENT OF PUBLIC WORKS AND THE DEPARTMENT OF THE
- 37 ENVIRONMENT.
- 38 2. PRIOR TO APPROVAL OF A STORMWATER MANAGEMENT DESIGN, THE
- 39 APPLICANT SHALL SUBMIT A PROPOSED STAGED INSPECTION AND
- 40 CONSTRUCTION CONTROL SCHEDULE. THE SCHEDULE SHALL PROVIDE
- 41 FOR REGULAR INSPECTIONS BY A REGISTERED PROFESSIONAL ENGINEER
- 42 TO BE CONDUCTED DURING CONSTRUCTION OF STORMWATER
- 43 MANAGEMENT SYSTEMS IN ACCORDANCE WITH ACCEPTED ENGINEERING
- 44 PRACTICES.

- 1 3. THE PERMITTEE SHALL NOTIFY THE DEPARTMENT BEFORE COMMENCING
2 ANY WORK TO IMPLEMENT THE STORMWATER MANAGEMENT PLAN AND
3 UPON COMPLETION OF THE WORK.
- 4 4. NO STAGE OF WORK INVOLVING THE INSTALLATION OF STORMWATER
5 MANAGEMENT FACILITIES SHALL PROCEED UNTIL THE WORK
6 PREVIOUSLY COMPLETED IS INSPECTED AND APPROVED BY THE
7 DEPARTMENT.
- 8 5. ANY PORTION OF THE WORK THAT DOES NOT COMPLY WITH THE
9 STORMWATER MANAGEMENT PLAN SHALL BE CORRECTED PROMPTLY BY
10 THE PERMITTEE.
- 11 6. A FINAL INSPECTION SHALL BE CONDUCTED BY THE DEPARTMENT UPON
12 COMPLETION OF THE STORMWATER MANAGEMENT FACILITY TO
13 DETERMINE IF THE COMPLETED WORK IS CONSTRUCTED IN ACCORDANCE
14 WITH THE APPROVED STORMWATER MANAGEMENT PLAN. THE FINAL
15 INSPECTION BY THE DEPARTMENT DOES NOT RELIEVE THE PERMITTEE OF
16 ANY OF REQUIREMENT IMPOSED ON THE PERMITTEE BY THIS CHAPTER.
- 17 E. CONSTRUCTION COMPLIANCE. ARCHIVE ABLE AND REPRODUCIBLE AS-
18 BUILT PLANS OF THE STORMWATER MANAGEMENT FACILITY SHALL BE
19 FORWARDED TO THE DEPARTMENT UPON COMPLETION OF THE
20 STORMWATER MANAGEMENT FACILITY AND FINAL INSPECTION BY THE
21 DEPARTMENT THE PERMITTEE'S PROFESSIONAL ENGINEER SHALL CERTIFY
22 THAT THE STORMWATER MANAGEMENT FACILITY HAS BEEN CONSTRUCTED
23 AS SHOWN ON THE AS-BUILT PLANS AND THAT THE STORMWATER
24 MANAGEMENT FACILITY MEETS THE APPROVED STORMWATER
25 MANAGEMENT PLAN'S DESIGN AND SPECIFICATIONS.
- 26 F. ELECTRONIC DOCUMENTATION. THE DIRECTOR MAY REQUIRE THE
27 PERMITTEE AND HIS/HER ENGINEER TO SUBMIT ALL OF THE DOCUMENTS
28 ASSOCIATED WITH THE GRADING PERMIT IN AN ELECTRONIC FORMAT FOR
29 ARCHIVING PURPOSES. THE DOCUMENTS SHALL BE SUBMITTED IN THE
30 FORMAT REQUIRED BY THE DIRECTOR.
- 31 G. RELEASE OF SECURITY. THE PERFORMANCE BOND SHALL NOT BE
32 REDUCED NOR RELEASED UNTIL ALL ASPECTS OF THE STORMWATER
33 MANAGEMENT PLAN ARE COMPLETED, INCLUDING, BUT NOT LIMITED TO:
 - 34 1. THE SUBMISSION AND ACCEPTANCE OF "AS BUILT DRAWINGS" IN
35 ACCORDANCE WITH SUBSECTION E OF THIS SECTION,
 - 36 2. THE COMPLETION OF ALL FORMS REQUIRED BY THE ADMINISTRATION,
37 AND
 - 38 3. THE STORMWATER MANAGEMENT FACILITY HAS BEEN IN OPERATION
39 FOR A MINIMUM OF ONE YEAR WITHOUT FAILURE.

40
41 **19.50.110 - RIGHT-TO-DISCHARGE.**

- 42 A. IF A STORMWATER MANAGEMENT PLAN INVOLVES CONVEYANCE OF
43 RUNOFF FROM A SITE, THE APPLICANT SHALL:
 - 44 1. PROVIDE WRITTEN NOTIFICATION TO ALL PROPERTY OWNERS WITHIN
45 FIVE HUNDRED FEET DOWNSTREAM OF THE PROPOSED TERMINUS POINT

1 AT WHICH RUNOFF WILL BE DISCHARGED OF THE INTENDED
2 STORMWATER MANAGEMENT PLAN; AND

3 2. OBTAIN FROM PROPERTY OWNERS ADJACENT TO THE INTENDED
4 TERMINUS POINT AT WHICH RUNOFF WILL BE DISCHARGED ANY
5 NECESSARY RIGHT TO DISCHARGE OR OTHER PROPERTY INTERESTS
6 REQUIRED TO AUTHORIZE THE FLOWAGE OF WATER.

7 B. APPROVAL OF A STORMWATER MANAGEMENT PLAN SHALL NOT BE
8 CONSTRUED TO CREATE OR AFFECT ANY REAL PROPERTY RIGHTS.

9
10 **19.50.120 - WAIVERS.**

11 A. EXCEPT AS PROVIDED IN SECTION 19.50.120.D. OF THIS CODE, THE
12 DEPARTMENT SHALL GRANT STORMWATER MANAGEMENT QUANTITATIVE
13 CONTROL WAIVERS ONLY TO THOSE PROJECTS WITHIN AREAS WHERE
14 WATERSHED MANAGEMENT PLANS HAVE BEEN DEVELOPED CONSISTENT
15 WITH SECTION 19.50.075F OF THIS ORDINANCE. WRITTEN REQUESTS FOR
16 QUANTITATIVE STORMWATER MANAGEMENT WAIVERS SHALL BE
17 SUBMITTED THAT CONTAIN SUFFICIENT DESCRIPTIONS, DRAWINGS, AND ANY
18 OTHER INFORMATION THAT IS NECESSARY TO DEMONSTRATE THAT ESD HAS
19 BEEN IMPLEMENTED TO THE MEP. A SEPARATE WRITTEN WAIVER REQUEST
20 SHALL BE REQUIRED IN ACCORDANCE WITH THE PROVISIONS OF THIS
21 SECTION IF THERE ARE SUBSEQUENT ADDITIONS, EXTENSIONS, OR
22 MODIFICATIONS TO A DEVELOPMENT RECEIVING A WAIVER.

23 B. EXCEPT AS PROVIDED IN SECTION 19.50.120D OF THIS CODE, IF
24 WATERSHED MANAGEMENT PLANS CONSISTENT WITH SECTION 19.50.075F OF
25 THIS CODE HAVE NOT BEEN DEVELOPED, STORMWATER MANAGEMENT
26 QUANTITATIVE CONTROL WAIVERS MAY BE GRANTED TO THE FOLLOWING
27 PROJECTS PROVIDED THAT IT HAS BEEN DEMONSTRATED THAT ESD HAS
28 BEEN IMPLEMENTS TO THE MEP:

29 1. THAT HAVE DIRECT DISCHARGES TO TIDALLY INFLUENCED RECEIVING
30 WATERS;

31 2. THAT ARE IN-FILL DEVELOPMENT LOCATED IN A PRIORITY FUNDING
32 AREA WHERE THE ECONOMIC FEASIBILITY OF THE PROJECT IS TIED TO
33 THE PLANNED DENSITY, AND WHERE IMPLEMENTATION OF THE 2009
34 REGULATORY REQUIREMENTS WOULD RESULT IN A LOSS OF THE
35 PLANNED DEVELOPMENT DENSITY PROVIDED THAT:

36 A. PUBLIC WATER AND SEWER AND STORMWATER CONVEYANCE EXIST;

37 B. THE QUANTITATIVE WAIVER IS APPLIED TO THE PROJECT FOR THE
38 IMPERVIOUS COVER THAT PREVIOUSLY EXISTED ON THE SITE ONLY;

39 C. ESD TO THE MEP IS USED TO THE MEET THE FULL WATER QUALITY
40 TREATMENT REQUIREMENTS FOR THE ENTIRE DEVELOPMENT; AND
41 ESD TO THE MEP IS USED TO PROVIDE FULL QUANTITY CONTROL FOR
42 ALL NEW IMPERVIOUS SURFACES; OR

43 3. WHEN THE APPROVING AGENCY DETERMINES THAT CIRCUMSTANCES
44 EXIST THAT PREVENT THE REASONABLE IMPLEMENTATION OF QUANTITY
45 CONTROL PRACTICES.

1 C. EXCEPT AS PROVIDED IN SECTION 19.50.120D OF THIS CODE,
2 STORMWATER MANAGEMENT QUALITATIVE CONTROL WAIVERS APPLY
3 ONLY TO:

- 4 1. IN-FILL DEVELOPMENT PROJECTS WHERE ESD HAS BEEN IMPLEMENTED
5 TO THE MEP AND IT HAS BEEN DEMONSTRATED THAT OTHER BMPS ARE
6 NOT FEASIBLE;
- 7 2. REDEVELOPMENT PROJECTS IF THE REQUIREMENTS OF SECTION 19.50.085
8 OF THIS ORDINANCE ARE SATISFIED; OR
- 9 3. SITES WHERE THE APPROVING AGENCY DETERMINES THAT
10 CIRCUMSTANCES EXIST THAT PREVENT THE REASONABLE
11 IMPLEMENTATION OF ESD TO THE MEP.

12 D. STORMWATER MANAGEMENT QUANTITATIVE AND QUALITATIVE
13 CONTROL WAIVERS MAY BE GRANTED FOR PHASED DEVELOPMENT PROJECTS
14 IF A SYSTEM DESIGNED TO MEET THE 2009 REGULATORY REQUIREMENTS AND
15 THE DEPARTMENT REQUIREMENTS FOR MULTIPLE PHASES HAS BEEN
16 CONSTRUCTED BY MAY 4, 2010. IF THE 2009 REGULATORY REQUIREMENTS
17 CANNOT BE MET FOR FUTURE PHASES CONSTRUCTED AFTER MAY 4, 2010, ALL
18 REASONABLE EFFORTS TO INCORPORATE ESD IN FUTURE PHASES MUST BE
19 DEMONSTRATED.

20 ~~E.~~ WAIVERS SHALL ONLY BE GRANTED WHEN IT HAS BEEN DEMONSTRATED
21 THAT ESD HAS BEEN IMPLEMENTED TO THE MEP AND MUST:

- 22 1. BE ON A CASE-BY-CASE BASIS;
- 23 2. CONSIDER THE CUMULATIVE EFFECTS THE DEPARTMENT WAIVER
24 POLICY; AND
- 25 3. REASONABLE ENSURE THE DEVELOPMENT WILL NOT ADVERSELY
26 IMPACT STREAM QUALITY.

27 F. IF THE DEPARTMENT HAS ESTABLISHED AN OVERALL WATERSHED
28 MANAGEMENT PLAN FOR A SPECIFIC WATERSHED, THE DEPARTMENT MAY
29 DEVELOP QUANTITATIVE WAIVER AND REDEVELOPMENT PROVISIONS THAT
30 DIFFER FROM SECTION 19.50.120 OF THIS ORDINANCE.

31 G. A WATERSHED MANAGEMENT PLAN DEVELOPED FOR THE PURPOSE OF
32 IMPLEMENTING DIFFERENT STORMWATER MANAGEMENT POLICIES FOR
33 WAIVERS AND REDEVELOPMENT SHALL:

- 34 1. INCLUDE DETAILED HYDROLOGIC AND HYDRAULIC ANALYSES TO
35 DETERMINE HYDROGRAPH TIMING;
- 36 2. EVALUATE BOTH QUANTITY AND QUALITY MANAGEMENT AND
37 OPPORTUNITIES FOR ESD IMPLEMENTATION;
- 38 3. INCLUDE A CUMULATIVE IMPACT ASSESSMENT OF CURRENT AND
39 PROPOSED WATERSHED DEVELOPMENT;
- 40 4. IDENTIFY EXISTING FLOODING AND RECEIVING STREAM CHANNEL
41 CONDITIONS;
- 42 5. BE CONDUCTED AT A REASONABLE SCALE;
- 43 6. SPECIFY WHERE ON-SITE OR OFF-SITE QUANTITATIVE AND QUALITATIVE
44 STORMWATER MANAGEMENT PRACTICES ARE TO BE IMPLEMENTED;

1 7. BE CONSISTENT WITH THE GENERAL PERFORMANCE STANDARDS FOR
2 STORMWATER MANAGEMENT IN MARYLAND FOUND IN THE DESIGN
3 MANUAL; AND

4 8. BE APPROVED BY THE ADMINISTRATION.

5 H. IF THE DIRECTOR DETERMINES THAT A WAIVER IS APPROPRIATE UNDER
6 THIS SECTION BUT THAT THE CONSTRUCTION OF THE PROPOSED
7 ALTERNATIVE TO ON-SITE STORMWATER QUANTITY OR QUALITY
8 MANAGEMENT IS NOT IN THE CITY'S INTEREST, THE DEPARTMENT MAY
9 REQUIRE THE APPLICANT TO MAKE A MONETARY CONTRIBUTION TO THE
10 STORMWATER UTILITY OR TO AN IDENTIFIED CITY CAPITAL PROJECT
11 INTENDED TO PROVIDE WATER QUANTITY AND/OR QUALITY IMPROVEMENTS
12 TO THE DRAINAGE BASIN IN WHICH THE PROPOSED DEVELOPMENT SITE IS
13 LOCATED. THE AMOUNT OF THE CONTRIBUTION SHALL NOT EXCEED THE
14 COST OF CONSTRUCTING AN EFFECTIVE ON-SITE STORMWATER
15 MANAGEMENT FACILITY, INCLUDING THE VALUE OF THE LAND THAT WOULD
16 BE REQUIRED TO CONSTRUCT THE STORMWATER MANAGEMENT FACILITY,
17 AS WELL AS THE COST OF CONSTRUCTING, LANDSCAPING AND PERPETUALLY
18 MAINTAINING THE FACILITY. THE COST OF PERPETUALLY MAINTAINING THE
19 STORMWATER MANAGEMENT FACILITY IS PRESUMED TO EQUAL TO THE
20 COST OF CONSTRUCTING THE STORMWATER MANAGEMENT FACILITY.
21

22 **19.50.130 – [Reserved]**

23
24 **19.50.140 - MODIFICATIONS.**

25 UPON WRITTEN APPLICATION OF THE PROPERTY OWNER OR HIS/HER AGENT,
26 THE DIRECTOR MAY GRANT A WRITTEN MODIFICATION TO ANY REQUIREMENT
27 OF SECTION 19.50.080 IF THERE ARE EXCEPTIONAL CIRCUMSTANCES APPLICABLE
28 TO THE SITE SUCH THAT STRICT ADHERENCE TO THE REQUIREMENT WOULD
29 RESULT IN UNNECESSARY HARDSHIP AND WOULD NOT FULFILL THE INTENT OF
30 THE CHAPTER. THE APPLICATION SHALL STATE THE SPECIFIC MODIFICATIONS
31 SOUGHT AND THE REASONS FOR THE DESIRED MODIFICATIONS. THE DIRECTOR
32 SHALL NOT GRANT A MODIFICATION TO ANY REQUIREMENT OF SECTION 19.50.080
33 EXCEPT FOR GOOD CAUSE, CONSISTENT WITH THE PROVISIONS FOR EXCEPTIONS
34 PROVIDED IN THIS CHAPTER, SHOWN BY THE APPLICANT REQUESTING THE
35 MODIFICATION.
36

37 **19.50.150 - PERMITS.**

38 A. PERMIT REQUIREMENT.

39 1. A GRADING PERMIT SHALL NOT BE ISSUED FOR ANY PARCEL OR LOT
40 UNLESS A STORMWATER MANAGEMENT PLAN, MEETING ALL OF THE
41 REQUIREMENTS OF THIS CHAPTER, HAS BEEN APPROVED OR WAIVED BY
42 THE DEPARTMENT. WHERE APPROPRIATE, A GRADING PERMIT SHALL NOT
43 BE ISSUED WITHOUT:

44 A. APPROVAL OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT;

- 1 B. A RECORDED PRIVATE STORMWATER MANAGEMENT FACILITY
- 2 INSPECTION AND MAINTENANCE AGREEMENT PURSUANT TO SECTION
- 3 19.50.190;
- 4 C. A PERFORMANCE BOND; AND
- 5 D. PROOF OF PROPERTY INTERESTS AS REQUIRED UNDER SECTION
- 6 19.50.110.

7 B. PERMIT SUSPENSION AND REVOCATION.

- 8 1. A GRADING PERMIT ISSUED BY THE DEPARTMENT MAY BE SUSPENDED
- 9 OR REVOKED BY GIVING WRITTEN NOTICE THEREOF TO THE PERMITTEE,
- 10 IF THE DIRECTORS OF PLANNING AND ZONING, PUBLIC WORKS, OR THE
- 11 DEPARTMENT OF THE ENVIRONMENT FINDS ANY OF THE FOLLOWING:

- 12 A. VIOLATION OF ANY CONDITION OF THE STORMWATER
- 13 MANAGEMENT PLAN APPROVAL.
- 14 B. CHANGE IN ANY SITE RUNOFF CHARACTERISTICS UPON WHICH AN
- 15 APPROVAL OR WAIVER WAS GRANTED.
- 16 C. CONSTRUCTION OF A STORMWATER MANAGEMENT FACILITY NOT IN
- 17 ACCORDANCE WITH THE APPROVED PLAN.
- 18 D. NONCOMPLIANCE WITH A CORRECTION NOTICE OR A STOP WORK
- 19 ORDER RELATED TO THE CONSTRUCTION OF THE STORMWATER
- 20 MANAGEMENT FACILITY.
- 21 E. AN IMMEDIATE DANGER TO A DOWNSTREAM AREA.

- 22 2. THE GROUNDS FOR SUSPENSION OR REVOCATION SET FORTH IN THE
- 23 PRECEDING SUBSECTION ARE IN ADDITION TO, AND ARE NOT INTENDED
- 24 TO SUPERSEDE, OTHER GROUNDS FOR THE ISSUANCE OF A STOP WORK
- 25 ORDER OR THE SUSPENSION OR REVOCATION OF A GRADING PERMIT.

- 26 C. PERMIT CONDITIONS. IN GRANTING A STORMWATER MANAGEMENT
- 27 PLAN APPROVAL, THE DEPARTMENT MAY IMPOSE SUCH TERMS AND
- 28 CONDITIONS THAT THE DIRECTOR OR HIS/HER DESIGNEE MAY DEEM
- 29 NECESSARY TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS
- 30 CHAPTER AND THE PRESERVATION OF THE PUBLIC HEALTH AND SAFETY.

31

32 **19.50.160 - PERFORMANCE BOND.**

- 33 A. PRIOR TO THE ISSUANCE OF A GRADING PERMIT FOR ANY
- 34 CONSTRUCTION, THE APPLICANT SHALL PROVIDE THE CITY OF ANNAPOLIS
- 35 WITH A SURETY OR CASH BOND, IRREVOCABLE LETTER OF CREDIT, OR OTHER
- 36 MEANS OF SECURITY ACCEPTABLE TO THE CITY ATTORNEY IN A FORMAT
- 37 ACCEPTABLE TO THE CITY ATTORNEY. THE AMOUNT OF THE SECURITY
- 38 SHALL NOT BE LESS THAN THE TOTAL ESTIMATED CONSTRUCTION COST PER
- 39 THE ESTIMATE FORM.

- 40 B. THE SECURITY SHALL NOT BE FULLY RELEASED UNTIL ALL ASPECTS OF
- 41 THE GRADING PERMIT ARE COMPLETED, INCLUDING, BUT NOT LIMITED TO:

- 42 1. THE SUBMISSION AND ACCEPTANCE OF "AS BUILT DRAWINGS" IN
- 43 ACCORDANCE WITH SUBSECTION G OF SECTION 19.50.100;
- 44 2. COMPLIANCE WITH ALL LANDSCAPING PLANS;
- 45 3. ABSENCE OF EROSION OR OTHER SITE PROBLEMS;

- 1 4. THE COMPLETION OF ALL FORMS REQUIRED BY THE ADMINISTRATION;
2 AND,
3 5. THE STORMWATER MANAGEMENT FACILITY HAS BEEN IN OPERATION
4 FOR A MINIMUM OF ONE YEAR WITHOUT FAILURE.
5

6 **19.50.170 - OWNERSHIP AND MAINTENANCE OF STORMWATER MANAGEMENT**
7 **FACILITIES.**

8 A. ALL STORMWATER MANAGEMENT FACILITIES THAT SERVE A SINGLE
9 LOT, FACILITY OR SUBDIVISION SHALL BE PRIVATELY OWNED AND
10 PRIVATELY MAINTAINED EXCEPT AS PROVIDE IN SUBSECTION C OF THIS
11 SECTION.

12 B. ALL STORMWATER MANAGEMENT FACILITIES MEASURES RELYING ON
13 VEGETATED AREAS OR SITE FEATURES SHALL BE PRIVATELY OWNED AND
14 PRIVATELY MAINTAINED.

15 C. AT THE DISCRETION OF THE DIRECTOR, A REGIONAL STORMWATER
16 MANAGEMENT FACILITY MAY BE PUBLICLY OWNED AND PUBLICLY
17 MAINTAINED. IF A REGIONAL STORMWATER MANAGEMENT FACILITY IS TO
18 BE PUBLICLY OWNED, IT SHALL BE CONVEYED TO THE CITY OF ANNAPOLIS
19 PRIOR TO THE FINAL RELEASE OF SECURITY.
20

21 **19.50.180 - WATERSHED RESTORATION FUND.**

22 A. A WATERSHED RESTORATION FUND SHALL BE ESTABLISHED AND THE
23 MONEYS THEREIN SHALL BE USED BY THE CITY FOR LAND ACQUISITION
24 (INCLUDING EASEMENTS AND RIGHTS-OF-WAY), AND THE STUDY,
25 ENGINEERING, DESIGN, PURCHASE, CONSTRUCTION, EXPANSION, REPAIR,
26 MAINTENANCE, LANDSCAPING AND INSPECTION OF PUBLIC STORMWATER
27 MANAGEMENT SYSTEMS.

28 B. THE WATERSHED RESTORATION FEE SCHEDULE APPLICABLE TO THE
29 FUND SHALL BE ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. THE
30 FEES SCHEDULE SHALL REFLECT AN ANNUAL TWO PERCENT RATE INCREASE
31 IN EFFECT FROM JULY 1, 2015 UNTIL JUNE 30, 2018 FOR STORMWATER FEES
32 UNDER THIS SECTION. TO ENCOURAGE ENVIRONMENTALLY SOUND AND
33 EFFECTIVE STORMWATER MANAGEMENT PRACTICES, THE DIRECTOR MAY
34 AUTHORIZE A REDUCTION IN THE WATERSHED RESTORATION FEE NOT TO
35 EXCEED FIFTY PERCENT IN ACCORDANCE WITH A DULY ESTABLISHED
36 POLICY SETTING FORTH WHICH STORMWATER MANAGEMENT FACILITIES
37 SHALL QUALIFY FOR A REDUCTION OF THE WATERSHED RESTORATION FEE
38 AND HOW SUCH REDUCTIONS SHALL BE CALCULATED.

39 C. IN THE CASE OF AN APPLICATION FOR A WAIVER TO ON-SITE WATER
40 QUANTITY AND/OR WATER QUALITY MANAGEMENT UNDER THIS CHAPTER,
41 THE DIRECTOR MAY IN HIS/HER DISCRETION ACCEPT THE CONVEYANCE OF
42 AN INTEREST IN LAND, THE CONSTRUCTION OF A STORMWATER
43 MANAGEMENT FACILITY, THE SCHEDULED FEE OR ANY EQUIVALENT
44 COMBINATION THEREOF AS THE WATERSHED RESTORATION FEE.

1 D. THE DIRECTOR SHALL NOT ACCEPT A CONVEYANCE OF LAND OR THE
2 CONSTRUCTION OF A STORMWATER MANAGEMENT FACILITY PURSUANT TO
3 THE PRECEDING SUBSECTION THAT DOES NOT COVER ADEQUATELY THE
4 COST TO THE CITY OF MANAGING THE STORMWATER GENERATED FROM THE
5 SUBJECT PROPERTY OR IF SUCH ACCEPTANCE IS OTHERWISE NOT IN THE
6 INTEREST OF THE CITY.

7 E. PUBLIC WORKS, IN CONSULTATION WITH THE DEPARTMENT, IS
8 RESPONSIBLE FOR MAINTENANCE, REPAIR AND RETROFIT OF STORMWATER
9 FACILITIES THAT LIE IN THE PUBLIC RIGHT-OF-WAY AND THESE FUNDS SHALL
10 BE USED TO THIS EFFECT.

11
12 **19.50.190 - PRIVATE STORMWATER MANAGEMENT FACILITY INSPECTION AND**
13 **MAINTENANCE AGREEMENT.**

14 A. PRIOR TO THE ISSUANCE OF ANY BUILDING OR GRADING PERMIT WHICH
15 HAS A PRIVATE STORMWATER MANAGEMENT FACILITY AS ONE OF THE
16 REQUIREMENTS OF THE PERMIT, THE APPLICANT SHALL EXECUTE AND
17 DELIVER TO THE DEPARTMENT, A STORMWATER MANAGEMENT FACILITY
18 INSPECTION AND MAINTENANCE AGREEMENT BINDING ON THE APPLICANT
19 (ITS SUCCESSORS AND ASSIGNS) AND ON ALL OWNERS (THEIR SUCCESSORS
20 AND ASSIGNS) OF LAND SERVED BY THE STORMWATER MANAGEMENT
21 FACILITY.

22 B. THE AGREEMENT REQUIRED BY THE PRECEDING SUBSECTION SHALL:

- 23 1. AUTHORIZE ACCESS TO THE STORMWATER MANAGEMENT FACILITY AT
24 REASONABLE TIMES, FOR PERIODIC INSPECTION BY THE CITY (OR ITS
25 CONTRACTOR OR AGENT),
- 26 2. REQUIRE THE PROPERTY OWNER AND/BENEFICIAL USERS PERIODICALLY
27 INSPECT AND MAINTAIN THE STORMWATER MANAGEMENT FACILITY IN
28 A PROPER WORKING CONDITION SATISFYING THE REQUIREMENTS OF THIS
29 CHAPTER,
- 30 3. INCLUDE SUCH OTHER ITEMS AND CONDITIONS AS THE DIRECTOR MAY
31 REQUIRE.

32 C. THE AGREEMENT REQUIRED BY THIS SECTION SHALL ALSO PROVIDE
33 THAT IF, AFTER NOTICE BY THE DEPARTMENT TO CORRECT A VIOLATION OF
34 THIS CHAPTER, SATISFACTORY CORRECTIVE MEASURES HAVE NOT BEEN
35 COMPLETED BY THE OWNER AND OR BENEFICIAL USERS WITHIN THE TIME
36 SPECIFIED IN THE NOTICE, THE DEPARTMENT MAY CAUSE TO BE PERFORMED
37 ALL NECESSARY WORK TO CORRECT THE VIOLATION AND MAY ASSESS THE
38 OWNER, AND/OR BENEFICIAL USERS, THE COST OF THE WORK. THE
39 AGREEMENT SHALL FURTHER PROVIDE THAT THE COST OF THE WORK SHALL
40 CONSTITUTE A LIEN ON THE PROPERTY AND MAY BE PLACED ON THE TAX
41 BILL FOR THE PROPERTY AND COLLECTED IN THE SAME MANNER AS
42 PROPERTY TAXES. THE AGREEMENT SHALL ALSO PROVIDE THAT THE OWNER
43 AND/OR BENEFICIAL USERS SHALL BE LIABLE FOR INTEREST, CALCULATED
44 AT THE MAXIMUM LEGAL RATE, ON THE UNPAID BALANCE OF ANY SUCH

1 CHARGES UNTIL PAID, AS WELL AS REASONABLE ATTORNEY FEES INCURRED
2 BY THE CITY IN COLLECTING SUCH BALANCE.

3 D. THE AGREEMENT REQUIRED BY THIS SECTION SHALL BE RECORDED
4 AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY. THE COST OF SUCH
5 RECORDATION SHALL BE PAID BY THE APPLICANT OR THE OWNER.
6

7 **19.50.200 - RESPONSIBILITY OF PERMITTEE AND OWNER.**

8 THE PERMITTEE AND OWNER SHALL BE JOINTLY RESPONSIBLE FOR THE
9 INSTALLATION OF THE STORMWATER MANAGEMENT FACILITY IN COMPLIANCE
10 WITH THE PROVISIONS OF THIS CHAPTER.
11

12 **19.50.210 - INSPECTION PROGRAM.**

13 A. ALL PRIVATELY OWNED STORMWATER MANAGEMENT FACILITIES
14 SHALL BE INSPECTED DURING CONSTRUCTION, DURING THE FIRST YEAR OF
15 OPERATION, AND ANNUALLY THEREAFTER BY THE DEPARTMENT.

16 B. REGULAR INSPECTIONS SHALL BE MADE AND DOCUMENTED FOR EACH
17 ESD SYSTEM AT THE STAGES OF CONSTRUCTION SPECIFIED IN THE DESIGN
18 MANUAL AND CERTIFIED BY A PROFESSIONAL ENGINEER LICENSED IN THE
19 STATE OF MARYLAND. AT A MINIMUM, ALL ESD SYSTEM AND OTHER
20 NONSTRUCTURAL PRACTICES SHALL BE INSPECTED UPON COMPLETION OF
21 FINAL GRADING, THE ESTABLISHMENT OF PERMANENT STABILIZATION, AND
22 BEFORE ISSUANCE OF USE AND OCCUPANCY APPROVAL.

23 C. ALL PRIVATELY OWNED STORMWATER MANAGEMENT FACILITIES
24 SHALL BE INSPECTED AND MAINTAINED IN ACCORDANCE WITH THE
25 STORMWATER MANAGEMENT FACILITY INSPECTION AND MAINTENANCE
26 AGREEMENT. NOT LATER THAN AUGUST FIRST OF EACH YEAR, THE OWNER
27 AND/OR BENEFICIAL USERS SHALL PROVIDE THE DEPARTMENT WITH AN
28 INSPECTION AND MAINTENANCE REPORT, IN SUCH FORMAT AS MAY BE
29 SPECIFIED BY THE DIRECTOR.

30 D. THE DEPARTMENT SHALL MAINTAIN COPIES OF INSPECTION AND
31 MAINTENANCE REPORTS FOR PRIVATELY OWNED STORMWATER
32 MANAGEMENT FACILITIES AMONG THEIR DEPARTMENTAL RECORDS FOR A
33 PERIOD OF SEVEN YEARS FROM THE DATE OF THE INSPECTION.
34

35 **19.50.220 - EMERGENCY AUTHORITY.**

36 IF THE DIRECTOR DETERMINES THAT THE CONDITION OF ANY STORMWATER
37 MANAGEMENT FACILITY, STORM DRAINAGE SYSTEM OR DRAINAGE WAY
38 PRESENTS AN IMMEDIATE DANGER TO THE PUBLIC HEALTH OR SAFETY, THE
39 DIRECTOR MAY TAKE ANY ACTION TO PROTECT THE PUBLIC. COSTS INCURRED
40 BY THE CITY AS A RESULT SUCH ACTION SHALL BE ASSESSED AGAINST THE
41 OWNERS AND BENEFICIAL USES OF THE STORMWATER MANAGEMENT FACILITY,
42 WHO SHALL BE JOINTLY AND SEVERALLY LIABLE FOR SUCH COSTS. THE
43 PROPERTY SERVED BY THE STORMWATER MANAGEMENT FACILITY SHALL BE
44 SUBJECT TO A LIEN FOR THE COSTS THAT MAY BE PLACED ON THE TAX BILL FOR
45 SUCH PROPERTY AND COLLECTED IN THE SAME MANNER AS PROPERTY TAXES.

1
2 **19.50.230 - INTERPRETATION.**

3 IN INTERPRETING AND APPLYING THIS CHAPTER, THE STATED
4 REQUIREMENTS ARE DECLARED TO BE MINIMUM REQUIREMENTS WHICH ARE
5 IMPOSED AND ARE IN ADDITION TO, AND NOT IN LIEU OF, ALL OTHER LEGAL
6 REQUIREMENTS, AND SHALL BE INTERPRETED TO ACCOMPLISH THE PURPOSES
7 SET FORTH IN SECTION 19.50.010. THE PROVISIONS OF THIS CHAPTER SHALL BE
8 APPLIED PROSPECTIVELY AND ANY AMENDMENTS HERETO SHALL NOT APPLY TO
9 SITES FOR WHICH GRADING OR BUILDING PERMIT APPLICATIONS HAVE BEEN
10 FILED ON OR BEFORE THAT DATE WHICH IS FORTY-FIVE DAYS AFTER ADOPTION.

11
12 **19.50.240 - PENALTIES.**

13 ANY PERSON CONVICTED OF VIOLATING ANY PROVISION OF THIS CHAPTER
14 SHALL BE GUILTY OF A MISDEMEANOR, AND UPON CONVICTION THEREOF, SHALL
15 BE SUBJECT TO A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS OR
16 IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH FOR EACH VIOLATION.
17 EACH DAY THAT A VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE
18 OFFENSE. IN ADDITION, THE CITY MAY INSTITUTE ANY ACTION IN LAW OR
19 EQUITY TO ENFORCE THE PROVISIONS OF THIS CHAPTER.

20
21
22 **TITLE 21 PLANNING AND ZONING**

23
24 **Chapter 21.24 – PLANNED DEVELOPMENTS**

25 **21.24.090 - Planned development review criteria and findings.**

26
27 In deciding planned development applications the Planning Commission shall make written
28 findings based on the following:

- 29
- 30 A. The planned development is compatible with the character of the surrounding
31 neighborhood and consistent with the Comprehensive Plan and the purposes of planned
32 developments.
 - 33 B. The proposed locations of buildings, structures, open spaces, landscape elements, and
34 pedestrian and vehicular circulation systems are adequate, safe, and efficient and designed
35 to minimize any adverse impact upon the surrounding area.
 - 36 C. The planned development will promote high quality design and will not result in greater
37 adverse impacts to the surrounding area compared to the development that may otherwise
38 be permitted pursuant to the Zoning Code if a planned development were not approved.
 - 39 D. The planned development complies with the planned development use standards and bulk
40 and density standards.
 - 41 E. The planned development complies with the Site Design Plan Review criteria provided in
42 Section 21.22.080.
 - 43 F. The planned development plan includes adequate provision of public facilities and the
44 proposed infrastructure, utilities and all other proposed facilities are adequate to serve the
45 planned development and adequately interconnect with existing public facilities.

1
2 The planned development complies with Chapter ~~21.71~~19.30 of the Annapolis City Code.
3
4

5 **Chapter 21.54 – CRITICAL AREA OVERLAY**
6 **21.54.060 - Development requirements generally.**
7

- 8 A. Intense development should be directed outside the critical area. If intense development is
9 proposed in the critical area, it shall be directed toward the intensely developed areas.
10 B. Proposed low-intensity and moderate-intensity development may be permitted in the
11 limited development areas, but shall be subject to strict regulation to prevent adverse
12 impacts on habitat or water quality.
13 C. Development shall be limited in the resource conservation areas, which shall be chiefly
14 designated for habitat protection.
15 D. The following new development or redevelopment uses shall not be permitted in the
16 district:
17 1. Non-maritime heavy industry;
18 2. Transportation facilities and utility transmission facilities, except those necessary
19 to serve permitted uses, or where regional or interstate facilities must cross tidal
20 waters;
21 3. Permanent sludge handling, storage and disposal facilities, other than those
22 associated with wastewater treatment facilities;
23 4. Solid or hazardous waste collection or disposal facilities; or
24 5. Sanitary landfills.
25 E. Buffer.
26 1. New development activities, including structures; roads, parking areas and other
27 impervious surfaces; septic systems; accessory uses, including but not limited to
28 swimming pools; and the substantial alteration of existing facilities or structures
29 shall not be permitted in the buffer, except for those necessarily associated with
30 water-dependent facilities.
31 2. New construction on recorded lots, under the grandfathering provisions of Section
32 21.54.150, shall be designed and sited in such a fashion that if the buffer is
33 impacted, the applicant shall obtain a variance in accordance with Section
34 21.54.160.
35 3. The buffer shall be expanded beyond one hundred feet to include contiguous
36 sensitive areas such as steep slopes, hydric soils, or highly erodible soils whose
37 development or disturbance may impact streams, wetlands, or other aquatic
38 environments. In the case of contiguous slopes of fifteen percent or greater, the
39 buffer shall be expanded four feet for every one percent of slope or to the top of the
40 slope, whichever is greater in extent.
41 F. Subdivision Access.
42 1. New public streets developed as part of a subdivision and necessary to provide legal
43 access to subdivision lots will be considered as contributing to the impervious
44 surface requirements of this chapter. The Planning and Zoning Director and the

1 Director of Public Works may, however, allow subdivision redesign in order to
2 minimize the amount of subdivision land dedicated to streets.

- 3 2. Modifications in road standards may be allowed to reduce potential impacts to the
4 site and critical area resources, where the reduced standards do not significantly
5 affect safety, as determined by the Director of Public Works.

6 G. Trees shall be protected, preserved and replaced pursuant to the requirements of Section
7 ~~17.09.070~~19.20.070.

8
9 **21.54.080 - Development requirements—Intensely developed areas.**

10 A. Stormwater Management. Stormwater management technologies shall be required to
11 reduce pollutant loadings by at least ten percent below that of predevelopment levels in
12 accordance with Chapter ~~17.10~~19.50.

13 B. Impervious Surfaces. Manmade impervious surfaces shall be limited to the following
14 maximum percentages of the development site:
15

Underlying Zoning District	Percent of Manmade Impervious Surface (maximum)
Residential	50
P, PM, B1, B2, B3	60
C1, C1A,	75
Maritime	80
C2, C2A, C2P	90

16
17
18 C. Erosion and Sediment Control. Erosion and sediment control measures shall be required in
19 accordance with City Code Chapter ~~17.08~~19.40.

20 D. Cluster Development. Cluster development is encouraged, to the extent practicable, to
21 reduce impervious surfaces and maximize areas of natural vegetation.

22 E. Trees. Cutting and clearing of trees shall occur in accordance with Section
23 ~~17.09.070~~19.20.070 of the City of the Annapolis City Code and with planting guidelines
24 determined by the Department of Planning and Zoning.

1 F. Habitat Protection Areas.

- 2 1. Developers shall determine whether there are any habitat protection areas on the
3 project site, or whether development on the site could adversely affect such areas
4 off-site.
- 5 2. In developing the site, roads, bridges and utilities shall not be located in a habitat
6 protection area, even if the habitat area is outside the buffer, unless it is determined
7 by the City that no feasible alternative exists. Where roads, bridges or utilities must
8 cross such areas, they must be designed, constructed and maintained to protect the
9 habitats, to provide maximum erosion protection, and to maintain hydrologic
10 processes and water quality.
- 11 3. The developer shall protect any wildlife corridors or habitat protection areas located
12 in forests and developed woodlands.

13
14 **21.54.090 - Development requirements—Limited development areas.**

15
16 A. Habitat Protection Areas.

- 17 1. Developers shall determine whether there are any habitat protection areas on the project
18 site, or whether development on the site could adversely affect such areas off-site.
- 19 2. In developing the site, roads, bridges and utilities shall not be located in a habitat
20 protection area, even if the habitat area is outside the buffer, unless it is determined by
21 the City that no feasible alternative exists. Where roads, bridges or utilities must cross
22 such areas, they must be designed, constructed and maintained to protect the habitats, to
23 provide maximum erosion protection, and to maintain hydrologic processes and water
24 quality.
- 25 3. The developer shall protect any wildlife corridors or habitat protection areas located in
26 forests and developed woodlands.

27 B. Wildlife Corridors.

- 28 1. If a development site contains a natural area which might be used as a wildlife corridor,
29 and there are such areas adjacent, then a development proposal must incorporate the
30 wildlife corridor into the site design.
- 31 2. The developer shall incorporate a wildlife corridor system into the site. The wildlife
32 corridor incorporated into the site should connect the largest undeveloped, or most
33 vegetative tracts of land within and adjacent to the site in order to provide continuity of
34 existing wildlife and plant habitats with off-site habitats.
- 35 3. The developer shall grant a conservation easement to the City to ensure that the wildlife
36 corridor is maintained.

37 C. Forests and Developed Woodlands.

- 38 1. Forests and developed woodlands are to be maintained in accordance with Section
39 ~~17.09.080~~19.20.080 and within planting guidelines as determined by the Department of
40 ~~Planning and Zoning~~THE ENVIRONMENT.
- 41 2. Tree replacement and fees in lieu of tree replacement shall be allowed in accordance with
42 the provisions of Section ~~17.09.070~~19.20.070.
- 43 3. All forests designated on development plans shall be maintained to the extent practicable,
44 through conservation easements, restrictive covenants, or other protective instruments.

1 4. The afforested area shall be maintained as forest cover through easements, restrictive
2 covenants, or other protective instruments.

3 D. Steep Slopes. Development is not permitted on slopes greater than fifteen percent unless
4 it can be shown that such development is the only effective way to maintain or improve the
5 stability of the slope, and is consistent with the density, water quality and habitat protection
6 policies for limited development areas.

7 E. Soils with Development Constraints. Development is discouraged on soils having
8 development constraints. Development may be allowed by the Department of ~~Public Works~~
9 THE ENVIRONMENT if adequate mitigation measures are implemented to address the
10 identified constraints and if the development will not adversely affect water quality or plant,
11 fish and wildlife habitat.

12 F. Stormwater Management. Stormwater management technologies shall be required to
13 minimize adverse water quality impacts caused by stormwater run-off in accordance with
14 Chapter ~~17.10~~19.50.

15 G. Streams.

16 1. If the project involves development activities which would cross or affect streams, the
17 developer shall identify any such stream in the project area, including those off-site,
18 which might be affected by the project.

19 2. The developer shall show, as part of the site plan review requirements, that the
20 development will:

- 21 a. Not cause increases in the frequency and severity of floods;
- 22 b. Retain existing tree canopy;
- 23 c. Provide for the retention of the natural substrate for streambeds; and
- 24 d. Minimize adverse impacts to water quality and stormwater run-off.

25 H. Impervious Surfaces.

26 1. Except as otherwise provided in this section for stormwater runoff, man-made
27 impervious surfaces are limited to fifteen percent of a parcel or lot.

28 2. If a parcel or lot one-half acre or less in size existed on or before December 1, 1985, then
29 man-made impervious surfaces are limited to twenty-five percent of the parcel or lot.

30 3. If a parcel or lot greater than one-half acre and less than one acre in size existed on or
31 before December 1, 1985, then man-made impervious surfaces are limited to fifteen
32 percent of the parcel or lot.

33 4. If an individual lot one acre or less in size is part of a subdivision approved after
34 December 1, 1985, then manmade impervious surfaces of the lot may not exceed twenty-
35 five percent of the lot. However, the total of the impervious surfaces over the entire
36 subdivision may not exceed fifteen percent.

37 5. The City of Annapolis may allow a property owner to exceed the impervious surface
38 limits provided in Subsections (H)(2) and (H)(3) of this section if the following conditions
39 exist:

- 40 a. New impervious surfaces on the site have been minimized;
- 41 b. For a lot or parcel one-half acre or less in size, total impervious surfaces do not
42 exceed impervious surface limits in Subsection (H)(2) of this section by more than
43 twenty-five percent or five hundred square feet, whichever is greater;

- c. For a lot or parcel greater than one-half acre and less than one acre in size, total impervious surfaces do not exceed impervious surface limits in Subsection (H)(3) of this section or five thousand four hundred forty-five square feet, whichever is greater;
 - d. Water quality impacts associated with runoff from the new impervious surfaces can be and have been minimized through site design considerations or use of best management practices approved by the City to improve water quality;
 - e. The property owner performs on-site mitigation as required by the City to offset potential adverse water quality impacts from the new impervious surfaces, or the property owner pays a fee to the local jurisdiction in lieu of performing the on-site mitigation;
 - f. All fees in lieu collected by the City under Subsection (C)(2) of this section must be used to fund projects that improve water quality within the critical area; and
 - g. Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.
6. For the purposes of this section, any calculation of area covered by man-made impervious surfaces may exclude an area covered by a gapped wooden deck with pervious surface underneath.
- I. Erosion and Sediment Control. Erosion and sediment control measures shall be required in accordance with Chapter 17.08.
 - J. Cluster Development. Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.

21.54.170 - Administrative variances.

A. The purpose of this section is to authorize delegation of Board of Appeals approval authority to the Planning and Zoning Director to apply the standards for variances as specified in Section 21.54.160 for proposed development activities as follows:

In the case of residential structures currently located within the designated one hundred-foot buffer, an expansion of these structures; provided, that the expansion occurs parallel to the shoreline and does not further encroach into the waterway yard.

B. Administrative variances are subject to the following conditions:

1. This section applies to new development or redevelopment within the critical area buffer.
2. This section only applies to single-family lots of record at the time of program approval.
3. Development may not impact any habitat protection areas other than the buffer.
4. The applicant will be required to maintain existing natural vegetation in the buffer to the extent possible.
5. The disturbance to the buffer must be the least intrusion necessary.
6. Any development in the buffer will require mitigation/enhancement/or offsets, as follows:
 - a. The extent of the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and
 - b. Natural vegetation of an area twice the extent of the impervious surface must be created in a buffer offset area or other location as may be determined by the City.

1 7. An applicant who cannot comply with the above planting or offset requirements is
2 required to pay into the fee-in-lieu program established under Chapter ~~17.09~~19.20 as
3 established by the City Council.

4 Any fees-in-lieu collected under these provisions shall be placed in an account that will
5 assure their use only for projects within the critical area for the benefit of wildlife habitat,
6 water quality improvements or environmental education. The status of these funds must be
7 reported at the time of comprehensive review. If it is not possible to carry out offsets or other
8 mitigation within the critical area, any plantings or other habitat/water quality improvement
9 should occur within the affected watershed.

10 8. Any required reforestation/mitigation/offset areas must be designated under a
11 development agreement or other instrument and recorded among the land records of Anne
12 Arundel County.

13 9. The State Critical Area Commission shall be notified of the requested variance prior to
14 any administrative action by the staff and shall be notified of the action taken with regard
15 to the requested variance within ten days of the action.

16 10. The request for administrative variance and all supporting documentation shall be
17 reviewed by the Director of Planning and Zoning. The Director of Planning and Zoning
18 shall, within ten days, issue a decision with regard to the proposed variance as to whether
19 the variance shall be granted, denied or granted subject to specified terms and conditions.

20 11. The chairman of the Critical Area Commission may appeal an administrative variance
21 granted by the Planning and Zoning Director or local approving authority. At this time the project
22 will go before the Board of Appeals de novo.

23
24
25 **Chapter 21.62 – SITE DESIGN STANDARDS**

26 **21.62.030 - Design of open areas.**

27
28 Existing Features. Disturbance of existing vegetation, topography and soils shall be minimized.
29 Efforts shall be made to preserve street trees, mature trees, trees of a diameter of four inches or
30 above measured four feet above ground level, and trees of unique varieties. If development of the
31 site necessitates the removal of established trees, special attention shall be given to the planting of
32 replacements or to other landscape treatment. Any grade changes shall be in keeping with the
33 general appearance of neighboring developed areas. All planting and maintenance shall adhere to
34 the requirements of Chapter ~~14.12~~19.10.

35
36 **21.62.080 - Surface water drainage.**

37
38 A proposed development shall be designed to provide for proper surface water management
39 through a system of controlled drainage that, wherever practicable, preserves existing natural
40 drainage patterns and wetlands, enhances groundwater recharge areas, and that protects other
41 properties and existing natural and artificial drainage features from the adverse effects of flooding,
42 erosion and the depositing of silt, gravel or stone. A stormwater management plan is required to
43 be submitted to the Director of Planning and Zoning for review and approval BY THE
44 DEPARTMENT OF THE ENVIRONMENT under Chapter ~~17.10~~19.50 of the Annapolis City
45 Code.

1
2
3 **Chapter 21.71 – FOREST CONSERVATION**

4 **21.71.010 – Purpose and general provisions.**

5 The City Council has determined that to meet the requirements of Natural Resources Article,
6 §§ 5-1601—5-1612, Annotated Code of Maryland, the provisions of this chapter must be enacted
7 to protect forests and environmentally sensitive areas in the City.

8 **21.71.020 – Forest and tree conservation definitions.**

9 For the purposes of this chapter only, the following terms have the meanings indicated:

10 "Afforestation" means:

- 11 1. Establishment of tree cover on an area from which forest cover has been absent for a long
12 period of time; or
13 2. Planting on open areas on which there is no existing forest cover.

14 "Agricultural and resource areas" means undeveloped areas zoned for densities of less than or
15 equal to one dwelling unit per five acres.

16 "Applicant" means a person who has lawfully submitted an application for approval of a
17 planned development, special exception, subdivision site design plan, or project plan, or a grading
18 or sediment control permit, or who has submitted a forest stand delineation for review, a
19 preliminary forest conservation plan for review, or a final forest conservation plan for approval for
20 a tract of land that, in its existing or redeveloped state, is forty thousand square feet or greater or
21 who has received approval of a forest stand delineation or forest conservation plan.

22 "Approved forest management plan" means a document:

- 23 1. Approved by the department of natural resources forester assigned to the city; and
24 2. Which operates as a protective agreement for forest conservation as described in the
25 Natural Resources Article, §§ 5-1607(e)–(f), Annotated Code of Maryland.

26 "Caliper" means the diameter measured as two inches above the root collar.

27 "Champion tree" means the largest tree of its species within the United States, the State,
28 County, or the City, as applicable.

29 "COMAR" means the Maryland Code of Regulations.

30 "Commercial and industrial uses" means manufacturing operations, office complexes,
31 shopping centers, and other similar uses and their associated storage areas, yarding and parking
32 areas, more specifically described and delineated in City Code Section 21.48.020, Table of Uses.

33 "Commercial logging or timber harvesting operations" means the cutting and removing of tree
34 stems from a site for commercial purposes, leaving the root mass intact.

35 "Contiguous forest" means a forest of twenty acres or more that connects the largest
36 undeveloped or vegetated tracts of land within, and adjacent to, a site.

1 ~~"Critical habitat area" means a critical habitat for an endangered species and its surrounding~~
2 ~~protection area. A critical habitat area shall:~~

- 3 1. ~~Be likely to contribute to the long-term survival of the species;~~
- 4 2. ~~Be likely to be occupied by the species for the foreseeable future; and~~
- 5 3. ~~Constitute habitat of the species which is considered critical under Natural Resources~~
6 ~~Article, §§ 4-2a-04 and 10-2a-06, Annotated Code of Maryland.~~

7 ~~"Critical habitat for endangered species" means a habitat occupied by an endangered species~~
8 ~~as determined or listed under Natural Resources Article, §§ 4-2a-04 and 10-2a-04, Annotated Code~~
9 ~~of Maryland.~~

10 ~~"DBH" or "diameter at breast height" means a tree diameter measured at four and one-half~~
11 ~~feet above the ground.~~

12 ~~"Declaration of intent" means:~~

- 13 1. ~~A signed and notarized statement by a landowner or the landowner's agent certifying that~~
14 ~~the activity on the landowner's property:~~
 - 15 i. ~~Is for certain activities exempted under the Annapolis City Code or Natural~~
16 ~~Resources Article, §§ 5-103 and 5-1601—5-1612, Annotated Code of Maryland,~~
 - 17 ii. ~~Does not circumvent the requirements of the Annapolis City Code or Natural~~
18 ~~Resources Article, §§ 5-103 and 5-1601—5-1612, Annotated Code of Maryland, and~~
 - 19 iii. ~~Does not conflict with the purposes of any other declaration of intent; or~~
- 20 2. ~~The document required under COMAR 08.19.01.05 or this chapter.~~

21 ~~"Department" means the City Department of Planning and Zoning.~~

22 ~~"Development plan" means a drawing or drawings which delineate a planned development,~~
23 ~~special exception, subdivision, site design plan, or project plan, or a grading or sediment control~~
24 ~~permit for a tract of land that, in its existing or redeveloped state, is forty thousand square feet or~~
25 ~~greater.~~

26 ~~Development project.~~

- 27 1. ~~"Development project" means the grading or construction activities occurring on a~~
28 ~~specific tract that is forty thousand square feet or greater.~~
- 29 2. ~~"Development project" includes redevelopment.~~

30 ~~"Development project completion" means for the purposes of afforestation, reforestation:~~

- 31 1. ~~The release of the development bond, if required;~~
- 32 2. ~~Acceptance of the project's streets, utilities, and public services by the Department; or~~
- 33 3. ~~Designation in writing by the Department or State that a:~~
 - 34 i. ~~Development project has been completed, or~~
 - 35 ii. ~~Particular stage of a staged development project, including a planned unit~~
36 ~~development, has been completed.~~

1 ~~"Environment Article" means the Environment Article of the Annotated Code of Maryland,~~
2 ~~as amended from time to time.~~

3 ~~"Ephemeral stream" means a stream that flows only in direct response to precipitation in the~~
4 ~~immediate watershed or in response to the melting of a cover of snow or ice, and which has a~~
5 ~~channel bottom that is always above the local water table.~~

6 ~~Forest.~~

7 ~~1. "Forest" means a biological community dominated by trees and other woody plants~~
8 ~~covering a land area of ten thousand square feet or greater.~~

9 ~~2. "Forest" includes:~~

10 ~~i. Areas that have at least one hundred live trees per acre with at least fifty percent of~~
11 ~~those trees having a two inch or greater diameter at four and one half feet above the~~
12 ~~ground and larger; and~~

13 ~~ii. Areas that have been cut but not cleared.~~

14 ~~3. "Forest" does not include orchards.~~

15 ~~"Forest conservation" means the retention of existing forest or the creation of new forest at~~
16 ~~the levels set by the Department.~~

17 ~~"Forest conservation and management agreement" means an agreement as stated in Tax-~~
18 ~~Property Article, § 8-211, Annotated Code of Maryland.~~

19 ~~"Forest Conservation Technical Manual" means the City technical manual, incorporated by~~
20 ~~reference herein, used to establish standards of performance required in preparing forest stand~~
21 ~~delineations and forest conservation plans.~~

22 ~~"Forest conservation plan" means a plan approved pursuant to sections 21.71.070, 21.71.080,~~
23 ~~21.71.090 and 21.71.100 of this chapter.~~

24 ~~"Forest cover" means the area of a site meeting the definition of forest.~~

25 ~~"Forest management plan" means a plan establishing best conservation and management~~
26 ~~practices for a landowner in assessment of the resource values of forested property.~~

27 ~~"Forest mitigation bank" means an area of land which has been intentionally afforested or~~
28 ~~reforested for the express purpose of providing credits for reforestation requirements.~~

29 ~~"Forest mitigation bank agreement" means an agreement entered into by an individual owning~~
30 ~~a forest mitigation bank and the department or local government which commits the banker to~~
31 ~~certain procedures and requirements when creating and operating the forest mitigation bank.~~

32 ~~"Forest mitigation bank plan" means a plan submitted for approval of a forest mitigation bank~~
33 ~~to the Department, or to a local government with an approved local program, by an individual~~
34 ~~proposing to establish a forest mitigation bank.~~

35 ~~"Forest stand delineation" means the methodology for evaluating the existing vegetation on a~~
36 ~~site proposed for development, as provided in the Forest Conservation Technical Manual.~~

1 ~~"Growing season" means the period of consecutive frost free days as stated in the Current Soil~~
2 ~~Survey for this country published by the National Cooperative Soil Survey Program, 16 U.S.C. §~~
3 ~~590(a) — (f).~~

4 ~~"High density residential areas" means areas zoned for densities greater than one dwelling unit~~
5 ~~per acre, including both existing and planned development and their associated infrastructure, such~~
6 ~~as roads, utilities, and water and sewer service identified as all residential zones in the Annapolis~~
7 ~~City Code, Chapter 21.40.~~

8 ~~"Historic site" or "historic structure" means any site or structure that is:~~

9 ~~1. Individually listed in the National Register of Historic Places (a listing maintained by the~~
10 ~~U.S. Department of the Interior) or preliminarily determined by the Secretary of the~~
11 ~~Interior as meeting the requirements for individual listings on the National Register;~~

12 ~~2. Certified or preliminarily determined by the Secretary of the Interior as contributing to~~
13 ~~the historical significance of a registered historic district or a district preliminarily~~
14 ~~determined by the secretary to qualify as a registered historic district;~~

15 ~~3. Individually listed on the Maryland Register of Historic Places; or~~

16 ~~4. Individually listed on the inventory of historic places maintained by the City of Annapolis~~
17 ~~whose historic preservation program has been certified by the Maryland Historic Trust or~~
18 ~~the Secretary of the Interior.~~

19 ~~"Institutional development area" means areas zoned to allow the inclusion of schools, colleges~~
20 ~~and universities, military installations, transportation facilities, utility and sewer projects,~~
21 ~~government offices and facilities, golf courses, recreation areas, parks, and cemeteries as is applied~~
22 ~~in the Annapolis City Code.~~

23 ~~"Intermittent stream" means a stream in which surface water is absent during a part of the year~~
24 ~~as shown on the most recent seven and one half minute topographic quadrangle published by the~~
25 ~~United States Geologic Survey or as defined in COMAR 26.23.01.01 and confirmed by field~~
26 ~~verification.~~

27 ~~"Landscaping plan" for purposes of this section means a plan:~~

28 ~~1. Drawn to scale, showing dimensions and details for reforesting an area at least thirty five~~
29 ~~feet wide and covering two thousand five hundred square feet or greater in size;~~

30 ~~2. Using native or indigenous plants when appropriate; and~~

31 ~~3. Which is made part of an approved forest conservation plan.~~

32 ~~"Linear project" means a project which:~~

33 ~~1. Is elongated with nearly parallel sides;~~

34 ~~2. Is used to transport a utility product or public service not otherwise contained in an~~
35 ~~application for subdivision, such as electricity, gas, water, sewer, communications, trains,~~
36 ~~and vehicles; and~~

37 ~~3. May traverse fee simple properties through defined boundaries, or established easement~~
38 ~~rights.~~

1 ~~"Local agency" means each unit in the executive, legislative, or judicial branch of a county or~~
2 ~~municipal government, including an office or department.~~

3 ~~"Lot" means a unit of land, the boundaries of which have been established by subdivision of~~
4 ~~a larger parcel, and which will not be the subject of further subdivision, as defined by Natural~~
5 ~~Resources Article, § 5-1601, Annotated Code of Maryland and this chapter, and without an~~
6 ~~approved forest stand delineation and forest conservation plan.~~

7 ~~"Maintenance agreement" means the short term management agreement associated with~~
8 ~~afforestation or reforestation plans required under Natural Resources Article § 5-1605, Annotated~~
9 ~~Code of Maryland and this chapter.~~

10 ~~"Medium density residential areas" means areas zoned for densities greater than one dwelling~~
11 ~~unit per five acres and less than or equal to one dwelling unit per acre, including both existing and~~
12 ~~planned development and their associated infrastructure, such as roads, utilities, and water and~~
13 ~~sewer service.~~

14 ~~"Minor development project" means a project:~~

- 15 1. ~~On less than five acres of land containing not more than four lots per acre; or~~
- 16 2. ~~Substantively similar as defined by the department and approved by the State.~~

17 ~~"Mixed use development" means a single, high density development project which includes~~
18 ~~two or more types of uses, more specifically described and delineated in City Code Section~~
19 ~~21.48.030, Table of Uses.~~

20 ~~"Natural regeneration" means the natural establishment of trees and other vegetation with at~~
21 ~~least four hundred woody, free to grow seedlings per acre, which are capable of reaching a height~~
22 ~~of at least twenty feet at maturity.~~

23 ~~"Natural resources inventory" means a compilation of natural site features including forest~~
24 ~~delineation, geological data, topography, soils series and properties, watershed data including~~
25 ~~floodplains, water resources including surface water, ground water and wetlands, wildlife habitats~~
26 ~~and connections, hydric soils, soils with K factors of .35 or greater, and slopes of fifteen percent~~
27 ~~or greater, and as further defined in the technical manual.~~

28 ~~"Net tract areas" means:~~

- 29 1. ~~Except in agriculture and resource areas, the total area of a site, including both forested~~
30 ~~and nonforested areas, to the nearest one-tenth-acre, reduced by that area where forest~~
31 ~~clearing is restricted by another local ordinance or program;~~
- 32 2. ~~In agriculture and resource areas the part of the total tract for which land use will be~~
33 ~~changed or will no longer be used for primarily agricultural activities, reduced by that~~
34 ~~area where forest clearing is restricted by another local ordinance or program; and~~
- 35 3. ~~For a linear project:~~
 - 36 i. ~~The area of a right of way width, new access roads, and storage; or~~
 - 37 ii. ~~The limits of disturbance as shown on an application for sediment and erosion~~
38 ~~control approval or in a capital improvements program project description.~~

1 ~~Nontidal wetlands.~~

2 1. ~~"Nontidal wetlands" means an area that is:~~

3 i. ~~Inundated or saturated by surface or groundwater at a frequency and duration~~
4 ~~sufficient to support, and under normal conditions does support, a prevalence of~~
5 ~~vegetation typically adapted for life in saturated soil conditions, commonly known~~
6 ~~as hydrophytic vegetation; and~~

7 ii. ~~Considered a nontidal wetland in accordance with the publication known as the~~
8 ~~"Federal Manual for Identifying and Delineating Jurisdictional Wetland," published~~
9 ~~in 1989 and as may be amended and interpreted by the U.S. Environmental Protection~~
10 ~~Agency.~~

11 2. ~~"Nontidal wetlands" does not include tidal wetlands regulated under Environment~~
12 ~~Article, Title 16, Annotated Code of Maryland.~~

13 ~~"Offsite" means outside of the limits of the area encompassed by the tract or parcel of record~~
14 ~~on which the activity is proposed.~~

15 ~~"Onsite" means within the limits of the area encompassed by the tract or parcel of record on~~
16 ~~which the activity is proposed, including an area classified as a 100-year floodplain.~~

17 ~~"100-year flood" means a flood which has one percent chance of being equaled or exceeded~~
18 ~~in any given year.~~

19 ~~"100-year floodplain" means an area along or adjacent to a stream or body of water, except~~
20 ~~tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm~~
21 ~~event, or a 100-year flood.~~

22 ~~"Perennial stream" means a stream containing surface water throughout an average rainfall~~
23 ~~year, as shown on the most recent seven and one-half minute topographic quadrangle published~~
24 ~~by the United States Geologic Survey, or as defined in COMAR 26.23.01.01 and confirmed by~~
25 ~~field verification.~~

26 ~~"Person" means the Federal Government, the State, a County, Municipal Corporation, or other~~
27 ~~political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian,~~
28 ~~executor, administrator, fiduciary, or representative of any kind, or any partnership, firm,~~
29 ~~association, public or private corporation, or any of their affiliates, or any other entity.~~

30 ~~"Planned unit development" or "planned development" for purposes of this section means a~~
31 ~~development comprised of a combination of land uses or varying intensities of the same land use~~
32 ~~in accordance with an integrated plan that provides flexibility in land use design approved by the~~
33 ~~City with at least twenty percent of the land permanently dedicated to open space in residential~~
34 ~~planned developments and at least five percent of the land permanently dedicated to open space in~~
35 ~~commercial, mixed use and other planned developments.~~

36 ~~"Planting plan" means a labeled diagram that shows the quantities, location, size, shape, color,~~
37 ~~details and specifications of specific plants to be used in the landscape.~~

38 ~~"Priority retention area" means:~~

- 1 ~~1.— Specific areas with trees, shrubs and plants located in sensitive areas including 100 year~~
2 ~~floodplains, intermittent, perennial and ephemeral streams and their buffers, coastal bays~~
3 ~~and their buffers, non-tidal wetlands and their buffers, steep slopes and their buffers,~~
4 ~~hydric soils and critical habitats as further defined in the Forest Conservation Technical~~
5 ~~Manual;~~
- 6 ~~2.— Areas containing trees, shrubs, or plants identified on the list of rare, threatened, and~~
7 ~~endangered species of the U.S. Fish and Wildlife Service or the Department;~~
- 8 ~~3.— Trees that are part of a historic site or associated with a historic structure or designated~~
9 ~~by the Department as a National, State, or City Champion Tree;~~
- 10 ~~4.— Areas containing one or more significant trees;~~
- 11 ~~5.— Areas of contiguous forest.~~

12 ~~"Project plan" means a construction, grading, or sediment control activity on an area of forty~~
13 ~~thousand square feet or greater by a local agency or a "site design plan" as specified in City Code~~
14 ~~Section 21.22.020.~~

15 ~~"Public utility" means any:~~

- 16 ~~1.— Facility, fixture or means of transmission operated in association with a public service~~
17 ~~company as defined in Public Utilities Article, Annotated Code of Maryland § 1-101(x);~~
- 18 ~~2.— Water and sewer services as specified in Title 16 of the Annapolis City Code; or~~
- 19 ~~3.— Cable television systems as defined in Local Government Article, Annotated Code of~~
20 ~~Maryland § 1-708(a).~~

21 ~~"Reforestation" or "reforested" means:~~

- 22 ~~1.— Creation of a biological community dominated by trees and other woody plants~~
23 ~~containing at least one hundred live trees per acre with at least fifty percent of those trees~~
24 ~~having the potential of attaining a two-inch or greater diameter measured at four and one-~~
25 ~~half feet above the ground, within seven years; or~~
- 26 ~~2.— Establishment of a forest according to procedures set forth in the Forest Conservation~~
27 ~~Technical Manual;~~
- 28 ~~3.— Landscaping of areas under an approved landscaping plan;~~
- 29 ~~4.— For a linear project involving overhead transmission lines may consist of a biological~~
30 ~~community dominated by trees and woody shrubs with no minimum height or diameter~~
31 ~~criteria.~~

32 ~~"Regulated activity" means any of the following activities, when that activity occurs on a unit~~
33 ~~of land which is forty thousand square feet or greater:~~

- 34 ~~1.— Subdivision;~~
- 35 ~~2.— Grading;~~
- 36 ~~3.— An activity that requires a sediment control permit;~~
- 37 ~~4.— Project plan; or~~

1 ~~5.—A planned development or a special exception.~~

2 ~~"Retention" means the deliberate holding and protection of existing trees, shrubs, or plants on~~
3 ~~the site according to established standards as provided in the Forest Conservation Technical~~
4 ~~Manual.~~

5 ~~"Sediment control permit" means the authorization of an activity regulated under a sediment~~
6 ~~control plan as provided in Environment Article, Title 4, Annotated Code of Maryland or a grading~~
7 ~~permit as provided in Chapters 17.08 and 17.10 of the Annapolis City Code.~~

8 ~~"Seedling" means an unbranched woody plant, less than twenty four inches in height and~~
9 ~~having a diameter of less than one half inch measured at two inches above the root collar.~~

10 ~~"Selective clearing" means the careful and planned removal of trees, shrubs, and plants using~~
11 ~~specific standards and protection measures under an approved forest conservation plan.~~

12 ~~"Significant tree" means:~~

13 ~~1.—A champion tree;~~

14 ~~2.—Or a tree which is at least seventy five percent of the diameter of the State Champion~~
15 ~~Tree;~~

16 ~~3.—Or a tree which is of twenty four inches DBH or more and which has been determined~~
17 ~~by the Department Director to be of notable quality and or high value because of its type,~~
18 ~~size, age, historical significance, canopy benefits, or which otherwise warrants special~~
19 ~~consideration for preservation.~~

20 ~~"Steep slope" means a slope of fifteen percent or greater.~~

21 ~~"Steep slope buffer" means a protective setback from the steep slope itself, required by the~~
22 ~~Anne Arundel County Soil Conservation District, that is provided to maintain the integrity of the~~
23 ~~steep slope.~~

24 ~~"Stream buffer" means all lands lying up to one hundred feet and no less than fifty feet,~~
25 ~~measured from the top of each normal bank of a perennial or intermittent stream. The width of the~~
26 ~~buffer is to be determined by the Director to prevent activity from having a deleterious effect on~~
27 ~~the stream.~~

28 ~~"Stream restoration project" means an activity that:~~

29 ~~1.—Is designed to stabilize stream banks or enhance stream function or habitat located within~~
30 ~~an existing stream, waterway, or floodplain;~~

31 ~~2.—Avoids and minimizes impacts to forests and provides for replanting onsite an equivalent~~
32 ~~number of trees to the number removed by the project;~~

33 ~~3.—Maybe performed under a municipal separate storm sewer system permit, a watershed~~
34 ~~implementation plan growth offset, or another plan administered by the State or local~~
35 ~~government to achieve or maintain water quality standards; and~~

36 ~~4.—Is not performed to satisfy stormwater management, wetlands mitigation, or any other~~
37 ~~regulatory requirement associated with proposed development activity.~~

1 ~~"Subdivision" means a division of a unit of land into two or more lots of parcels for the~~
2 ~~purpose, whether immediate or future, of transfer of ownership, sale, lease, or development.~~

3 ~~"Tax Property Article" means the Tax Property Article of the Annotated Code of Maryland as~~
4 ~~amended from time to time.~~

5 ~~"Timber harvesting" means:~~

6 ~~1. A tree cutting operation affecting one or more acres of forest or developed woodland~~
7 ~~within a one year interval that disturbs five thousand square feet or more of forest floor;~~

8 ~~2. Does not include grubbing and clearing of root mass.~~

9 ~~"Tract" means property or unit of land subject to an application for a grading or sediment~~
10 ~~control permit, subdivision approval, or project plan approval.~~

11 ~~"Tract for a planned unit development" means the entire property subject to a planned unit~~
12 ~~development.~~

13 ~~"Tree" means a large, branched woody plant having one or several self-supporting stems or~~
14 ~~trunks that reach a height of at least twenty feet at maturity.~~

15 ~~"Unwarranted hardship" means the applicant has demonstrated that without a variance, the~~
16 ~~applicant would be denied reasonable and significant use of the entire parcel or lot for which the~~
17 ~~variance is requested.~~

18 ~~Variance.~~

19 ~~1. "Variance" means an exemption granted to an applicant from one or more requirements~~
20 ~~of this chapter.~~

21 ~~2. "Variance" does not mean a zoning variance.~~

22 ~~"Watershed" means all land lying within an area described as a sub-basin in water quality~~
23 ~~regulations adopted by the Maryland Department of the Environment under COMAR 26.08.02.08.~~

24 ~~"Whip" means an unbranched woody plant greater than twenty four inches in height and~~
25 ~~having a diameter of less than one inch measured at two inches above the root collar.~~

26 **~~21.71.030 - Application.~~**

27 ~~A.—This chapter is applicable to:~~

28 ~~1. A person making applications for a subdivision, project plan, grading, sediment control,~~
29 ~~planned development, special exception or site plan approval on units of land forty~~
30 ~~thousand square feet or greater;~~

31 ~~2. A public utility not exempt under Subsection B.5. and 6. of this section;~~

32 ~~3. A unit of County or Municipal Government, including public utility or public works~~
33 ~~project, making application for a subdivision, project plan, grading, or sediment control~~
34 ~~approval on areas forty thousand square feet or greater.~~

35 ~~B.—This chapter does not apply to:~~

- 1 ~~1. Highway construction activities under Natural Resources Article, § 5-103, Annotated~~
2 ~~Code of Maryland;~~
- 3 ~~2. Areas governed by the Chesapeake Bay Critical Area Protection Law, Natural Resources~~
4 ~~Article, §§ 8-1801—8-1817, Annotated Code of Maryland, including those areas into~~
5 ~~which critical area forest protection measures have been extended under Natural~~
6 ~~Resources Article, § 5-1602(e), Annotated Code of Maryland;~~
- 7 ~~3. Commercial logging and timber harvesting operations, including harvesting conducted~~
8 ~~subject to the forest conservation and management program under Tax Property Article,~~
9 ~~§ 8-211, Annotated Code of Maryland, that are completed:~~
 - 10 ~~i. Before July 1, 1991; or~~
 - 11 ~~ii. After July 1, 1991, on property which:~~
 - 12 ~~a. Has not been the subject of application for a grading permit for development~~
13 ~~within five years after the logging or harvesting operation, and~~
 - 14 ~~b. Is the subject of a declaration of intent as provided for in Subsection C. of this~~
15 ~~section, approved by the Department;~~
- 16 ~~4. Agricultural activities not resulting in a change in land use category, including~~
17 ~~agricultural support building and other related structures built using accepted best~~
18 ~~management practices, except that a person engaging in an agricultural activity clearing~~
19 ~~forty thousand square feet or greater of forest within a one-year period, may not receive~~
20 ~~an agricultural exemption, unless the person files a declaration of intent as provided for~~
21 ~~in Subsection C. of this section which includes:~~
 - 22 ~~i. A statement that the landowner or landowner's agent will practice agriculture on that~~
23 ~~portion of the property for five years from the date of the declaration; and~~
 - 24 ~~ii. A sketch of the property which shows the areas to be cleared;~~
- 25 ~~5. The cutting or clearing of public utility rights-of-way licensed under Public Utilities~~
26 ~~Article, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland, or land for electric~~
27 ~~generating stations licensed under Public Utilities Article, §§ 7-207 and 7-208 or 7-205,~~
28 ~~Annotated Code of Maryland, if:~~
 - 29 ~~i. Required certificates of public convenience and necessity have been issued in~~
30 ~~accordance with Natural Resources Article, § 5-1603(f), Annotated Code of~~
31 ~~Maryland; and~~
 - 32 ~~ii. Cutting or clearing of the forest is conducted to minimize the loss of forest;~~
- 33 ~~6. Routine maintenance or emergency repairs of public utility rights-of-way licensed under~~
34 ~~Public Utilities Article, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland;~~
- 35 ~~7. Except for a public utility subject to Subsection B.5. of this section, routine maintenance~~
36 ~~or emergency repairs of a public utility right-of-way if:~~
 - 37 ~~i. The right-of-way existed before the effective date of this section; or~~

- 1 ii. ~~The right of way's initial construction was approved before the effective date of this~~
2 ~~section;~~
- 3 8. ~~A residential construction activity conducted on an existing single lot of record of any~~
4 ~~size at the time of application, or a linear project not otherwise exempted under this~~
5 ~~section, if the activity:~~
 - 6 i. ~~Does not result in the cumulative cutting, clearing, or grading of more than twenty~~
7 ~~thousand square feet of forest;~~
 - 8 ii. ~~Does not result in the cutting, clearing, or grading of a forest that is subject to the~~
9 ~~requirements of a previous forest conservation plan approved under this section; and~~
 - 10 iii. ~~Is the subject of a declaration of intent filed with the department, as provided in~~
11 ~~Subsection C. of this section, stating that the lot will not be the subject of a regulated~~
12 ~~activity within five years of the cutting, clearing, or grading of forest;~~
- 13 9. ~~Strip or deep mining of coal regulated under Environment Article, Title 15, Subtitle 5 or~~
14 ~~6, Annotated Code of Maryland;~~
- 15 10. ~~Noncoal surface mining regulated under Environment Article, Title 15, Subtitle 8,~~
16 ~~Annotated Code of Maryland;~~
- 17 11. ~~An activity required for the purpose of constructing a dwelling house intended for the~~
18 ~~use of the owner, or a child of the owner, if the activity:~~
 - 19 i. ~~Does not result in cutting, clearing, or grading of more than twenty thousand square~~
20 ~~feet of forest; and~~
 - 21 ii. ~~Is the subject of a declaration of intent filed with the Department, as provided for in~~
22 ~~Subsection C. of this section, which states that a transfer of ownership may result in~~
23 ~~a loss of exemption;~~
- 24 12. ~~A plan of subdivision or a grading or sediment control plan administratively approved~~
25 ~~before the effective date of this chapter and that is not subsequently overturned on appeal;~~
- 26 13. ~~A planned development, prior to the effective date of this chapter, that has obtained~~
27 ~~final planned development approval in accordance with Section 21.24.070 and that is not~~
28 ~~subsequently overturned on appeal;~~
- 29 14. ~~A real estate transfer to provide a security, leasehold, or other legal or equitable interest,~~
30 ~~including a transfer of title of a portion of a lot or parcel, if:~~
 - 31 i. ~~The transfer does not involve a change in land use, or new development or~~
32 ~~redevelopment, with associated land disturbing activities; and~~
 - 33 ii. ~~Both the grantor and grantee file a declaration of intent, as provided for in Subsection~~
34 ~~C. of this section;~~
- 35 15. ~~Maintenance or retrofitting of a stormwater management structure that may include~~
36 ~~clearing of vegetation or removal and trimming of trees, if the maintenance or retrofitting~~
37 ~~is within the original limits of disturbance for construction of the existing structure, or~~
38 ~~within any maintenance easement for access to the structure;~~

1 ~~16.—A stream restoration project, as defined in Section 21.71.020 of this chapter, for which~~
2 ~~the applicant for a grading or sediment control permit has executed a binding maintenance~~
3 ~~agreement of at least five years with the affected property owner or owners;~~

4 ~~17.—A special exception application that is only a change of use that does not involve new~~
5 ~~development or redevelopment with associated land disturbing activities.~~

6 ~~C.—Declaration of Intent.~~

7 ~~1.—The purpose of the declaration of intent is to verify that the proposed activity is exempt~~
8 ~~under Natural Resources Article, §§ 5-103 and 5-1601—5-1612, Annotated Code of~~
9 ~~Maryland, and this chapter.~~

10 ~~2.—A person seeking an exemption under Subsection B.3., 4., 8., 11., and 14. of this chapter~~
11 ~~shall file a declaration of intent with the Department.~~

12 ~~3.—The declaration of intent is effective for five years.~~

13 ~~4.—The existence of a declaration of intent does not preclude another exempted activity on~~
14 ~~the property subject to a declaration of intent, if the activity:~~

15 ~~i.—Does not conflict with the purpose of any existing declaration of intent; and~~

16 ~~ii.—Complies with the applicable requirements for an exempted activity.~~

17 ~~5.—If a regulated activity on the area covered by the declaration of intent occurs within five~~
18 ~~years of the effective date of the declaration of intent:~~

19 ~~i.—There shall be an immediate loss of exemption; or~~

20 ~~ii.—There may be a noncompliance action taken by the Department, as appropriate,~~
21 ~~under this chapter.~~

22 ~~6.—An applicant may apply for a regulated activity on that area of the property not covered~~
23 ~~under the declaration of intent if the requirements of this chapter are satisfied.~~

24 ~~7.—The Department may require a person failing to file a declaration of intent or a person~~
25 ~~found in noncompliance with a declaration of intent to:~~

26 ~~i.—Meet the retention, afforestation, and reforestation requirements established in~~
27 ~~Section 7.21.030 through Section 7.21.160 of this chapter.~~

28 ~~ii.—Pay a noncompliance fee of ten dollars per square foot of forest cut or cleared under~~
29 ~~the declaration of intent or as set by resolution of the City Council, whichever is~~
30 ~~greater;~~

31 ~~iii.—Be subject to other enforcement actions appropriate under Natural Resources~~
32 ~~Article, §§ 5-1601—5-1612, Annotated Code of Maryland and this chapter; or~~

33 ~~iv.—File a declaration of intent with the Department.~~

34 ~~8.—In its determination of appropriate enforcement action, the Department may consider~~
35 ~~whether failure to file a declaration of intent by a person required to file is a knowing~~
36 ~~violation of this chapter.~~

37 ~~21.71.040 — Technical manual.~~

1 ~~A.— The Department shall adopt within six months of the effective date of this chapter a Forest~~
2 ~~Conservation Technical Manual. The Department may amend the manual from time to time.~~
3 ~~Until such time as the Department adopts a Forest Conservation Technical Manual, the~~
4 ~~Department shall use the State of Maryland Forest Conservation Technical Manual. Whenever~~
5 ~~the Department adopts or amends the manual, it must provide notification and information~~
6 ~~about the manual and any changes therein to the Annapolis Environmental Commission, the~~
7 ~~City Council, and the City's Planning Commission.~~

8 ~~B.— The Forest Conservation Technical Manual shall provide specifications consistent with this~~
9 ~~chapter including but not limited to:~~

10 ~~1.— Any methods the Department approves to protect retained forests and trees during~~
11 ~~construction;~~

12 ~~2.— A requirement that environmental features maps or natural resources inventory shall~~
13 ~~include topographic contours (at two-foot intervals or less if required by the Department),~~
14 ~~steep slopes and their buffers, soil classifications (including hydric properties), significant~~
15 ~~trees, trees measuring twenty four inches or greater DBH, streams (intermittent,~~
16 ~~perennial, ephemeral), stream buffers, critical habitats, natural drainage courses, and~~
17 ~~wetlands and their buffers.~~

18 **~~21.71.045 – General requirements.~~**

19 ~~A.— After the effective date of this chapter, a person making applications for a subdivision, project~~
20 ~~plan, grading, sediment control, planned development, special exception or site plan approval~~
21 ~~on units of land forty thousand square feet or greater, shall:~~

22 ~~1.— Submit to the Department a forest stand delineation and a forest conservation plan for~~
23 ~~the lot or tract on which the development is located; and~~

24 ~~2.— Use methods the department approves, as detailed in the Forest Conservation Technical~~
25 ~~Manual, to protect retained forests and trees during construction.~~

26 ~~B.— Notice Requirements.~~

27 ~~Posting of Property. Upon initial application for a forest conservation act review, the~~
28 ~~following posting must be done:~~

29 ~~1.— Notice must be posted on the property that is the subject of an application no less than~~
30 ~~five business days following an application for forest stand delineation review.~~

31 ~~2.— Failure to post within five business days may result in the applicant's application being~~
32 ~~determined to be invalid by the department and a new application will need to be~~
33 ~~submitted before the project will be reviewed.~~

34 ~~3.— It is the responsibility of an applicant to post any notice required under this section on~~
35 ~~the property that is the subject of an application, unless the applicant is not the property~~
36 ~~owner, in which case it is the responsibility of the property owner.~~

37 ~~4.— The posted notice must be obtained from the Department and include language indicating~~
38 ~~that the property is under Forest Conservation Act review and where interested parties~~
39 ~~may find information about the application and a copy of the plans under review.~~

1 ~~5.—The property must remain posted until a final administrative decision is rendered on the~~
2 ~~Forest Conservation Act application.~~

3 ~~6.—Any sign posted on a property by an applicant must be removed by the applicant within~~
4 ~~seven days following the approval of the forest conservation plan.~~

5 **21.71.050 – Local agency application.**

6 ~~If a local agency or person using State funds submits an application to conduct an activity~~
7 ~~regulated by this chapter, the provisions of COMAR 08.19.04.01(D) shall apply.~~

8 **21.71.060 – Forest stand delineation.**

9 A.—Criteria.

10 ~~1.—A forest stand delineation shall be submitted to the Department as the first step of making~~
11 ~~application for the plans or permits specified in Section 21.71.045.~~

12 ~~2.—The delineation shall be prepared by a licensed Forester, licensed Landscape Architect,~~
13 ~~or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A.~~

14 ~~3.—The delineation shall be used during the preliminary review process to determine the~~
15 ~~most suitable and practical areas for forest conservation and shall contain the following~~
16 ~~components:~~

17 ~~i.—A topographic map delineating intermittent and perennial streams, and steep slopes;~~

18 ~~ii.—A natural resources inventory;~~

19 ~~iii.—A soils map delineating soils with structural limitations, hydric soils, or soils with~~
20 ~~a soil k value greater than 0.35 on slopes of fifteen percent or more;~~

21 ~~iv.—Forest stand maps indicating species, location, and size of trees and showing~~
22 ~~dominant and co-dominant forest types;~~

23 ~~v.—Location of 100-year floodplains;~~

24 ~~vi.—The location and delineation of all tidal and non-tidal wetlands and their buffers;~~

25 ~~vii.—Information required by the Forest Conservation Technical Manual; and~~

26 ~~viii.—Other information the Department determines is necessary to implement this~~
27 ~~chapter, including a nontidal wetlands plan upon request.~~

28 ~~4.—The Department shall post the forest stand delineation on its website within three~~
29 ~~business days of receipt for at least fifteen calendar days and provide directions as to how~~
30 ~~the public may send or deliver written comments, testimony, or documentation pertaining~~
31 ~~to the forest stand delineation. The website posting requirement shall apply to any~~
32 ~~amendments or revisions to the forest stand delineation. The Department shall promptly~~
33 ~~post all correspondence between the department, and the applicant. All documents shall~~
34 ~~be retained by the Department as part of the record of the application.~~

35 ~~5.—If approved by the Department, a simplified forest stand delineation, a concept plan or~~
36 ~~plat, preliminary plat or plan, sediment control plan, or other appropriate document,~~
37 ~~verified by a site visit, if appropriate, may substitute for the forest stand delineation if:~~

1 i.— No forest cover is disturbed during a construction activity; and

2 ii.— Designated to be under a long term protective agreement.

3 6.— The Department shall consider a simplified forest stand delineation, or other substitute
4 plan described in Subsection A.5. of this section, complete if it includes:

5 i.— All requirements under Subsection A.3.i., ii., iii., v., and viii. of this section;

6 ii.— A map showing existing forest cover as verified by field inspection; and

7 iii.— Other information required by this chapter.

8 7.— An approved forest stand delineation is valid for five years except that the Department
9 may require submission of a revised forest stand delineation if site conditions change
10 during the five year period.

11 8.— Time for submittal.

12 i.— Within thirty calendar days after receipt of the fsd, the Department shall notify the
13 applicant in writing (by email or postal letter) whether the forest stand delineation is
14 complete and correct. In the event a forest stand delineation is not complete and
15 correct, the Department shall transmit to the applicant a detailed and specific listing
16 of deficiencies.

17 ii.— If the Department fails to notify the applicant in writing within thirty days, the
18 delineation shall be treated as complete and correct.

19 iii.— The Department may require in writing further information or provide for an
20 additional fifteen calendar days under extenuating circumstances as determined by
21 the Department.

22 9.— If the applicant submits two forest stand delineations which are not found to be complete
23 and correct by the Department, the Department shall, at the applicant's expense, engage
24 a licensed Forester, licensed Landscape Architect, or a qualified professional who meets
25 the requirements stated in COMAR 08.19.06.01A to complete and submit a forest stand
26 delineation on the applicant's behalf.

27 **21.71.070 – Forest conservation plan.**

28 **A.— General Provisions.**

29 1.— A preliminary forest conservation plan cannot be appealed. A final forest conservation
30 plan is appealable as part of the appeal of a final administrative decision, Planning
31 Commission decision or Board of Appeals decision specified in Chapter 21.08. A stay
32 pending appeal shall be imposed during the time allowed to file an appeal, and if an appeal
33 has been filed, for sixty days thereafter.

34 2.— With regard to (1) a plan of subdivision or a grading or sediment control plan that was
35 administratively approved, or (2) a planned development that has obtained final planned
36 development approval, prior to September 26, 2016, the disposition of which remain
37 governed by former Section 17.09.025.B. of the city Code, any person aggrieved by a
38 decision of the director to approve or disapprove the Forest Conservation Plan associated

1 with such applications shall be entitled to note an appeal to the building board of appeals.
2 Any party to the proceeding before the Building Board of Appeals aggrieved of the
3 decision of the Building Board of Appeals shall be entitled to file a petition for judicial
4 review of the decision of the Building Board of Appeals in the Circuit Court for Anne
5 Arundel County.

6 3. ~~The City shall use best efforts to provide weekly electronic mail updates to interested~~
7 ~~and registered users, if applicable, of newly filed or updated FCA documents and notices~~
8 ~~that are required under this chapter.~~

9 4. ~~In developing a forest conservation plan, the applicant shall give priority to techniques~~
10 ~~for retaining existing forest on the site. There is a rebuttable presumption that priority~~
11 ~~retention areas shall be retained. The presumption can only be rebutted under the criteria~~
12 ~~specified in Section 21.71.080.B. of this Act.~~

13 5. ~~If existing forest on the site subject to a forest conservation plan cannot be retained, the~~
14 ~~applicant shall demonstrate to the satisfaction of the Department:~~

15 i. ~~How techniques for forest retention have been exhausted;~~

16 ii. ~~Why the priority forests and priority areas specified in Natural Resources Article, §~~
17 ~~5-1607(c)(1), Annotated Code of Maryland, cannot be left in an undisturbed~~
18 ~~condition:~~

19 a. ~~If priority forests and priority areas cannot be left undisturbed, how the sequence~~
20 ~~for afforestation or reforestation will be followed in compliance with Natural~~
21 ~~Resources Article, § 5-1607, Annotated Code of Maryland;~~

22 b. ~~Where on the site in priority areas afforestation or reforestation will occur in~~
23 ~~compliance with Natural Resources Article, § 5-1607, Annotated Code of~~
24 ~~Maryland; and~~

25 iii. ~~How the disturbance to the priority forests and priority areas specified in Natural~~
26 ~~Resources Article, § 5-1607(c)(2), Annotated Code of Maryland, qualifies for a~~
27 ~~variance.~~

28 6. ~~The applicant shall demonstrate to the satisfaction of the Department that the~~
29 ~~requirements for afforestation or reforestation onsite or offsite cannot be reasonably~~
30 ~~accomplished if the applicant proposes to make a payment into the forest conservation~~
31 ~~fund or to purchase credits from a forest mitigation bank.~~

32 7. ~~Nontidal Wetlands. A regulated activity within the net tract area that occurs wholly or~~
33 ~~partly in areas regulated as nontidal wetlands under Environment Article, Title 9,~~
34 ~~Annotated Code of Maryland, is subject to both the nontidal wetlands regulatory~~
35 ~~requirements and the requirements of this chapter, subject to the following:~~

36 i. ~~Any area of forest in the net tract area, including forest in nontidal wetlands that is~~
37 ~~retained, shall be counted towards forest conservation requirements under this~~
38 ~~chapter;~~

39 ii. ~~For the purpose of calculating reforestation mitigation under this section, a forested~~
40 ~~nontidal wetland permitted to be cut or cleared and required to be mitigated under~~

1 ~~Environment Article, Title 9, Annotated Code of Maryland, shall be shown on the~~
2 ~~forest conservation plan and subtracted on an acre for acre basis from the total~~
3 ~~amount of forest to be cut or cleared as part of a regulated activity;~~

4 ~~iii.—Nontidal wetlands shall be considered to be priority areas for retention and~~
5 ~~replacement;~~

6 ~~iv.—Forested nontidal wetland identification and delineation should be included at the~~
7 ~~earliest stage of planning to assist the applicant in avoidance and reduction of impacts~~
8 ~~to the nontidal wetlands and to avoid delay in the approval process.~~

9 ~~8.—An approved forest conservation plan is valid for five years.~~

10 ~~B.—Preliminary Forest Conservation Plan.~~

11 ~~1.—A preliminary forest conservation plan shall be prepared by a licensed Forester, a licensed~~
12 ~~Landscape Architect, or a qualified professional who meets the requirements stated in~~
13 ~~COMAR 08.19.06.01A.~~

14 ~~2.—The preliminary forest conservation plan shall:~~

15 ~~i.—Be submitted with the proposed development plan;~~

16 ~~ii.—Include the approved forest stand delineation for the site;~~

17 ~~iii.—Include a table that lists the proposed values of the following, in square feet:~~

18 ~~a.—Net tract area,~~

19 ~~b.—Area of forest conservation required, and~~

20 ~~c.—Area of forest conservation that the applicant proposes to provide, including~~
21 ~~both onsite and offsite area;~~

22 ~~iv.—Include a clear graphic indication of the forest conservation provided on the site~~
23 ~~drawn to the same scale as the project plan scale, showing areas where retention of~~
24 ~~existing forest or afforestation or reforestation is proposed;~~

25 ~~v.—Include an explanation of how the provisions of Subsection A. of this section have~~
26 ~~been met;~~

27 ~~vi.—In the case of afforestation or reforestation, include a proposed afforestation or~~
28 ~~reforestation plan;~~

29 ~~vii.—Include a proposed construction timetable showing the sequence of forest~~
30 ~~conservation procedures;~~

31 ~~viii.—Show the proposed limits of disturbance;~~

32 ~~ix.—Show proposed stockpile areas;~~

33 ~~x.—Incorporate a proposed five-year maintenance agreement that shows how areas~~
34 ~~designated for afforestation or reforestation will be maintained to ensure protection~~
35 ~~and satisfactory establishment; and~~

36 ~~xi.—Other information the Department determines is necessary to implement this~~
37 ~~chapter.~~

1 ~~3.—The review of the preliminary forest conservation plan shall be concurrent with the~~
2 ~~review of the preliminary site plan.~~

3 ~~4.—The Department shall post the preliminary forest conservation plan on their website for~~
4 ~~at least fifteen calendar days and provide directions as to how the public may send or~~
5 ~~deliver written comments, testimony, or documentation pertaining to the preliminary~~
6 ~~forest conservation plan.~~

7 ~~5.—The Department shall hold a public meeting at which the Department shall describe the~~
8 ~~approval process and the applicant shall make a presentation indicating the contents of~~
9 ~~the proposed preliminary forest conservation plan and the proposed site design plan. The~~
10 ~~general public may participate in the discussion of the application. The meeting shall be~~
11 ~~recorded and the recording shall be retained until such time as the appellate period tolls~~
12 ~~and made publicly available. In the event there are significant modifications to the~~
13 ~~preliminary forest conservation plan, the Department may require an additional public~~
14 ~~meeting if it determines such a meeting would serve the public interest.~~

15 ~~6.—During different stages of the review process, the preliminary forest conservation plan~~
16 ~~may be modified, provided the department approves of the changes. All significant~~
17 ~~modifications must be posted for public review and comment.~~

18 ~~7.—All correspondence material to an application shall be posted on the Department website.~~
19 ~~Comments received shall be made part of the application record.~~

20 ~~C.—Final Forest Conservation Plan.~~

21 ~~1.—A final forest conservation plan shall be prepared by a licensed Forester, a licensed~~
22 ~~Landscape Architect, or a qualified professional who meets the requirements stated in~~
23 ~~COMAR 08.19.06.01A.~~

24 ~~2.—A final forest conservation plan shall:~~

25 ~~i.—Be submitted by the applicant consistent with requirements established by the~~
26 ~~Department and the law with the following:~~

27 ~~a.—A final subdivision plan;~~

28 ~~b.—A final project plan;~~

29 ~~c.—An application for a grading permit, or~~

30 ~~d.—An application for a sediment control permit;~~

31 ~~ii.—Show proposed locations and types of protective devices to be used during~~
32 ~~construction activities to protect trees and forests designated for conservation;~~

33 ~~iii.—In the case of afforestation or reforestation, include an afforestation or reforestation~~
34 ~~plan, with a timetable and description of needed site and soil preparation, species,~~
35 ~~size, and spacing to be used;~~

36 ~~iv.—Incorporate justification for any proposed disturbance of priority retention areas,~~
37 ~~including reasons why such priority retention areas cannot be retained and how the~~
38 ~~applicant shall replace proposed disturbed priority retention areas through~~
39 ~~afforestation and reforestation, in compliance with the requirements of this chapter.~~

- 1 ~~v. Incorporate a binding five year maintenance agreement specified in COMAR~~
2 ~~08.19.05.01 that details how the areas designated for afforestation or reforestation~~
3 ~~will be maintained to ensure protection and satisfactory establishment, including:~~
- 4 ~~a. Watering, and~~
- 5 ~~b. A reinforcement planting provision if survival rates fall below required~~
6 ~~standards, as provided in the Forest Conservation Technical Manual;~~
- 7 ~~vi. Incorporate a long term binding protective agreement as specified in COMAR~~
8 ~~08.19.05.02 that:~~
- 9 ~~a. Provides protection for areas of forest conservation, including areas of~~
10 ~~afforestation, reforestation, and retention; and~~
- 11 ~~b. Limits uses in areas of forest conservation to those uses that are designated and~~
12 ~~consistent with forest conservation, including recreational activities and forest~~
13 ~~management practices that are used to preserve forest;~~
- 14 ~~vii. Include a statement of how the project will impact the City's tree canopy goals;~~
- 15 ~~viii. Include the substantive elements required under Subsection B.2.ii. v., vii. ix.,~~
16 ~~and xi. of this section, as finalized elements of the forest conservation plan; and~~
- 17 ~~ix. Include other information the Department determines is necessary to implement this~~
18 ~~chapter.~~

19 ~~3. Time for Notification.~~

- 20 ~~i. Within forty five calendar days after incorporation of the prospective final forest~~
21 ~~conservation plan into a complete plan or permit application associated with a~~
22 ~~regulated activity, the decision making authority for such plans shall notify the~~
23 ~~applicant in writing whether the forest conservation plan is complete and acceptable.~~
- 24 ~~ii. If the decision making authority fails to notify the applicant within forty five~~
25 ~~calendar days, the plan shall be treated as complete and approved.~~
- 26 ~~iii. The decision making authority may require further information or extend the~~
27 ~~deadline for an additional fifteen calendar days under extenuating circumstances in~~
28 ~~its own discretion.~~
- 29 ~~iv. At the request of the applicant, the decision making authority may extend the~~
30 ~~deadline under extenuating circumstances.~~
- 31 ~~v. The Department shall post the notifications described in this section and the final~~
32 ~~forest conservation plan on their website.~~

33 ~~4. The Department's review of a final forest conservation plan shall be concurrent with the~~
34 ~~review of the final subdivision or project plan, grading permit application, or sediment~~
35 ~~control application associated with the project.~~

36 ~~5. The Department may revoke an approved forest conservation plan if it finds that:~~

- 37 ~~i. A provision of the plan has been violated;~~

1 ii. ~~Approval of the plan was obtained through fraud, misrepresentation, a false or~~
2 ~~misleading statement, omission of a relevant or material factor;~~

3 iii. ~~Changes in the development or in the condition of the site necessitate preparation~~
4 ~~of a new or amended plan; or~~

5 iv. ~~The project plan approval is terminated due to the applicant's inaction as specified~~
6 ~~in Title 17 of the City Code.~~

7 6. ~~The Department may issue a stop work order against a person who violates a provision~~
8 ~~of this chapter or a regulation, order, approved forest conservation plan, or maintenance~~
9 ~~agreement.~~

10 7. ~~Before revoking approval of a forest conservation plan, the Department shall notify the~~
11 ~~violation in writing and provide an opportunity for a hearing before the Department~~
12 ~~Director or designee.~~

13 8. ~~Upon approval of the final forest conservation plan the Department shall post the plan~~
14 ~~on the Department's website within three business days.~~

15 **~~21.71.080 – Afforestation and retention.~~**

16 A. ~~Afforestation Requirement. A person submitting an application after the effective date of this~~
17 ~~chapter for subdivision or project plan approval, a grading permit, or a sediment control permit~~
18 ~~for an area of land of forty thousand square feet or greater, shall:~~

19 1. ~~Conduct afforestation on the lot or parcel in accordance with the following:~~

20 i. ~~A tract having less than twenty percent of the net tract area in forest cover shall be~~
21 ~~afforested up to at least twenty percent of the net tract area for the following land use~~
22 ~~categories:~~

23 a. ~~Agriculture and resource areas, and~~

24 b. ~~Medium density residential areas;~~

25 ii. ~~A tract with less than twenty percent of its net tract area in forest cover shall be~~
26 ~~afforested up to at least twenty percent of the net tract area for the following land use~~
27 ~~categories:~~

28 a. ~~Institutional development areas,~~

29 b. ~~High density residential areas,~~

30 c. ~~Mixed use and planned unit development areas, and~~

31 d. ~~Commercial and industrial use areas;~~

32 2. ~~Comply with the following when cutting into forest cover that is currently below the~~
33 ~~afforestation percentages described in Subsection A.1. of this section:~~

34 i. ~~The required afforestation level shall be determined by the amount of forest existing~~
35 ~~before cutting or clearing begins; and~~

36 ii. ~~Forest cut or cleared below the required afforestation level shall be reforested or~~
37 ~~afforested at a two to one ratio and added to the amount of afforestation necessary to~~

1 reach the minimum required afforestation level, as determined by the amount of
2 forest existing before cutting or clearing began.

3 **B.—Retention.**

4 1.—The following trees, shrubs, plants, and specific areas are considered priority for retention
5 and protection and shall be left in an undisturbed condition unless the applicant has
6 demonstrated, to the satisfaction of the Department, that reasonable efforts have been
7 made to protect them and the plan cannot reasonably be altered:

8 i.—Trees, shrubs, and plants located in sensitive areas including the 100-year floodplain,
9 intermittent and perennial streams and their buffers, coastal bays and their buffers,
10 steep slopes and their buffers, nontidal wetlands, and critical habitats.

11 ii.—Contiguous forest that connects the largest undeveloped or most vegetated tracts of
12 land within and adjacent to the site.

13 2.—The following trees, shrubs, plants, and specific areas are considered priority for retention
14 and protection and shall be left in an undisturbed condition unless the applicant has
15 demonstrated, to the satisfaction of the Department, that the applicant qualifies for a
16 variance in accordance with Section 21.71.170 of this chapter:

17 i.—Trees, shrubs, or plants determined to be rare, threatened, or endangered under:

18 a.—The Federal Endangered Species Act of 1973 in 16 U.S.C. §§ 1531—1544 and
19 in 50 C.F.R. 17;

20 b.—The Maryland Nongame and Endangered Species Conservation Act, Natural
21 Resources Article, §§ 10-2a-01—10-2a-09, Annotated Code of Maryland, and

22 c.—COMAR 08.03.08;

23 ii.—Trees that:

24 a.—Are part of a site designated as historic by the Maryland Historic Trust, the
25 National Park Service, or the City of Annapolis;

26 b.—Are associated with a structure designated as historic by the Maryland Historic
27 Trust, the National Park Service, or the City of Annapolis, or

28 c.—Have been designated by the State, County, or the Department as a National,
29 State, County or Municipality champion tree; and

30 iii.—Any tree:

31 a.—Having a DBH of thirty inches or more, or

32 b.—Which has been designated as a significant tree pursuant to this chapter.

33 **21.71.090—Reforestation.**

34 **A.—Forest Conservation Threshold.**

35 1.—There is a forest conservation threshold established for all land use categories, as provided in
36 Subsection A.2. of this section. The forest conservation threshold means the percentage of the
37 net tract area at which the reforestation requirement changes from a ratio of one acre planted

1 ~~for each acre removed above the threshold to a ratio of two acres planted for each acre~~
2 ~~removed below the threshold.~~

3 ~~2. After reasonable efforts to minimize the cutting or clearing of trees and other woody plants~~
4 ~~have been exhausted in the development of a subdivision or project plan, grading and sediment~~
5 ~~control activities, and implementation of the forest conservation plan, the forest conservation~~
6 ~~plan shall provide for reforestation, purchase of credits from a forest mitigation bank, or~~
7 ~~payment into the forest conservation fund, according to the formula set forth below and in~~
8 ~~Subsection A.3. of this section and consistent with Section 21.71.070.A. of this chapter, and~~
9 ~~the following forest conservation thresholds for the applicable land use category:~~

Category of Use	Threshold Percentage
(1) Agricultural and Resource Areas	50 percent
(2) Medium Density Residential Areas	25 percent
(3) Institutional Development Areas	20 percent
(4) High Density Residential Areas	20 percent
(5) Mixed Use and Planned Unit Development Areas	20 percent
(6) Commercial and Industrial Use Areas	20 percent

10 -

11 ~~3. Calculations.~~

12 ~~i. For all existing forest cover measured to the nearest one tenth acre cleared on the net~~
13 ~~tract area above the applicable forest conservation threshold, the area of the forest~~
14 ~~removed shall be reforested at a ratio of one acre planted for each acre removed.~~

15 ~~ii. For all existing forest cover measured to the nearest one tenth acre cleared on the~~
16 ~~net tract area below the applicable forest conservation threshold, the area of forest~~
17 ~~removed shall be reforested at a ratio of two acres planted for each acre removed~~
18 ~~below the threshold.~~

19 ~~**21.71.100 – Priorities and time requirements for afforestation and reforestation.**~~

20 ~~A. Sequence for Afforestation and Reforestation.~~

- 1 ~~1. After techniques for retaining existing forest on the site have been exhausted, the~~
2 ~~preferred sequence for afforestation and reforestation, as determined by the Department,~~
3 ~~is as follows:~~
 - 4 ~~i. Forest creation in accordance with a forest conservation plan using one or more of~~
5 ~~the following:~~
 - 6 ~~a. Transplanted or nursery stock,~~
 - 7 ~~b. Whip or seedling stock, or~~
 - 8 ~~c. Natural regeneration where it can be adequately shown to meet the objective of~~
9 ~~the Forest Conservation Technical Manual;~~
 - 10 ~~ii. In a municipal corporation with a tree management plan and in an existing~~
11 ~~population center designated in a county master plan that has been adopted to~~
12 ~~conform with the Economic Growth, Resource Protection, and Planning Act of 1992,~~
13 ~~or in any other designated area approved by the Department, the use of:~~
 - 14 ~~a. Street trees as a permissible step in the priority sequence for afforestation or~~
15 ~~reforestation and with a mature canopy coverage may be granted full credit as a~~
16 ~~mitigation technique, and~~
 - 17 ~~b. Acquisition of an offsite protection easement on existing forested areas within~~
18 ~~the City boundaries not currently protected in perpetuity as a mitigation~~
19 ~~technique, in which case the afforestation or reforestation credit granted may not~~
20 ~~exceed fifty percent of the area of forest cover protected;~~
 - 21 ~~iii. When all other options, both onsite and offsite, have been exhausted, landscaping~~
22 ~~as a mitigation technique conducted under an approved landscaping plan that~~
23 ~~establishes a forest at least thirty five feet wide and covering at least two thousand~~
24 ~~five hundred square feet of area.~~
- 25 ~~2. A sequence other than the one described in Subsection A.1. of this article may be~~
26 ~~used for a specific project, if necessary, to achieve the objectives of the City Land~~
27 ~~Use Plan or City Land Use Policies, or to take advantage of opportunities to~~
28 ~~consolidate forest conservation efforts.~~
- 29 ~~3. The following are considered a priority for afforestation and reforestation:~~
 - 30 ~~i. Those techniques that enhance existing forest by selective clearing or~~
31 ~~supplemental planting onsite;~~
 - 32 ~~ii. Onsite afforestation and reforestation where the retention options have been~~
33 ~~exhausted, using methods selected in accordance with Subsection A.6. of this~~
34 ~~section, and the location being selected in accordance with this subsection.~~
 - 35 ~~iii. Offsite afforestation or reforestation in the same watershed within the City~~
36 ~~boundaries or in accordance with an approved master plan where the applicant~~
37 ~~has demonstrated that no reasonable alternative onsite exists, or where:~~
 - 38 ~~a. Any onsite priority areas for afforestation or reforestation have been planted~~
39 ~~in accordance with this subsection; and~~

1 b. ~~The applicant has justified to the Department's satisfaction that~~
2 ~~environmental benefits associated with offsite afforestation or reforestation~~
3 ~~exceed those derived from onsite planting.~~

4 4. ~~In the cases cited in Subsection A.3. of this section, the method shall be selected in~~
5 ~~accordance with Subsection A.6. of this section and the location shall be selected in~~
6 ~~accordance with Subsection A.3. of this section.~~

7 5. ~~Offsite afforestation or reforestation may include the use of forest mitigation banks~~
8 ~~within the City boundaries which have been so designated in advance by the~~
9 ~~Department.~~

10 6. ~~Standards for meeting afforestation or reforestation requirements shall be established~~
11 ~~using one or more of the following methods:~~

12 i. ~~Establish or enhance forest buffers adjacent to intermittent and perennial streams,~~
13 ~~and coastal bays and their buffers, to widths of at least fifty to one hundred feet to~~
14 ~~prevent activity causing a detrimental effect to the waterway as determined by the~~
15 ~~director;~~

16 ii. ~~Establish or increase existing forested corridors to connect existing forests within or~~
17 ~~adjacent to the site and, where practical, forested corridors should be a minimum of~~
18 ~~three hundred feet in width to facilitate wildlife movement;~~

19 iii. ~~Establish or enhance forest buffers adjacent to critical habitats where appropriate;~~

20 iv. ~~Establish or enhance forested areas in the 100-year floodplains;~~

21 v. ~~Establish plantings to stabilize slopes of twenty five percent or greater and slopes of~~
22 ~~fifteen percent or greater with a soil K value greater than 0.35 including the slopes~~
23 ~~of ravines or other natural depressions;~~

24 vi. ~~Establish buffers adjacent to areas of differing land use when appropriate, or~~
25 ~~adjacent to highways or utility rights-of-way;~~

26 vii. ~~Establish forest areas adjacent to existing forests to increase the overall area of~~
27 ~~contiguous forest cover, when appropriate; and~~

28 viii. ~~Use native plant materials for afforestation or reforestation, when appropriate.~~

29 7. ~~A person required to conduct afforestation or reforestation under this chapter shall~~
30 ~~accomplish it within one year or two growing seasons, whichever is a greater time period,~~
31 ~~following development project completion.~~

32 ~~**21.71.110 – Payment instead of afforestation and reforestation.**~~

33 ~~A. – Forest Conservation Fund.~~

34 1. ~~There is established a forest conservation fund.~~

35 2. ~~If a person subject to this chapter demonstrates to the satisfaction of the Department that~~
36 ~~requirements for afforestation or reforestation onsite or offsite cannot be reasonably~~
37 ~~accomplished, the person shall contribute money into the City forest conservation fund:~~

1 i. ~~For a project inside a priority funding area, as defined in Natural Resources Article,~~
2 ~~§ 5-1610, Annotated Code of Maryland, at a rate per square foot of the area of~~
3 ~~required planting to be set by resolution of the City Council sufficient to provide for~~
4 ~~site identification, acquisition, preparation, ongoing maintenance costs and~~
5 ~~overhead, and~~

6 ii. ~~For a project outside a priority funding area, at a rate twenty percent higher than the~~
7 ~~rate established for a project inside a priority funding area.~~

8 3. ~~Money contributed instead of afforestation or reforestation under this chapter shall be~~
9 ~~paid prior to the issuance of a grading permit.~~

10 4. ~~The City shall accomplish the afforestation or reforestation for which the money is~~
11 ~~deposited within two years or three growing seasons, whichever is a greater time period,~~
12 ~~after receipt of the money.~~

13 5. ~~Money deposited in the City forest conservation fund:~~

14 i. ~~May be spent on the costs directly related to afforestation and reforestation, including~~
15 ~~site identification, acquisition, preparation, maintenance of existing forests, and~~
16 ~~achieving urban canopy goals;~~

17 ii. ~~Shall be deposited in a separate forest conservation fund; and~~

18 iii. ~~May not revert to the general fund.~~

19 6. ~~Sites for afforestation or reforestation using fund money:~~

20 i. ~~Except as provided in Subsection A.6.ii. of this section, the afforestation or~~
21 ~~reforestation requirement under this chapter shall occur in the watershed in which~~
22 ~~the project is located with priority that the requirement be met on land in the City~~
23 ~~before consideration of land outside the City.~~

24 ii. ~~If the afforestation or reforestation cannot be reasonably accomplished in the City~~
25 ~~or watershed in which the project is located, then the afforestation or reforestation~~
26 ~~shall occur in a watershed in Anne Arundel County.~~

27 **~~21.71.120 – Payment by credits from a forest mitigation bank.~~**

28 A. ~~If a person subject to this chapter demonstrates to the satisfaction of the Department that~~
29 ~~requirements for afforestation or reforestation onsite or offsite cannot be reasonably~~
30 ~~accomplished, the person may contribute credits from a forest mitigation bank. A credit is~~
31 ~~required for each tenth of an acre of an area of required planting.~~

32 B. ~~The credits shall be debited from an approved forest mitigation bank within ninety calendar~~
33 ~~days after the development project completion.~~

34 **~~21.71.130 – Establishing forest mitigation banks.~~**

35 A. ~~Upon approval by the Department, a person may create a forest mitigation bank from which~~
36 ~~applicants may purchase credits to meet the afforestation and reforestation requirements of~~
37 ~~this chapter.~~

1 ~~B.—The forest mitigation bank shall:~~

- 2 ~~1.—Afforest or reforest an area of land in accordance with a forest mitigation bank~~
3 ~~agreement;~~
- 4 ~~2.—Be protected by an easement, deed restrictions, or covenants which require the land in~~
5 ~~the bank to remain forested in perpetuity and are enforceable by the Department and the~~
6 ~~Department of Natural Resources;~~
- 7 ~~3.—Limit the use of the land in the bank to those activities which are not inconsistent with~~
8 ~~forest conservation such as recreational activities, forest management under a forest~~
9 ~~conservation and management program under Tax Property Article, § 8-211, Annotated~~
10 ~~Code of Maryland, or activities specified in a forest management plan prepared by a~~
11 ~~licensed Forester and approved by the Department;~~
- 12 ~~4.—Use native plant materials for afforestation or reforestation unless inappropriate; and~~
- 13 ~~5.—Cause trees to be planted which:~~
 - 14 ~~i.—Establish or enhance forested buffers adjacent to intermittent and perennial streams~~
15 ~~and coastal bays to widths of at least fifty feet;~~
 - 16 ~~ii.—Establish or increase existing forested corridors, which, where practical, should be~~
17 ~~a minimum of three hundred feet in width to facilitate wildlife movement, to connect~~
18 ~~existing forests within or adjacent to the site;~~
 - 19 ~~iii.—Establish or enhance forest buffers adjacent to critical habitats where appropriate;~~
 - 20 ~~iv.—Establish or enhance forested areas in 100-year floodplains;~~
 - 21 ~~v.—Stabilize slopes of twenty five percent or greater;~~
 - 22 ~~vi.—Stabilize slopes of fifteen percent or greater with a soil K value greater than 0.35~~
23 ~~including the slopes of ravines or other natural depressions;~~
 - 24 ~~vii.—Establish buffers adjacent to areas of differing land use where appropriate, or~~
25 ~~adjacent to highways or utility rights of way; or~~
 - 26 ~~viii.—Establish forest areas adjacent to existing forests to increase the overall area of~~
27 ~~contiguous forest cover, when appropriate.~~

28 ~~C.—A person proposing to create a forest mitigation bank shall submit to the Department a:~~

- 29 ~~1.—Completed application on a form approved by the Department which has been signed by~~
30 ~~an authorized individual in conformance with Section 21.71.030 of this chapter;~~
- 31 ~~2.—Forest mitigation bank plan which contains a:~~
 - 32 ~~i.—Vicinity map of the proposed mitigation bank site;~~
 - 33 ~~ii.—Simplified forest stand delineation which meets the criteria in Section 21.71.060.A.6~~
34 ~~of this chapter;~~
 - 35 ~~iii.—Detailed afforestation or reforestation plan, which shall include a timetable and~~
36 ~~description of the site and soil preparation needed, species, size, and spacing to be~~
37 ~~utilized, prepared by a licensed Maryland Forester, a licensed Landscape Architect,~~

1 ~~or a qualified professional who meets the requirements stated in COMAR~~
2 ~~08.19.06.01A; and~~

3 ~~iv. Proposed five-year maintenance agreement that:~~

4 ~~a. Sets forth how the areas afforested or reforested will be maintained to ensure~~
5 ~~protection and satisfactory establishment;~~

6 ~~b. Complies with Section 21.71.070.C.1 of this chapter, and~~

7 ~~c. Includes watering and reinforcement planting provisions if survival falls below~~
8 ~~required standards;~~

9 ~~3. Copy of the deed to the property;~~

10 ~~4. Survey or other legally sufficient description of the bank site for inclusion in the deeds~~
11 ~~of easement, deed restrictions, or covenants;~~

12 ~~5. Title report or other assurance that:~~

13 ~~i. The property is not encumbered by any covenants or other types of restrictions which~~
14 ~~would impair the property's use as a forest mitigation bank; and~~

15 ~~ii. There is legally sufficient access to the forest mitigation bank site which can be used~~
16 ~~by the Department and its assignees to inspect the forest mitigation bank; and~~

17 ~~6. Description of the system to be used by the person owning and operating the forest~~
18 ~~mitigation bank to identify and keep track of which portions of the bank have been debited~~
19 ~~to meet an applicant's offsite afforestation or reforestation requirements.~~

20 ~~D. The owner of an approved forest mitigation bank shall enter into an agreement with the~~
21 ~~Department which contains:~~

22 ~~1. The approved afforestation or reforestation plan;~~

23 ~~2. The approved system for marketing and tracking which portions of the bank have been~~
24 ~~debited; and~~

25 ~~3. An acknowledgement that the bank may not debit any portion of the afforested or~~
26 ~~reforested land until five years of successful growth has been achieved unless the banker~~
27 ~~has posted a bond or alternate form of security.~~

28 ~~**21.71.140 – Recommended tree species.**~~

29 ~~A. Tree species used for afforestation or reforestation shall be native to the City, when~~
30 ~~appropriate, and selected from a list of approved species established by the Department.~~

31 ~~B. The Department shall adopt a list of tree species to be used for any required afforestation or~~
32 ~~reforestation and incorporate it into the Forest Conservation Technical Manual.~~

33 ~~**21.71.150 – Financial security for afforestation and reforestation.**~~

34 ~~A. A person required to conduct afforestation or reforestation under this chapter shall furnish~~
35 ~~financial security in the form of a bond, an irrevocable letter of credit, or other security~~
36 ~~approved by the Department. The surety shall:~~

- 1 ~~1. Assure that the afforestation, reforestation, and the associated maintenance agreement~~
2 ~~are conducted and maintained in accordance with the approved forest conservation plan;~~
- 3 ~~2. Be in an amount equal to the estimated cost, as determined by the Department, of~~
4 ~~afforestation and reforestation; and~~
- 5 ~~3. Be in a form and of a content approved by the Department.~~

6 ~~B. After three growing seasons, the person required to file a bond may request reduction of the~~
7 ~~amount of the bond or other financial security by submitting a written request to the~~
8 ~~Department with a justification for reducing the bond or other financial security amount,~~
9 ~~including estimated or actual costs to ensure afforestation or reforestation requirements are~~
10 ~~met.~~

11 ~~C. The Department shall determine whether a lesser amount is sufficient to cover the cost of~~
12 ~~afforestation or reforestation, taking in account the following:~~

- 13 ~~1. The number of acres;~~
- 14 ~~2. The proposed method of afforestation or reforestation;~~
- 15 ~~3. The cost of planting materials or replacement materials;~~
- 16 ~~4. The cost of maintenance of the afforestation or reforestation project; and~~
- 17 ~~5. Other relevant factors.~~

18 ~~D. If, after five growing seasons, the plantings associated with the afforestation or reforestation~~
19 ~~meet or exceed the standards of the forest conservation technical manual, the amount of the~~
20 ~~cash bond, letter of credit, surety bond, or other security shall be returned or released.~~

21 ~~E. A local forest conservation program may incorporate the financial security set forth in~~
22 ~~Subsections A. — D. of this section or in COMAR 08.19.05.01B.~~

23 **~~21.71.160 – Standards for protecting trees from construction activities.~~**

24 ~~A. The City shall adopt standards for the protection of trees from construction activity.~~

25 ~~B. Before cutting, clearing, grading, or construction begins on a site for which a forest~~
26 ~~conservation plan is required by this chapter, the applicant shall demonstrate to the~~
27 ~~Department that protective devices have been established.~~

28 **~~21.71.170 – Variances.~~**

29 ~~A. An applicant may request a variance from this chapter or the requirements of Natural~~
30 ~~Resources Article, §§ 5-1601 – 5-1612, Annotated Code of Maryland, if the applicant~~
31 ~~demonstrates that enforcement would result in unwarranted hardship to the applicant.~~

32 ~~B. An applicant for a variance shall:~~

- 33 ~~1. Describe the special conditions peculiar to the property which would cause the~~
34 ~~unwarranted hardship;~~
- 35 ~~2. Describe how enforcement of these rules will deprive the applicant of rights commonly~~
36 ~~enjoyed by others in similar areas;~~

1 3.—Verify that the granting of the variance will not confer on the applicant a special privilege
2 that would be denied to other applicants;

3 4.—Verify that the variance request is not based on conditions or circumstances which are
4 the result of actions by the applicant or by any previous owner of the property;

5 5.—Verify that the request does not arise from a condition relating to land or building use,
6 either permitted or nonconforming, on a neighboring property; and

7 6.—Verify that the granting of a variance will not adversely affect water quality.

8 C.—The Department shall make written findings that the applicant has met the requirements in
9 Subsections A. and B. of this section before the Department may grant a variance.

10 D.—Notice of a request for a variance shall be given to the Department of Natural Resources
11 within fifteen days of receipt of a request for a variance.

12 E.—There is established by this chapter the right and authority of the Department of Natural
13 Resources to initiate or intervene in an administrative, judicial, or other original proceeding
14 or appeal in the State concerning an approval of a variance under Natural Resources Article,
15 §§ 5-1601—5-1612, Annotated Code of Maryland, or this chapter.

16 F.—Any variance must be submitted to the Planning Commission or the Zoning Board of Appeals,
17 whichever the case may be, with the project or development plan application for final
18 determination. If the variance is sought in connection with a site design plan application not
19 requiring Planning Commission or Zoning Board of Appeals approval, the Department shall
20 issue a final determination on the variance application.

21 G.—Variance can only be appealed as part of the final administrative decision or approval of the
22 application.

23 **21.71.180 – Enforcement.**

24 A.—Noncompliance Fees.

25 1.—A person found to be in noncompliance with this chapter, regulations adopted under this
26 chapter, the forest conservation plan, or the associated five year maintenance agreement,
27 shall pay a minimum noncompliance fee of ten dollars per square foot of the area found
28 to be in noncompliance with the required forest conservation. The City Council may set
29 a greater noncompliance fee by resolution.

30 2.—In setting the noncompliance fee, the City Council shall consider land acquisition costs,
31 planting costs, ongoing maintenance costs and overhead required to mitigate the
32 noncompliance.

33 3.—Money collected under Subsection A.1. of this section shall be deposited in the forest
34 conservation fund authorized by Section 21.71.130 of this chapter, and may be used by
35 the Department for purposes related to implementing this chapter.

36 B.—Violation.

1 ~~1.—A violation of any provision of this chapter shall constitute a municipal infraction and~~
2 ~~for each violation the person or entity in violation is subject to a fine as established by~~
3 ~~resolution of the City Council.~~

4 ~~2.—Each day a violation continues is a separate violation for which a separate citation may~~
5 ~~be served.~~

6 ~~C.—The Department may seek an injunction or other equitable relief requiring a person to cease~~
7 ~~violation of this chapter and take corrective action to restore or reforest an area.~~

8 ~~D.—The local program may adopt the enforcement provisions under COMAR 08.19.06.03.~~

9 ~~E.—The local program shall provide to the Department of Natural Resources notice of an~~
10 ~~enforcement action within fifteen days after the commencement of enforcement by the local~~
11 ~~program.~~

12 **~~21.71.190 – Annual report.~~**

13 ~~On or before March 1 of each year, the Department shall submit to the Department of Natural~~
14 ~~Resources a report which contains the:~~

15 ~~A.—Number, location, and type of projects subject to the provisions of this chapter;~~

16 ~~B.—Amount and location of acres cleared, conserved, and planted, including any areas~~
17 ~~located in the 100 year floodplain in connection with a development project;~~

18 ~~C.—Amount of afforestation and reforestation fees and noncompliance penalties collected~~
19 ~~and expended;~~

20 ~~D.—Costs of implementing the forest conservation program;~~

21 ~~E.—Location and size of all forest mitigation banks approved during the past year with a~~
22 ~~description of the priority areas afforested or reforested by the bank;~~

23 ~~F.—Number of acres debited from each forest mitigation bank since the last annual report;~~

24 ~~G.—Forest mitigation banks inspected since the last annual report;~~

25 ~~H.—Number, location, and types of violations and types of enforcement activities conducted;~~
26 ~~and~~

27 ~~I.—The size and location of all conserved and planted forest areas shall be submitted in an~~
28 ~~electronic geographic information system or computer aided design format if possible. if~~
29 ~~not possible, the location shall be given by Maryland State Plane Grid Coordinates and~~
30 ~~eight digit subwatershed.~~

31 **~~21.71.200 – Biennial review by the Department of Natural Resources.~~**

32 ~~The Department shall submit the necessary documentation to comply with COMAR~~
33 ~~08.19.02.04.~~

34
35
36 **TITLE 22 – ADEQUATE PUBLIC FACILITIES**

1 **Chapter 22.24 – REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE**
2 **STORMWATER MANAGEMENT FACILITIES.**

3
4 **22.24.040 - Standards.**

5 The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be
6 limited to a requirement that the proposed project complies with the provisions of Chapter
7 ~~17.10~~19.50 of the Annapolis City Code.

8
9
10
11 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
12 **ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect from the date of its passage.

13
14
15 **Explanation:**

16 UPPERCASE indicates matter added to existing law.

17 ~~Strikethrough~~ indicates matter stricken from existing law.

18 Underlining indicates amendments.

19