



## STAFF REPORT AND FISCAL IMPACT NOTE

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**Resolution:** R-46-18

**Title:** Application of City of Annapolis Stormwater Regulations

**Date:** September 19, 2018

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### STAFF REPORT

The stormwater management regulations established in Section 26.17.02 of Code of Maryland Regulations (COMAR), the Stormwater Management Act of 2007, and the Maryland Stormwater Design Manual (Revised May 2009) require redevelopment to reduce a site's impervious surface by at least 50% or treat an equivalent amount of runoff. For new development, these provisions require treatment of 100% of the site's stormwater runoff to the maximum extent practicable.

Section 17.10.080.A.3 of the City Code provides that the Director of Public Works may require more than these minimum requirements if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.

This resolution expresses the City Council's desire that the City exercise its ability under Section 17.10.080.A.3 to require more than the minimum requirements. It resolves that it is the Council's desire that the City require redevelopment to treat "at least" 100% of its stormwater runoff and for new development to treat "at least" 150% of its stormwater runoff. Finally, it resolves that it is the City Council's desire that this standard be applied to all projects that have already submitted development applications to the City that do not have an approved stormwater management plan as of the effective date of the resolution.

City staff concurs with the Council's desire to require more than the minimum control requirements when hydrologic or topographic conditions warrant or when flooding, stream channel erosion, or water quality problems exist downstream from a proposed project. The staff also agrees that requiring more than the minimum control requirements will improve water quality and help the City meet both its Total Maximum Daily Load (TMDL) requirements and MS4 compliance requirements.

However, the staff believes it is more appropriate for the City's legislative body to establish stormwater mitigation requirements that exceed the minimum amounts by ordinance, not resolution, using language that is clear and unequivocal language (i.e. no language such as "at least 100%" or that the Director "may" require more than the minimum treatment). Such an ordinance

would ensure every developer is treated the same and that the requirements do not change from one mayoral administration to the next. It would also protect the Director from pressure to apply different requirements to different developments arbitrarily or capriciously or from having others perceive his decisions to be arbitrary or capricious.

By expressing the desire that the City require redevelopment and new development to treat “at least” 100% and 150%, respectively, the Director of Public Works in the same position he is in now; namely that it is within his discretion to decide how much more than the minimum treatment he will require. Given that virtually every city waterway is impaired, on what basis would the Director require one developer to treat only 100% for redevelopment or only 150% for new development, while requiring another developers to treat more? What criteria would the Director use to decide whether to require treatment of 100% or 200% or 500%?

Finally, this resolution says it applies to applicants who have already submitted development applications, but who do not yet have approved stormwater management plans as of the effective date of the resolution. If the Council passes this resolution, we recommend removing the words “who have already submitted development applications” and inserting the words “that it” after the word “Council” on page 2, line 29. This would clarify that it is the Council’s intent that the new minimums apply to all applicants who have not yet received approval of their stormwater management plans, both those who have already submitted their development applications and those who will do so in the future. (The next to the last Whereas clause would then read, “AND BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL that it desires that this standard be applied to projects that do not have approved stormwater management plans as of the effective date of this resolution.”)

*Prepared by: Teresa Sutherland, City Manager*

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## **FISCAL IMPACT**

Treating more stormwater will improve water quality, which will reduce the City’s costs to meet its Total Maximum Daily Load (TMDL) requirements and MS4 compliance requirements. When water quality treatment practices are provided to address the State’s redevelopment regulations, existing impervious area treated may be credited toward restoration requirements. In most cases, the credit is the equivalent of 50% of the existing impervious area for the project with additional credit accepted when additional volume is treated. We are unable to quantify this savings.

We are also unable to determine whether the increased costs developers will incur to mitigate additional stormwater management might impact their decisions to develop in the City and how those decisions might impact City revenues and expenses.

With respect to the impact on City expenses to administer these suggested new minimum mitigation requirements, the Director of Public Works does not anticipate any additional staff costs.

*Prepared by: Jodee Dickinson, Finance Director*