



## Legislation Details (With Text)

**File #:** O-18-19      **Version:** 1      **Name:**

**Type:** Ordinance      **Status:** Withdrawn

**File created:** 4/8/2019      **In control:** City Council

**On agenda:** 12/9/2019      **Final action:** 3/9/2020

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

**Sponsors:** Rob Savidge, Ross Arnett, Marc Rodriguez

**Indexes:** Economic Matters Committee, Environmental Matters Committee, Finance Committee, Housing and Human Welfare Committee, Planning Commission, Rules and City Government Committee, Transportation Committee

**Code sections:**

**Attachments:** 1. O-18-19 Department of the Environment Ordinance First Reader.pdf, 2. O-18-19 Staff Report and Fiscal Impact Note.pdf, 3. O-18-19 Staff Report to PC.pdf, 4. O-18-19 PC Findings and Recommendation.pdf, 5. O-18-19 REVISED Staff Report 10-2-19.pdf, 6. O-18-19 CORRECTED Staff Report 11-11-2019.pdf, 7. O-18-19 REVISED Fiscal Impact Note 10-8-19.pdf, 8. O-18-19 CORRECTED Fiscal Impact Note 12-3-19.pdf

Date	Ver.	Action By	Action	Result
3/9/2020	1	City Council	withdrawn without objection	Pass
12/9/2019	1	City Council	postpone	Pass
10/16/2019	1	Finance Committee	Continue	
10/16/2019	1	Environmental Matters Committee	Continue	
10/14/2019	1	City Council	postpone	Pass
10/8/2019	1	Rules and City Government Committee	Continue	
10/2/2019	1	Finance Committee	Continue	Pass
9/18/2019	1	Environmental Matters Committee	Continue	Pass
9/18/2019	1	Finance Committee	Continue	Pass
9/9/2019	1	City Council	declare the public hearing closed	
9/9/2019	1	City Council	presented	
4/29/2019	1	City Council	declare the public hearing closed	
4/8/2019	1	City Council	refer to Annapolis Education Commission	
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4/8/2019	1	City Council	refer to Annapolis Education Commission	
4/8/2019	1	City Council	adopt on first reader	Pass
4/8/2019	1	City Council		

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

## CITY COUNCIL OF THE City of Annapolis

### Ordinance 18-19

Introduced by: Alderman Savidge

Referred to  
Planning Commission  
Economic Matters Committee  
Environmental Matters Committee  
Finance Committee  
Housing and Human Welfare Committee  
Rules and City Government Committee  
Transportation Committee

AN ORDINANCE concerning

### Department of the Environment

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

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2019 Edition

2.12.080  
2.16.190  
2.48.350  
2.50.020  
3.08.010  
3.08.030  
6.29.010  
10.12.140  
10.36.010  
17.11.010  
17.11.300  
17.11.350  
17.11.720  
17.11.730  
17.12.050  
17.12.052  
21.24.090  
21.54.060  
21.54.080  
21.54.090  
21.54.170  
22.63.030  
21.63.080  
22.24.040

**BY** repealing the following portions of the Code of the City of Annapolis, 2019 Edition

Chapter 14.12 - TREES  
Sections 14.12.010 through 14.12.210

Chapter 17.04 - DEFINITIONS  
Sections 17.04.010 through 17.04.1010

Chapter 17.08 - GRADING, EROSION AND SEDIMENT CONTROL  
Sections 17.08.010 through 17.08.295

Chapter 17.09 - TREES IN DEVELOPMENT AREAS  
Sections 17.09.010 through 17.09.140

Chapter 17.10 - STORMWATER MANAGEMENT  
Sections 17.10.010 through 17.10.240

Chapter 21.71 - FOREST CONSERVATION  
Sections 21.71.010 through 21.71.200

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

TITLE 19 - ENVIRONMENT  
Chapter 19.04 - DEFINITIONS

Sections 19.04.010 through 19-04-1010

Chapter 19.10 - POLICY

Sections 19.10.010 through 19.10.210

Chapter 19.20 - TREES IN DEVELOPMENT AREAS

Sections 19.20.010 through 19.20.140

Chapter 19.30 - FOREST CONSERVATION

Sections 19.30.010 through 19.30.200

Chapter 19.40 - GRADING, EROSION AND SEDIMENT CONTROL

Sections 19.40.010 through 19.40.295

Chapter 19.50 - STORMWATER MANAGEMENT

Sections 19.50.010 through 19.50.240

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

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

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

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

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

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

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

**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.
  2. Public Safety Committee. The Public Safety Committee shall consider matters affecting public safety in the City. The Public Safety Committee shall review all proposed amendments to Title 11 (Public Peace, Morals and Welfare) and Title 12, (Vehicles and Traffic) of this Code.
  3. Rules and City Government Committee. The Rules and City Government Committee shall review and consider all proposed amendments to the Charter and all proposed amendments to Title 1 (General Provisions), Title 2 (Administration), Title 3 (Personnel), Title 4 (Elections), Title 20 (Subdivisions), Title 21 (Planning and Zoning) and Title 22 (Adequate Public Facilities) of this Code.
  4. Economic Matters Committee. The Economic Matters Committee shall consider matters affecting the economy of the City; make recommendations to the City Council on issues relating to the operation of the Markethouse and the regulation of the City Dock; study, independently and with private historic preservation organizations, issues concerning historic structures in the City; and study, consider and make recommendations regarding issues of cable television service to the City of Annapolis and its citizens. The Economic Matters Committee shall review all proposed amendments to Title 7 (Business Licenses, Taxes and Regulations) and Title 17 (Buildings and Construction) of this Code.
  5. Housing and Human Welfare Committee. The Housing and Human Welfare Committee shall consider issues of housing and matters affecting the general health, welfare and quality of life of the residents of the City. The Housing and Human Welfare Committee shall review all proposed amendments to

Title 8 (Animals), Title 10 (Health and Safety), and Title 18 (Landlord and Tenant Relations) of this Code.

6. Environmental Matters Committee. The Environmental Matters Committee shall consider matters affecting the natural environment of the City. The Environmental Matters Committee shall review all proposed amendments to Title 14 (~~Streets, Sidewalks and Public Places~~) 19 (ENVIRONMENT), Title 15 (Harbors and Waterfront Areas), and Title 16 (Public Services) of this Code.
7. Transportation Committee. The Transportation Committee shall consider matters affecting parking, public transportation, and vehicular traffic. The Transportation Committee shall review all proposed amendments to Title 12 (Vehicles and Traffic), Title 14 (Streets, Sidewalks and Public Places), and Title 22 (Adequate Public Facilities) of this Code.
- B. Each of the committees as enumerated in this section shall have other and further duties and responsibilities as are designated to them by the City Council. The Mayor may designate any other standing or special committees as the Mayor deems appropriate from time to time.

## **Chapter 2.48 - BOARDS, COMMISSIONS AND COMMITTEES**

### **2.48.350 - Environmental Review Committee.**

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

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

C. As a minimum, the Committee shall:

1. Review existing practices of the City to assure that its policies and procedures foster the use of materials that are compostable, recyclable, and reusable.
2. Assess the effectiveness of the voluntary environmental reusable bag program.
3. Assess the value of bans and/or fees on materials in furtherance of the City's goals.
4. Develop a plan for distribution of re-useable bags as part of and consistent with the City's recycling plan as defined in Chapter 10.18 of the Annapolis City Code.
5. Assist the various City offices to ensure that contracting procedures do not discriminate against reusable, recycled, or environmentally preferable products without sufficient justification.
6. Evaluate environmentally preferable products to determine the extent to which they may be used by the City and its contractors.
7. Review and revise contracting procedures to maximize the specification of designated environmentally preferable products where available.
8. Following installation of computer software capable of data gathering for such purposes, facilitate data collection on purchases of designated environmentally preferable products by the City and its contractors and report the data to the City Council by July 31st of each year.
9. Prior to fiscal year 2009, the Committee shall:
  - a. Begin issuing to all City organizational elements purchasing specifications that comply with U.S. Environmental Protection Agency Comprehensive Procurement Guidelines for products. Recovered Materials Advisory Notices (RMAN) shall be used as a reference for determining the

recycled content specifications for these products. Third party certifications, such as Energy Star, Eco Logo and Green Seal, shall also be acceptable to identify preferred products.

b. Monitor the implementation of the following:

- (1) To the extent available, all printing and copy paper products shall consist of a minimum of thirty percent post-consumer recycled fiber.
- (2) All janitorial paper products and plastic garbage bags shall consist of a minimum of fifty percent post-consumer content.
- (3) A ten percent price preference for processed chlorine-free paper shall be applied to (one hundred percent) of photocopy-grade and janitorial paper purchases.
- (4) Returning used toner cartridges for remanufacture and purchase re-manufactured toner cartridges when practicable.
- (5) Where available, no janitorial cleaning or disinfecting products shall contain ingredients that are identified by United States Environmental Protection Agency or the National Institute for Occupational Safety and Health as carcinogens, mutagens, or teratogens.
- (6) Phase out the use of chloroflourocarbon containing refrigerants, solvents and other products when without risk of voiding manufacturers' warranties on the equipment in which it is applied.
- (7) All surfactants shall meet EPA standards as "readily biodegradable." No detergents shall contain phosphates.
- (8) The City shall procure wood products that originate only from managed, recycled or sustainable wood product operations.
- (9) Purchased or leased electronic equipment including photocopiers, computers, printers, lighting systems, HVAC, kitchen and laundering appliances, and energy management systems must meet U.S. Environmental Protection Agency (EPA) or U.S. Department of Energy (DOE) energy efficiency standards. Where applicable, the energy efficiency function must remain enabled on all energy efficient equipment. As part of any purchase or lease agreement for electronic equipment, a vendor must supply life cycle costs for each item.
- (10) All motor oil shall contain a minimum twenty-five percent re-refined base stock, and shall be used only when without risk of voiding manufacturers' warranties on the equipment in which it is applied. All re-refined oil must be American Petroleum Institute certified.
- (11) All motor vehicles operated by the City shall use recycled propylene glycol antifreeze where practicable, and shall be used only when without risk of voiding manufacturers' warranties on the equipment in which it is applied.
- (12) Paint purchased by the City or its contractors shall contain the minimum amount necessary of volatile organic compounds, and shall contain maximum recycled content where available.
- (13) The City shall implement an integrated pest management program for pest control. Any chemicals used to eliminate or deter insect pests and undesirable vegetation shall be the most readily and completely biodegradable product available for the given application, and shall be applied in a manner that is least likely to come into contact with humans and any other animals for which treatment is not intended.
- (14) All construction and renovation at least thirty percent funded by the City shall incorporate Silver LEED "green" building practices.
- (15) The City shall give preference to products that are produced and are within a reasonable geographic distance such that transportation costs, energy use and carbon dioxide generation do not outweigh the benefits of lower product costs.
- (16) All departments, offices, and agencies shall ensure that they and their contractors/consultants use double-sided copying. All photocopiers purchased by the City following adoption of this policy are required to be capable of double-sided copying when the equipment has the capability to copy double-sided.

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

D. The following are environmentally preferred products:

1. Compostable and vegetative products;
2. Horticultural mulch made with recycled land clearing and other wood debris, but avoiding the use of non-sterile mulch which may contain non-native plant species;
3. Construction materials made with recycled cement concrete, wood, glass or asphalt;
4. Alternative fuels and vehicles and rolling stock that utilize same including, but not limited to, electric, hybrid, compressed natural gas, hydro-diesel, hydrogen, biodiesel and ethanol. When comparing costs of alternative vs. conventional fuels and vehicles, the City shall give preference to alternative fuels and vehicles if their costs are no more than ten percent higher than conventional products;
5. Cement and asphalt concrete containing glass cullet, recycled fiber or plastic, tire or rubber;
6. Lubricating oil and hydraulic oil with re-refined oil content;
7. Recycled plastic products;
8. Remanufactured products made from recycled tire rubber, including rubber mats and play field surfaces;
9. Low wattage/high efficiency lighting fixtures, including but not limited to traffic signals, crosswalks, street lights and all interior and exterior building fixtures, including fixed ballast fluorescent fixtures and motion sensitive switches;
10. Solar powered traffic signals, traffic signs, street lights and buildings wherever available;
11. Remanufactured laser printer toner cartridges;
12. Other products as designated by the Mayor and/or the Mayor's designee, the Task Force and/or Coordinator; and
13. No fertilizer with phosphorous shall be used on any land owned by the City of Annapolis, whether such land is located within or outside of the City's boundaries, except where a soil test determines that the soil is deficient.

E. The Environmental Review Committee will formulate a plan by May 31, 2008, to promote the use of reusable shopping bags in the City of Annapolis. It will establish a goal of a forty percent reduction in the use of plastic and paper checkout bags in large retail chain stores by May 31, 2009.

F. Nothing contained in the policy of this section shall be construed as requiring a department or contractor to procure products that do not perform adequately for their intended use, exclude adequate competition, or are not available at a reasonable price in a reasonable period of time. The City shall give preference to any environmentally preferable products if their costs are no more than ten percent higher than conventional products.

G. One year from adoption of the ordinance codified in this section, the Environmental Review Commission will evaluate the effectiveness of the internal and voluntary programs for reusable materials and make recommendations in furtherance of these efforts for consideration by the Mayor and City Council.

## **CHAPTER 2.50 - ANNAPOLIS CONSERVANCY BOARD**

### **2.50.020 - Membership.**

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

B. Each member shall have a demonstrated interest in the preservation and conservation of land and

water resources in the City. Each member shall serve without compensation. In the event of a vacancy in an unexpired term on the Board, a member shall be appointed in the same manner as the original appointment was made for the duration of the unexpired term.

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

**TITLE 3 - HUMAN RESOURCES**

**Chapter 3.08 - Exempt Service**

**3.08.010 - Positions included.**

The exempt service includes:

1. All the elected officials;
2. All department directors;
3. City Manager;
4. Communications Officer;
5. City Attorney;
6. Assistant City Attorney;
7. Attorney I;
8. Attorney II;
9. Community Engagement Administrator;
10. Constituent Services Officer;
11. Administrative Assistant;
12. Assistant City Manager;
13. Public Information Officer and Quartermaster;
14. Executive Office Associate;
15. Recruitment/Employee Relations Administrator;
16. Deputy Fire Chiefs;
17. Police Major and Captains;
18. Human Resources Manager;
19. Director of ~~Office of Environmental Policy~~ DEPARTMENT OF THE ENVIRONMENT;
20. Economic Development Manager;
21. Development/Events Specialist; and
22. Chief of Staff.

**3.08.030 - Salary.**

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
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

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 COLAS awarded to other City exempt service employees during the two-year period. The City Manager's compensation shall be subject to reduction to the same extent as other City exempt service employees, including reductions based upon furloughs or similar actions.
  - ii. Benefits. The City Manager is entitled to receive the same benefits as other City exempt service

employees, including but not limited to inclusion in the City's health care and retirement plans, in which the City and the employee contribute in the same proportion as other City exempt service employees.

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

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

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

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

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

- i. Deputy Fire Chiefs
- ii. Police Captains
- iii. Police Major
- iv. Recruitment/Employee Relations Administrator
- v. Assistant City Attorney
- vi. Attorney I
- vii. Attorney II
- viii. Public Information Officer and Quartermaster
- ix. Economic Development Manager.

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

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

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

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

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

E. The Mayor, City Manager or Department Director, whichever is the Appointing Authority, may make an initial appointment at a salary greater than the first step of the assigned grade for positions that report to them. Appointments to the following positions do not require City Council approval and initial appointments may be made at a salary greater than the first step of the assigned grade subject to the availability of funding:

1. i. Administrative Assistant
- ii. Assistant City Manager
- iii. Executive Office Associate
- iv. Chief of Staff
- v. Communications Officer
- vi. Constituent Services Officer
- vii. Community Engagement Administrator
- viii. Development/Events Specialist
- ix. ~~Director, Office of Environmental Policy~~

- x. Human Resources Manager
- xi. Deputy Fire Chiefs
- xii. Police Captains
- xiii. Police Major
- xiv. Recruitment/Employee Relations Administrator
- xv. Assistant City Attorney
- xvi. Attorney I
- xvii. Attorney II
- xviii. Public Information Officer and Quartermaster
- xix. Economic Development Manager.

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

- 1. i. City Manager
- ii. City Attorney
- iii. Police Chief
- iv. Fire Chief
- v. Director of Transportation
- vi. Director of Recreation and Parks
- vii. Director of Finance
- viii. Director of Planning and Zoning
- ix. Director of Public Works.

**X. DIRECTOR OF THE DEPARTMENT OF THE ENVIRONMENT**

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

**TITLE 6 - REVENUE AND FINANCE**

**Chapter 6.29 - Establishment of Program to Finance and Encourage Energy Efficiency Projects and Renewable Energy Projects**

**6.29.010 - Establishment of Clean Energy Loan Program.**

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

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

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

**TITLE 10 - HEALTH AND SAFETY**

**Chapter 10.12 - FOOD HANDLING ESTABLISHMENTS**

**10.12.140 - Administration and enforcement.**

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

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

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

## **Chapter 10.36 - Clean Air Vehicles**

### **10.36.010 - Purpose and intent.**

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

## **TITLE 14 - STREETS, SIDEWALKS AND PUBLIC PLACES**

### **Chapter 14.12 – TREES**

#### **14.12.010 – Policy.**

It is the policy of the City to regulate the planting, removal, maintenance and protection of trees and shrubs on all public lands subject to its jurisdiction; to eliminate and guard against dangerous conditions which may result in injury to persons using public areas; to promote and enhance the beauty of the City; to prevent damage to any public sewer or water main, street, sidewalk or other public property; to protect trees and shrubs located in public areas from undesirable and unsafe practices; and to guard trees and shrubs against the spread of disease or pests.

#### **14.12.020 – Applicability.**

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

#### **14.12.030 – Definitions.**

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

- A. "Crown area" means the leafy part of a tree.
- B. "Cutting" means felling or removal of a tree or any procedure the result of which is to cause the death or substantial destruction of a tree. Cutting does not include normal pruning or trimming.
- C. "Department" means the Department of Planning and Zoning.
- D. "Director of Planning and Zoning" shall be read to include his/her designee.
- E. "Maintenance" and "protection" include all operations of trimming, pruning, spraying, injecting, fertilizing, treating, bracing, doing surgery work, and cutting above or below ground.
- F. "Public area" includes all public ways, public parks and other public lands except those owned or leased by the United States of America or by the State.
- G. "Public way" includes all public streets, roads, boulevards, alleys and sidewalks.
- H. "Remove" or "removal" means the actual physical removal, or the effective removal through damaging, poisoning or other direct or indirect actions resulting in, or likely to result in, the death of a tree.
- I. "Trees" and "shrubs" includes all woody vegetation.

#### **14.12.040 – Environmental Commission.**

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

- A. Recommend the appointment of a forester;
- B. Study the problems and determine the needs of the City in connection with its tree planting, protection and maintenance programs;
- C. Assist in the dissemination of news and information regarding the selection, planting and maintenance of trees within the areas subject to the jurisdiction of the City, whether the areas are private or public property, and make recommendations for legislation concerning the tree program and activities;
- D. Investigate and implement alternative funding sources for the planting and maintenance of trees and shrubs on public lands;
- E. Conduct meetings and forums at which the subject of trees is discussed.

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

- A. Implementation, administration and execution of the requirements of this chapter are the responsibility of the Department of Planning and Zoning or his or her designee.
- B. The Director of Planning and Zoning or his or her designee shall have the following general powers and duties:
  - 1. To direct, manage, supervise and control the street tree program, including all planting, removal, maintenance, and protection of all trees and shrubs on all public areas;
  - 2. To guard all trees and shrubs to prevent the spread of disease or pests and to eliminate dangerous conditions which may affect the life, health or safety of persons or property;
  - 3. To perform other related functions as are assigned.

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

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

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

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

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

- A. A person neither shall plant trees or shrubs in any public area, nor undertake any maintenance or protection, or otherwise disturb any tree or shrub in any public area, without obtaining prior written approval from the department, except in emergencies such as storms or accidents. Arboricultural specifications and standards of workmanship as set forth in the written approval shall be adhered to in the performance of the work.
- B. Subject to the provisions of Chapter 16.12, approval of the department is not required to water trees or shrubs.
- C. Any person who violates this section is guilty of a municipal infraction and is subject to a fine as established by resolution of the City Council.

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

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

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

- A. "Tree conservation areas" are established to be the same areas as the legally defined front, side or rear yard setbacks of any residential or commercial property as described in the zoning regulations of the City of

~~Annapolis, which are adjacent to a public right-of-way.~~

- B. ~~Within a tree conservation area, no tree greater than five inches in diameter as measured at four and one-half feet above the ground shall be removed except as provided for in this section. Within a tree conservation area, the property owner may remove trees that are less than five inches in diameter as measured at four and one-half feet above the ground.~~
- C. A permit issued by the Director of Planning and Zoning or his or her designee is required for the removal of any tree greater than five inches in diameter, as measured at four and one-half feet above the ground, located within the tree conservation area. The tree removal permit application fee and permit fee shall be set by resolution of the City Council. Conditions under which such a permit may be issued include but shall not be limited to the following:
  - 1. ~~The tree is dead, dying or diseased, such that fifty percent or more of the crown area is visibly dead;~~
  - 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 of such replacement trees shall be reviewed and approved by the Director of Planning and Zoning or his or her designee in accordance with the standards set forth herein.
- H. Violation of this section shall be a municipal infraction punishable by a fine as established by resolution of the City Council for each tree greater than five inches in diameter at 4.5 feet above the ground removed from the tree conservation area without a permit. In addition, the Director of Planning and Zoning or his or her designee may revoke any permit issued under this section and/or issue an order stopping further tree removal whenever the director or designee determines that such action is necessary to accomplish the purpose of this section. Enforcement of this section shall be the responsibility of the Department of Planning and Zoning. All fines must be paid in full before any work can continue.
- I. Where this section and any other Federal, State or local law regarding tree removal and/or replacement apply to a given circumstance, the more restrictive law shall control.

**14.12.100 – Master street tree plan.**

- A. The department shall formulate a master street tree plan with the advice of the Environmental Commission. The master street tree plan shall specify the species of trees to be planted on each of the streets or other public sites of the City. After approval by the Historic District Commission of the portions of the plan affecting the historic district, and following the adoption of the plan by the City Council, all planting shall conform to the plan.
- B. In preparing the master street tree plan, the department shall evaluate all space and site factors which will aid in the determination of the tree species best suited to a particular planting site before recommending a specific species.
- C. ~~The department shall recommend revisions of the master street tree plan when advisable.~~

**14.12.110 – Rules and regulations.**

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

**14.12.120 – Species and varieties.**

- A. The department shall prepare lists of trees acceptable for planting in the public areas. Undesirable trees shall not be recommended for general planting, and their use, if any, shall be restricted to special locations where, because of certain characteristics of adaptability or landscape effect, they can be used to advantage.
- B. Only desirable trees of good appearance, beauty, adaptability, and generally free from injurious insects or disease shall be planted in public areas.
- C. Where street blocks have been assigned a particular species or variety on the master street tree plan, only that species or variety shall be planted, subject to revisions by the Director of Public Works or his or her designee.

**14.12.130 – Size.**

- A. Unless otherwise specified by the department, all deciduous tree species and their cultivars and varieties shall conform to American Association of Nurserymen standards and be at least one and three-fourths inches in diameter six inches above ground level, and at least eight to ten feet in height when planted. The crown shall be in good balance with the trunk.
- B. Unless otherwise allowed for specific reasons, all trees shall have comparatively straight trunks, well-developed leaders and tops, and roots characteristic of the species, cultivar or variety showing evidence of proper nursery pruning. All trees must be free of insects, diseases, mechanical injuries, and other objectionable features at the time of planting.

**14.12.140 – Location.**

- A. Where a tree is requested by an owner of private property adjacent to public property, and the location is

determined to be desirable, and no appropriate public property is available, an easement or other legal agreement may be sought to plant on the private property that is in proximity to public property. The legal agreement may contain provisions granting the City permission to select and plant trees under the direction of the Director of Planning and Zoning. The legal agreement shall contain provisions defining the City's absence of liability in the event of personal injury or damage caused during, or as a result of, planting on private property. Appropriate advance written notification shall be made to the adjacent property owners of the City's intent to plant trees.

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

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

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

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

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

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

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

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

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

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

#### **14.12.160 – Right of entry.**

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

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

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

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

#### **14.12.180 – Interference with department.**

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

#### **14.12.190 – Nuisance Designated.**

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

**14.12.200 – Nuisance Abatement.**

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

**14.12.210 – Appeals.**

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

**TITLE 17 - BUILDINGS AND CONSTRUCTION**

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

**17.08.010 – Purpose.**

- A. The purpose of this chapter is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with land disturbances. The goal is to minimize soil erosion and prevent off-site sedimentation by using soil erosion and sediment control practices designed in accordance with the Code of Maryland Regulations (COMAR) 26.17.01, the 2011 Maryland Standards and Specifications (Standards and Specifications) and the Stormwater Management Act of 2007 (Act) or its successors. This chapter will help reduce the negative impacts of land development on water resources, maintain the chemical, physical, and biological integrity of streams, and minimize damage to public and private property.
- B. The provisions of this chapter are minimum requirements. They shall be conformed to in addition to, rather than in lieu of, all other legal requirements, and shall be construed liberally to accomplish the purposes set forth. No person shall allow and no landowner shall permit any work to be performed which violates this chapter.
- C. The provisions of this chapter are adopted pursuant to Annotated Code of Maryland, Environment Article, Title 4, Subtitle 1 (or its successors), as well as the authority of the City Charter and the City Code and shall apply to all grading occurring within the City.

**17.08.020 – Liability for damages.**

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

**17.08.030 – Grading permit Required application.**

- A. Except as set forth in Section 17.08.040, no person shall do and no owner allow, any grading of land without first having obtained a grading permit from the Director. Each permit shall authorize only the improvements set forth in the application and accompanying drawings, but each permit may cover any number of contiguous lots.
- B. The application shall be filed with the Director or designee. Both the owner of the property and the contractor engaged to do the work are responsible equally for obtaining the required grading permit.
- C. Each application for a grading permit shall be supported by the following:
  - 1. Plans and specifications in accordance with Section 17.08.060;
  - 2. The required fees in accordance with Section 17.08.080;
  - 3. The written approval of appropriate State and Federal agencies, where applicable;
  - 4. A right of entry to the City for periodic inspection for compliance with this title;
  - 5. A bond in accordance with Section 17.08.092;
  - 6. Payment to the City Finance Director of all applicable school impact fees assessed by Anne Arundel County, or proof that the project is not subject to the County's school impact fees.

**17.08.040 – Grading permit Exemptions.**

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

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

Land on which the following exist:

- 1. Agricultural land management practices and agricultural BMPs.
- 2. The lot where the work is to be performed is on a paved, graveled or publicly maintained street where storm drains are in operation and roadside ditches are stabilized.
- 3. Not more than five thousand square feet of ground shall be disturbed; no more than two thousand square feet for waterfront lots.
- 4. Cuts and fills shall not exceed ten feet in depth or height and shall not exceed one hundred cubic yards in volume.
- 5. Slopes with a grade of fifteen percent or greater shall not be disturbed and slopes steeper than 3:1 may not be created.
- 6. Highly erodible soils shall not be disturbed.
- 7. No earth disturbance shall occur within the following with the exception of shoreline stabilization

~~projects and retaining wall replacements in kind:~~

- ~~a. The limits of the one hundred year floodplain of any stream;~~
  - ~~b. One hundred feet of any perennial stream or water body;~~
  - ~~c. One hundred feet landward of the mean high water line of any water body affected by tidal action (subject to variance procedures in Title 21 of the City Code);~~
  - ~~d. One hundred feet from any tidal wetland or bog; or~~
  - ~~e. Twenty-five feet of any non-tidal wetland except for an approved buffer management plan approved by the City for clearing less than five thousand square feet of vegetation.~~
8. The owner, builder or developer is not the same owner, builder or developer of any contiguous lots undergoing development.
  9. The proposed construction is not a single family dwelling or an addition or modification that is classified as a substantial improvement to an existing single family dwelling as determined in accordance with City Of Annapolis Code.
  10. Any proposed grading will not impair existing surface drainage, constitute a potential erosion hazard or act as a source of sedimentation to adjacent land or water resource or impact an erosion and sediment control plan previously approved by the Anne Arundel Soil Conservation District or the City of Annapolis.
  11. The site conditions must be such that it is possible to satisfy the required erosion and sediment control requirements by the use of reinforced silt fence, a stabilized construction entrance and vegetative stabilization.
  12. The applicant has submitted a site plan adequately showing the property lines, site conditions, and the proposed work which is attached hereto and made a part thereof.
  13. For work in the critical area, the applicant has submitted a critical area worksheet detailing existing, and proposed lot coverage and impervious cover.
  14. The proposed work does not require a state waterway or wetland permit except where the project is a shoreline stabilization project.
- B. Land-disturbing activities that are subject exclusively to State approval and enforcement under State law and regulations.
- C. If a grading permit is not required under Subsection A., a standard sediment and erosion control plan shall be issued.
- D. Notwithstanding the provisions of Subsection A. and Subsection C., a grading permit shall be required for removal of multiple trees having a combined diameter at breast height (dbh) of sixty inches or greater on lots of forty thousand square feet or greater.

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

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

Director:

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

**17.08.060 – Permit Plans and specifications.**

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

~~B. At a minimum, an applicant shall submit the following information:~~

- ~~1. A letter of transmittal and/or application;~~
- ~~2. Name, address, and telephone number of:
  - ~~a. The owner of the property where the grading is proposed;~~
  - ~~b. The developer; and~~
  - ~~c. The applicant;~~~~
- ~~3. A vicinity map indicating north arrow, scale, site location, and other information necessary to easily locate the property;~~
- ~~4. Drainage area map(s) at a 1" = 200' minimum scale showing existing, interim, and proposed topography, proposed improvements, standard symbols for proposed sediment control features, and pertinent drainage information including provisions to protect downstream areas from erosion for a minimum of two hundred feet downstream or to the next conveyance system;~~
- ~~5. The location of natural resources, wetlands, floodplains, highly erodible soils, slopes fifteen percent and steeper, and any other sensitive areas;~~
- ~~6. A general description of the predominant soil types on the site, as described by the appropriate soil survey information available through the local soil conservation district or the USDA Natural Resources Soil Conservation Service;~~
- ~~7. Proposed stormwater management practices;~~
- ~~8. Erosion and sediment control plans including:
  - ~~a. The existing topography and improvements as well as proposed topography and improvements at a scale between 1" = 10' and 1" = 50' with two-foot contours or other approved contour interval. For projects with more than minor grading, interim contours may also be required;~~
  - ~~b. Scale, project and sheet title, and north arrow on each plan sheet;~~
  - ~~c. The limit of disturbance (LOD) including:
    - ~~i. Limit of grading (grading units, if applicable); and~~
    - ~~ii. Initial, interim, and final phases;~~~~
  - ~~d. The proposed grading and earth disturbance including:
    - ~~i. Total disturbed area;~~~~~~

- ~~ii. Volume of cut and fill quantities; and~~
- ~~iii. Volume of borrow and spoil quantities;~~
- e. ~~Storm drainage features, including:~~
  - ~~i. Existing and proposed bridges, storm drains, culverts, outfalls, etc.;~~
  - ~~ii. Velocities and peak flow rates at outfalls for the two-year and ten-year frequency storm events; and~~
  - ~~iii. Site conditions around points of all surface water discharge from the site;~~
  - ~~iv. Drainage area map and, where applicable, subdrainage area boundaries, on a scale of not less than one inch to two hundred feet;~~
  - ~~v. Hydrologic and hydraulic studies, as required by the Department; and~~
  - ~~vi. Requirements as stated in Chapter 17.10, Stormwater Management, of the City Code;~~
- f. Erosion and sediment control practices to minimize on-site erosion and prevent off-site sedimentation including:
  - ~~i. The salvage and reuse of topsoil;~~
  - ~~ii. Phased construction and implementation of grading unit(s) to minimize disturbances, both in extent and duration;~~
  - ~~iii. Location and type of all proposed sediment control practices;~~
  - ~~iv. Design details and data for all erosion and sediment control practices; and~~
  - ~~v. Specifications for temporary and permanent stabilization measures including, at a minimum:~~
    - ~~(A) The "standard stabilization note" on the plan stating: "Following initial soil disturbance or re-disturbance, permanent or temporary stabilization must be completed within:~~
      - ~~(I) Three calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter slopes, and all slopes steeper than 3 horizontal to 1 vertical (3:1); and~~
      - ~~(II) Seven calendar days as to all other disturbed or graded areas on the project site not under active grading."~~
    - ~~(B) Details for areas requiring accelerated stabilization; and~~
    - ~~(C) Maintenance requirements as defined in the standards and specifications;~~
    - ~~(D) The "vertical stabilization note" on the plan stating: "Building construction may not proceed past the ground floor until the foundation has been backfilled and all remaining disturbed areas have been permanently or temporarily stabilized. Once the site is stabilized, with the Department's approval, framing may commence above the ground floor. During building construction beyond the ground floor, all disturbed areas must be stabilized at the end of each business day;"~~
- g. A sequence of construction describing the relationship between the implementation and maintenance of controls, including permanent and temporary stabilization, and the various stages or phases of earth disturbance and construction. Any changes or revisions to the sequence of construction must be approved by the Anne Arundel Soil Conservation District or the Department prior to proceeding with construction. The sequence of construction, at a minimum, must include the following:

- ~~i. Request for a pre-construction meeting with the appropriate enforcement authority;~~
- ~~ii. Clearing and grubbing as necessary for the installation of perimeter controls;~~
- ~~iii. Construction and stabilization of perimeter controls;~~
- ~~iv. Remaining clearing and grubbing within installed perimeter controls;~~
- ~~v. Road grading;~~
- ~~vi. Grading for the remainder of the site;~~
- ~~vii. Utility installation and connection to existing structures;~~
- ~~viii. Construction of buildings, roads, and other construction;~~
- ~~iv. Final grading, landscaping, and stabilization;~~
- ~~x. Installation of stormwater management measures;~~
- ~~xi. Approval of the sediment control inspector prior to removal of sediment controls; and~~
- ~~xii. Removal of controls and stabilization of areas that are disturbed by removal of sediment controls;~~
- h. A statement requiring the owner/developer or representative to contact the Department at the following stages of the project or in accordance with the approved erosion and sediment control plan, grading permit, or building permit:
  - ~~i. Forty-eight hours prior to the start of earth disturbance;~~
  - ~~ii. Upon completion of the installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading;~~
  - ~~iii. Prior to the start of another phase of construction or opening of another grading unit; and~~
  - ~~iv. Prior to the removal of sediment control practices;~~
- i. Requirements as stated in Chapter 17.11, Floodplain Management, of the City Code;
- j. Requirements as stated in Chapter 17.09, Trees in Development Areas, of the City Code;
- k. An engineer's certification where determined to be necessary by the Department;
- l. Supplemental reports, data or additional information as the Department may require to the adequacy of the proposed plan. this information may include, but is not limited to:
  - ~~i. A record of field observations;~~
  - ~~ii. Field or laboratory test data;~~
  - ~~iii. An outfall survey that documents the pre-construction and post-construction conditions of the development site's drainage area outfall, and which may include a topographical or bathymetric survey, vegetation description, photographic or video documentation, and soil survey. monitoring devices may be required;~~
- m. The Department may waive the filing of particular information wherever in its judgment the information will serve no useful purpose for the particular project and the waiver does not contravene the purposes of this title;
- n. Certification by the owner/developer that any clearing, grading, construction, or development will be done pursuant to the approved erosion and sediment control plan. The certification must also require that the responsible personnel involved in the construction project have a certificate of

training at a Maryland Department of the Environment (MDE) approved training program for the control of erosion and sediment prior to beginning the project. The certificate of training for responsible personnel may be waived by the Anne Arundel Soil Conservation District on any project involving four or fewer residential lots. Additionally, the owner/developer shall allow right of entry for periodic on-site evaluation by the Anne Arundel Soil Conservation District, the Department, and/or MDE;

- o. Certification by a professional engineer, land surveyor, landscape architect, architect, or forester (for forest harvest operations only) registered in the state that the plans have been designed in accordance with erosion and sediment control laws, regulations, and standards, if required by the Anne Arundel Soil Conservation District, the Department, or the Maryland Department of the Environment;
- p. Any additional information or data deemed appropriate by the Department.

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

- A. A person may not grade land without an erosion and sediment control plan approved by the Anne Arundel Soil Conservation District and the Department.
- B. The Anne Arundel Soil Conservation District and the Department shall review erosion and sediment control plans to determine compliance with this chapter and the standards and specifications prior to approval. In approving the plan, the Anne Arundel Soil Conservation District and the Department may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this chapter, COMAR 26.17.01, the standards and specifications, and the preservation of public health and safety.
- C. The review and approval process shall be in accordance with the comprehensive and integrated plan approval process described in the Standards and Specifications, Chapter 17.10 of the City Code.
- D. At a minimum, a concept plan must include the mapping of natural resources and sensitive areas including highly erodible soils and slopes greater than fifteen percent, water resources, as well as information required under Chapter 17.10 of the City Code, or any other information required by the Department. These areas are to remain undisturbed or an explanation must be included with either the concept or site development plan describing enhanced protection strategies for these areas during construction.
- E. A site development plan submittal must include all concept plan information and indicate how proposed erosion and sediment control practices will be integrated with proposed stormwater management practices. The latter is to be done through a narrative and an overlay plan showing both ESD and erosion and sediment control practices. An initial sequence of construction and proposed project phasing to achieve the grading unit restriction shall be submitted at this time.
- F. An applicant shall submit a final erosion and sediment control plan to the Department for review and approval. The plan must include all of the information required by the concept and site development plans as well as any information in Section 17.08.060 of the City Code not already submitted, and any other information required by the Department.
- G. A final erosion and sediment control plan shall not be considered approved without the inclusion of the signature and date of the Anne Arundel Soil Conservation District on the plan.
- H. Approved plans remain valid for two years from the date of approval unless extended or renewed by the Anne Arundel Soil Conservation District and the Department.
- I. Grandfathering of approved sediment and erosion control plans:
  - 1. Any plans that receive final approval after January 9, 2013 must be in compliance with the requirements

~~of this ordinance and the standards and specifications.~~

- ~~2. A plan that receives final approval by January 9, 2013 may be reapproved under its existing conditions if grading activities have begun on the site by January 9, 2015, with the exception of stabilization requirements.~~
- ~~3. Stabilization practices on all sites must be in compliance with the requirements of this chapter and the standards and specifications by January 9, 2013 regardless of when an approved erosion and sediment control plan was approved.~~

#### **17.08.070 – Permit Approvals.**

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

- ~~A. The Department has reviewed and approved all site plans and specifications, and verified the estimated costs; and~~
- ~~B. An erosion and sediment control plan has been approved by the Anne Arundel Soil Conservation District. The approved plan shall include the signature and date of approval by the approval agency; and~~
- ~~C. All plans have received written approval by the appropriate State and Federal agencies, where applicable; and~~
- ~~D. Special exception or subdivision approval, as appropriate, has been obtained for land development projects; and~~
- ~~E. For a use which is designated under Title 21 as a permitted use subject to standards, the project first has been approved by the Department of Planning and Zoning in accordance with Chapter 21.64 of the Code; and~~
- ~~F. All other provisions within the Code have been satisfied, as required. The Department may impose such conditions as may be determined to be necessary to ensure compliance with the provisions of this title, the State sediment control regulations, COMAR 26.17.01, the Standards and Specifications, or for the preservation of public health and safety.~~

#### **17.08.080 – Grading permit Fees Reinspection.**

- ~~A. The fee for a grading permit shall be based upon the estimated cost of site work proposed, and includes the cost of materials and labor for installation and construction of such items as earthmoving, sediment control measures, storm drainage systems and stormwater management facilities, and roadways. Estimated costs and quantities shall be submitted to the Department. The fee shall be established by resolution of the City Council.
  - ~~1. The application fee will not be refundable for any reason except if the permit application has been denied. The application fee will be applied to the final cost of the grading permit at the time of issuance per the procedures as established by the Department of Public Works.~~~~
- ~~B. Reinspection Fee. A fee as established by resolution of the City Council must be paid before another inspection is made if, for the original inspection, one or more of the following occurred:
  - ~~1. Requesting party called for inspection, but work was not ready;~~
  - ~~2. Requesting party was not on site;~~
  - ~~3. Building was locked;~~
  - ~~4. Safety features not on site;~~~~

- ~~5. Approved drawings not on site;~~
- ~~6. Permit not posted on site.~~

**17.08.090 – Bonding Purpose.**

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

**17.08.092 – Bonding Required.**

- ~~A. A performance bond shall be a prerequisite to obtaining a grading permit when:~~
- ~~1. Greater than five thousand square feet is disturbed; or~~
  - ~~2. More than one hundred cubic yards are graded; or~~
  - ~~3. Any public facility or stormwater management facility is proposed.~~
- ~~B. The bond amount shall be based upon the total estimated cost of labor and materials for construction and installation of:~~
- ~~1. Earthmoving;~~
  - ~~2. Erosion and sediment control measures;~~
  - ~~3. Vegetative stabilization;~~
  - ~~4. Stormwater management systems and facilities;~~
  - ~~5. Public sanitary sewers and water mains;~~
  - ~~6. Roadways and roadway improvements; and~~
  - ~~7. Any other public improvements.~~
- ~~C. A maintenance bond shall be required upon satisfactory completion of all requirements set forth in the grading permit. The maintenance bond shall represent a minimum of ten percent of the performance bond and is in effect for a minimum of one year. The Director or his or her designee may make adjustments based on current estimates or site conditions.~~
- ~~D. Bonding estimates shall be certified by a registered engineer or land surveyor.~~
- ~~E. Before acceptance, all bonds shall be approved by the Director or his or her designee and the City Attorney.~~
- ~~F. In lieu of a bond, a cash deposit, certified check or an irrevocable letter of credit from a local bank or other accredited institution in like amount, may be filed with the Department subject to the same terms and conditions as applicable to a performance bond. All bonds and letters of credit shall be submitted in City format.~~
- ~~G. If a corporation bond is offered, it shall be executed by a surety or guaranty company qualified to transact business in the State, and if a cash bond is offered, it is to be deposited with the Director of Finance, who shall give an official receipt stipulating that the cash has been deposited in compliance with, and subject to, the provisions of this section.~~
- ~~H. If all work of the permit is not completed within the time specified in Section 17.08.140, or if any portion of the work violates any other terms or conditions, the cash deposit shall be forfeited, or if a bond or letter of credit has been posted, payment in full to the City will be ordered. The funds so received shall be used by the City for defraying the cost of contracting, including engineering and administration, for the restoration~~

of the site to meet the minimum requirements of this chapter, with particular emphasis on stabilization, safety, drainage and erosion control. If those costs exceed that amount of deposit or bond or letter of credit, the excess constitutes a lien on the property, and the permittee continues to be bound firmly under a continuing obligation for payment of any and all costs and expenses of any nature incurred by the City. Any unused portion of moneys forfeited shall be returned. No money shall be returned to any surety or guaranty company if such funds were acquired, obtained or paid pursuant to a court order or judgment.

**17.08.100 – Permit Bond provisions.**

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

- A. The applicant shall comply with Section 17.09.092, this section and all other applicable laws and ordinances.
- B. The applicant shall comply with all of the terms and conditions of the grading permit.
- C. Any extension of completion time pursuant to the provisions of Section 17.08.140 shall not release the applicant.
- D. Upon default, the applicant shall continue to be bound firmly under a continuing obligation for payment of one of the following, at the election of the surety:
  - 1. All costs and expenses necessary to complete the work in accordance with the approved plans and specifications or any approved modification to the approved plans or specifications; or
  - 2. All necessary costs and expenses or liabilities which may be incurred to stabilize in accordance with the stabilization plan for erosion control presented by the applicant to and approved by the City; or
  - 3. Payment to the City in cash or by certified check in a sufficient amount to equal the cost of performing the necessary work. If the cost for restoration of a site to meet the minimum requirements of this section (with particular emphasis on stability, safety, drainage and erosion control) exceeds the amount of the cash or certified check, the permittee shall continue to be bound under a continuing obligation for payment of all excess costs and expenses incurred by the City.
- E. The security shall remain in full force and effect until a certificate of completion has been issued by the Department of Planning and Zoning certifying that the work has been performed in accordance with the plans and specifications, or certifying that the permit has been unused; provided, however, that the Director may increase or reduce security based on current estimates or site conditions. Upon issuance of this certificate, any unused portion of any cash or certified check shall be returned to the applicant, and the applicant and his/her surety shall be released from all further obligations under this section (provided default has not occurred). The certificate of completion shall be issued within sixty days from the date the Department receives written notice of completion, provided that during the sixty-day period, the Department inspects the work performed and is satisfied that the permittee has complied with the provisions of this section.

**17.08.110 – Permit Denial.**

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

- B. Failure of the Director or his or her designee to observe or recognize hazardous conditions or failure to deny the grading permit shall not relieve the owner or the owner's agent from responsibility for the conditions or damages resulting from the failures, and shall not result in the City or its officers or agents being responsible for the damages resulting from the failures.
- C. No permits shall be issued to any applicant who has outstanding permit or code violations on other projects and activities within the City until those violations have been resolved satisfactorily as determined by the Director or his or her designee.

**17.08.120 – Permit Suspension or revocation.**

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

- A. Any violation(s) of the terms or conditions of the approved erosion and sediment control plan or permits;
- B. Noncompliance with violation notice(s) or stop work order(s);
- C. Changes in site characteristics upon which plan approval and permit issuance were based; or
- D. Any violation(s) of this chapter or any rules and regulations adopted under it.
- E. Any violation(s) of the procedures set forth in the standards and specifications.

**17.08.130 – Plan modification.**

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

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

- A. The applicant has thirty calendar days after the Department's verbal or written notification of permit approval to claim the approved grading permit for issuance, otherwise the permit will be considered void.
- B. A grading permit expires if no work is commenced within ninety days after issuance. A one-time renewal is permitted within a period of six months after the date of expiration if the conditions under which the permit was issued originally have remained unchanged, except that the construction phase time schedule must be revised. An application for permit renewal shall be made at least two months prior to the permit expiration date, and must be renewed by the Department and Anne Arundel Soil Conservation District. A permit may not be renewed more than once.
- C. A grading permit and the approved erosion and sediment control plan shall be valid for two years from the date of issuance, unless a shorter time period is designated by the Director or designee.
- D. If the applicant is unable to complete the work within the time specified in the approved application, the applicant shall present a written request for extension to the Director or designee within thirty days before the expiration of the permit. The extension request shall set forth the reasons for the extension. Where, in the sole discretion of the Director or designee, the extension is warranted, the Director may allow additional time as may be necessary to complete the approved work.
- E. No permit issued under this title is transferable without the concurrence of the Director or designee. A

written request for the transfer shall be submitted by the original applicant and the transferee shall acknowledge acceptance of the conditions under which the original permit was issued.

**17.08.150 – Floodplain.**

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

**17.08.160 – Erosion and sediment control-General requirements.**

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

1. Development shall be fitted to the topography and soils to create the least erosion potential.
2. Natural vegetation shall be retained wherever possible.
3. The smallest practical area of land shall be exposed at any one period during development for the shortest practical period of time in order to reduce the amount of land area and the duration of soil exposure.
4. Temporary vegetation or mulching shall be used to protect soils exposed during the time of development.
5. Erosion control practices consistent with Standards and Specifications shall be installed to minimize soil and water losses.
6. During and after development, provisions shall be made to accommodate in an effective manner the increased water runoff caused by changes in soil and surface conditions and to avoid siltation of receiving streams.
7. Satisfactory cover shall be maintained during the life of the project and is subject to inspection.
8. Roads and streets shall be placed as close to the pre-existing contour as possible in order to minimize cutting or filling.
9. All graded surfaces, erosion control measures, vegetative covers and other protective measures disturbed or destroyed during the course of operations shall be repaired, restored and maintained promptly in accordance with the approved plans and specifications until permanent measures are accepted by the Department.
10. The owner must provide contact information for a person(s) whom is responsible for the maintenance of the sediment and erosion control measures, whom is available twenty-four hours a day and seven days a week, and whom can respond immediately to resolve any emergency or necessary field correction. If said person(s) is unreachable via the submitted contact information during an emergency, or unable to perform required corrective actions, the owner and/or contractor may be issued a citation.

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

**17.08.180 – Prohibited discharges and prohibited use of coal tar pavement products.**

A. No debris, sediment, wastewater, landscaping/yard waste, refuse, or other pollutant shall be deposited in floodplains, water resources, public streets, highways, sidewalks, storm drains, or other public

thoroughfares per this chapter of the City Code, Maryland Environment Title 4 as may be amended from time to time, COMAR 26.08.04, unless otherwise permitted by the City of Annapolis or the Maryland Department of the Environment. Such materials shall be stored properly to minimize any threat of discharge.

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

1. A person may not sell, offer for sale, use, or permit the use of a coal tar pavement product in the City. A property owner who knowingly permits the application of a product containing coal tar pavement product on their property shall be in violation of this Section and may be cited, in addition to the applicator of the product, pursuant to subsection (B)(3).
2. The Director shall publish, update as needed, and maintain on its website, a list of alternative products for use on asphalt and concrete that do not contain a coal tar pavement product.
3. Violators of this Section shall be required to remediate the surface of the coal tar pavement product. A violation of this Section shall be a municipal infraction and subject to a fine as established by resolution of the City Council. Each day that a violation occurs shall be considered a separate offense. The penalties set forth in this Section are in addition to any other remedies and penalties provided under federal, state, county, or local law.

#### **17.08.200 – State and Federal standards for erosion and sediment control.**

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

#### **17.08.210 – Drainage.**

- ~~A. Surface water runoff shall be disposed of or conveyed in accordance with the provisions of this section.~~
- B. Drainage facilities shall be designed to prevent erosion, uncontrolled overflow, and ponding when ponding is not an integral part of the design and function of the drainage facility. The water shall be conveyed to an acceptable outlet in accordance with the design criteria, standards and procedures required by the Department. The ponding of water is not permitted above a cut or fill slope. Adequate drainage facilities shall be provided to prevent ponding above a cut or fill slope.
- C. Surface water or groundwater may not damage the face of a cut or fill. Each slope shall be protected from surface water runoff by a berm or swale. Suitable underdrains shall be installed to intercept and carry ground water seepage to an acceptable outlet.
- D. Each area shall be graded to provide for positive drainage away from the building and toward the approved disposal area.
- E. The construction of all structures shall be preceded by the installation of storm drainage systems and stabilization measures.
- F. Stormwater management designs shall comply with Chapter 17.10, Stormwater Management, and Chapter 17.11, Floodplain Management.

#### **17.08.220 – Inspections.**

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

- B. The Director or designee may make additional inspections as he or she determines to be appropriate. No work approved in accordance with this chapter shall proceed beyond any one stage until the Director inspects the site and approves the work previously completed. Upon notification from the permittee the inspector shall inspect the site and notify the permittee of approval or rejection within forty-eight hours (exclusive of Saturdays, Sundays and legal holidays). If the inspector does not make an inspection within the specified time period, work may proceed. However, it will be without presumption of approval and at the sole risk of the permittee.
- C. Every active site having an approved erosion and sediment control plan should be inspected for compliance with the plan on the average of once every two weeks.
- D. A written report shall be prepared by the Department after every inspection. The report shall describe:
  - 1. The date and location of the site inspection;
  - 2. Whether the approved plan has been properly implemented and maintained;
  - 3. Practice deficiencies or erosion and sediment control plan deficiencies;
  - 4. If a violation exists, the type of enforcement action taken; and
  - 5. If applicable, a description of any modifications to the plan.
- E. The Director shall notify the on-site personnel, and the owner/developer in writing, when violations are observed, describing:
  - 1. The nature of the violation;
  - 2. The required corrective action; and
  - 3. The time period in which to have the violation corrected.
- F. Department inspection notification is the responsibility of the permittee prior to the installation of any public improvements or stormwater management facilities.
- G. It is a condition of each grading permit that the City, its authorized agents have the right of entry to the site in order to inspect periodically for compliance with the approved plan and this title.
- H. In the event of a valid complaint concerning erosion and sediment control, an investigative inspection shall be made by the Department within three days of the complaint. A response to the complaint shall be made within seven days of the complaint.

**17.08.230 – Supplemental testing and inspections.**

- A. When required by the Director or his or her designee, inspections and testing shall be performed under the direction of a professional engineer who shall certify all inspection reports and test results. The reports shall include certification by an engineer of the adequacy of:
  - 1. Cleared areas and benched or keyed surfaces prepared to receive fills; and
  - 2. Removal of unsuitable materials; and
  - 3. Construction of erosion control or drainage devices, buttress fills, underdrains, retaining walls, and other grading appurtenances; and
  - 4. The degree of compaction where tests are performed.
- B. All certified inspection reports and certified test results shall be submitted periodically to the Director during the performance of the work.

**17.08.240—Existing hazards.**

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

**17.08.250—Appeals.**

- A. A person aggrieved by an order from the Director or the Director's designee made pursuant to this chapter, other than the issuance of a municipal citation or the charging of a misdemeanor, may appeal to the Building Board of Appeals within fifteen calendar days of the date of the order. The petition for appeal shall be in writing stating the grounds for appeal and shall be filed with the Department of Planning and Zoning along with a nonrefundable fee in an amount established by the City Council. Any right to appeal shall be waived if not timely filed.
- B. The Building Board of Appeals shall consider the appeal based upon the information provided to the Department of Planning and Zoning at the time of the order from which the appeal is taking. If the Board finds that the order was in error or contrary to the provisions of this code or other applicable law, the Board may reverse or modify the order. The decision of the Board on all appeals shall be in writing and shall contain the factual findings of the Board and the reasons for the decision.
- C. A person aggrieved by a decision of the Building Board of Appeals made pursuant to this section may appeal that decision to the circuit court for Anne Arundel County pursuant to Maryland Rule Title 7, Chapter 200 or its successor. For purposes of this subsection, a person shall not be considered aggrieved by a decision of the Board unless the person has appeared as a party at the hearing before the Board. An appeal under this section shall be taken within thirty days of the date of the decision appealed and shall be the exclusive remedy of the aggrieved party from that decision.

**17.08.260—Enforcement and noncompliance.**

- A. Whenever a violation of this title is found on any site, whether or not a permit has been issued, the Department, or its authorized agent, shall notify the on-site personnel and the permittee of the violation, and describe the required corrective action and the time period in which to have the violation corrected.
- B. If the violation persists after the date specified by the Department for corrective action, then the Department shall issue a stop work order to on-site personnel and place a stop work order on the property.
- C. Within seven calendar days after the stop work order is issued or placed on site as described in this section, a copy of the order shall be sent by certified mail to the permittee and the owner. The Department shall determine the extent to which work is stopped, which may include all work on the site except that work necessary to correct a violation.
- D. If, in the judgment of the Department, remedial action has not taken place within the required time specified in the certified notification described in this section, the permittee and the owner shall be guilty of a municipal infraction and shall be subject to a fine as set by resolution of the city council. Each day after the deadline stated in the certified notification shall constitute a separate offense.
- E. The City shall pursue violations that affect secured work as follows:
  - 1. Whenever secured work does not comply with or conform to a permit or approved plans and specifications and if the City desires to obtain the security posted, a written notice of noncompliance shall be sent by certified mail to the permittee and the surety.

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

#### **17.08.270 – Emergencies.**

- A. Whenever, in the judgment of the Director or his or her designee, an emergency exists which requires immediate action to protect the public health, safety, property or general welfare, an order may be issued without notice, conference or hearing, directing the owner, occupant, operator or agent to take that action appropriate or necessary to correct or abate the emergency. If circumstances warrant, the Director or his or her designee may act to correct or abate the emergency.
- B. The owner, occupant, operator or agent shall be granted a conference on the matter upon his or her request

as soon as practicable, but the conference shall not stay the abatement or correction of the emergency.

**17.08.280 – Records and as-built drawings.**

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

- A. ~~As-built drawings;~~
- B. Certification by the owner or the permittee, or, upon request by the Director, by a registered professional, on the as-built drawings that grading, drainage structures, utilities, roadways, systems and erosion and sediment control practices, including facilities and vegetative measures, have been completed in conformance with the approved plans and specifications; and
- C. Upon request of the Director or his or her designee, a report summarizing the inspection reports, field and laboratory tests, and locations of test and field observations.
- D. ~~Surety will not be released until the as-built drawings have been reviewed and approved by the City.~~

**17.08.290 – Severability.**

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

**17.08.295 – Grading, erosion, sediment control.**

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

**Chapter 17.09 – TREES IN DEVELOPMENT AREAS**

**17.09.010 – Findings.**

- A. ~~Trees in the landscape provide a productive land use with significant water quality and wildlife habitat benefits. Trees also diminish air pollution, reduce noise, moderate temperature extremes, and increase property values, but can be affected adversely by indiscriminate development.~~
- B. ~~Inadequate attention during development to the ecologic function of trees can result in measurable environmental and economic damage to property.~~
- C. ~~The City of Annapolis is committed to the coordination of controlled development with certain environmental objectives, in compliance with the Chesapeake Bay critical areas program as required by Annotated Code of Maryland, Natural Resources Article, Title 8, Subtitle 18, (or its successors), and as stated throughout the City Charter and City Code. The presence of trees in the landscape helps to achieve these goals.~~

**17.09.020 – Purpose.**

The purpose of this chapter is to protect and promote the public health, safety, property and general welfare by establishing standards of practice for the preservation of trees and the environmental design of landscapes in development areas in order to better control soil erosion and the transport of sediment, improve the environmental quality of surface and groundwaters, screen noise, and preserve, protect and enhance wildlife

habitat. This chapter establishes guidelines that will permit development while minimizing impact to existing woodland communities and encourages reforestation with species native to the area.

**17.09.025 – Applicability.**

- A. The requirements of this chapter shall apply for any application for a building and grading permit, or any application for a development project requiring site design plan review in accordance with the requirements of Chapter 21.22.
- B. Chapter 21.71 of the City Code shall apply to any public or private subdivision plan, or application for a grading permit, or any application for a development project requiring site design review, or any application for a special exception on areas forty thousand square feet or greater, except as provided in Annotated Code of Maryland, Natural Resources Article, Section 5-1602(b) (or its successors). Where any provision of the Forest Conservation Act and a provision of the City Code both apply, the more restrictive requirements may be employed.

**17.09.030 – Landscape plan.**

- A. Landscape Plan. Any application for a building or grading permit submitted in accordance with the requirements of this title, or any application for a development project requiring site design plan review in accordance with the requirements of Chapter 21.22 include a landscape plan at a scale of one inch to forty feet. The landscape plan shall be considered a part of the permit or site plan design review application and shall be subject to the review requirements and administrative procedures of this title or Chapter 21.22, whichever shall apply.
- B. Submittal Requirements. A landscape plan submitted in accordance with this chapter shall include:
  - 1. Limits of Disturbance (LOD). Within the limits of disturbance and within fifteen feet of the LOD, the location, diameter at breast height (DBH), and species of all existing trees equal to or greater than five inches DBH. If the size of the parcel and the number of affected trees renders the individual identification of all trees unreasonable, as mutually determined by the applicant and the Department of Planning and Zoning, accepted methods of forest cruising may be substituted, although all individual trees in excess of twelve inches DBH must be individually identified;
  - 2. Limits of Project Development. Depict building footprints, access drives, parking areas, public streets, existing and proposed utilities and stormwater management structures, proposed finished grades, and sediment and erosion control structures;
  - 3. All trees, regardless of size, or tree areas within the legal boundaries of the property which are to be preserved for incorporation into the proposed site design, noting all tree driplines;
  - 4. Tree preservation details, in accordance with Sections 17.09.040 and 17.09.050 of this chapter;
  - 5. Locations of trees to be replaced under Section 17.09.070 of this chapter, and areas proposed for additional landscaping. The plan shall show:
    - a. The tree name, both botanical and common,
    - b. Quantity of each species used in the plan,
    - c. Caliper measured six inches above ground,
    - d. Type of rootstock, and
    - e. Typical planting detail;
  - 6. Proposed and required buffer areas;
  - 7. Substantive agreement with the site design plan review as required by Chapter 21.22 of this code;
  - 8. Conformance with all applicable sections of this chapter;
  - 9. Other relevant information as may be required by the Department of Planning and Zoning.
- C. Guidelines for Selecting Trees for Preservation. In determining which trees shall be preserved in the development process, consideration shall be given to preserving those which:
  - 1. Complement the project design, including the enhancement of building architecture and streetscape appearance;
  - 2. Exhibit strong branching and rooting capabilities and are disease and insect resistant;
  - 3. Are tolerant of environmental change, e.g., increased sunlight, heat, wind, alteration of water regime;

4. Provide a good source of food, cover or nesting sites for wildlife, or act as a wildlife corridor;
  5. Exist in natural groupings, including islands of trees and wildlife corridors;
  6. Complement stormwater management designs;
  7. Augment or do not conflict with sedimentation and erosion control designs;
  8. Do not conflict with existing utilities or proposed utility installation;
  9. Do not have proposed structures, sidewalks, roads, parking lots etc. within driplines;
  10. Are specimens for the particular species or have recognized significance;
  11. Are within proposed buffer areas;
  12. Are recommended for preservation by Maryland Forest, Parks and Wildlife Service (or its successor agencies); or
  13. Are recommended for preservation by the Department of Planning and Zoning for some other reason demonstrated to be in furtherance of the purposes of this chapter as set forth in Section 17.09.020.
- D. **Conflicting Criteria.** In the event that two or more conflicting guidelines are present in the evaluation of the preservation of trees on a site, consideration shall be given to those criteria most relevant to the planned use of the proposed development.
- E. **Applicability.** No cutting, clearing, digging or grading may be undertaken within a development area until a landscaping plan has been approved. Neither may any landscaping be undertaken until approval of the permit application and subsequent issuance of the permit.
- F. **Replacement Value of Removed/Damaged Trees.** Any trees which have been designated for preservation on the landscaping plan, or are outside the limits of development, and subsequently have been removed or damaged within the boundaries of the property under development, or any adjacent properties, shall be replaced consistent with the mitigation requirements in Section 17.09.070(C).
- G. **Exceptions.**
1. A landscape plan shall not be required under the terms of this chapter where the applicant can demonstrate clearly that there are no existing trees or tree areas within the proposed limits of development.
  2. A landscaping plan shall not be required for the regular maintenance of existing public utilities or the approved installation of public utilities, nor shall a replacement value be required or assessed.
  3. The provisions of this chapter do not apply to projects which were granted special exception approval, or building or grading permit approval prior to November 15, 1988, provided that they are in conformance with all other approved plans and conditions.

**17.09.040 – Protection of trees before construction.**

- A. Trees or tree areas that are to be preserved shall be marked visibly in the field prior to clearing or construction.
- B. Protection devices shall be installed prior to clearing or construction, as specified by the Department of Planning and Zoning, and shall be shown on the approved plan. Devices may include, but not be limited to snow fencing, board fencing, silt fencing, posts, string and flagging, water based paint. Protective devices shall be evident and effective. Construction personnel shall be notified of the purpose and presence of the protection devices.
- C. All clearing limits and protective devices are to be inspected and approved by the Department of Planning and Zoning prior to commencing clearing and construction. The developer shall arrange an on-site inspection prior to commencing grading or clearing.

**17.09.050 – Protection of trees during construction.**

- A. Grading or filling shall not take place inside the dripline of trees to be preserved, unless approved by the Department of Planning and Zoning.
- B. If grading or filling is proposed inside the dripline of trees to be preserved, root aeration practices and/or tree wells or walls shall be used, the design of which shall be approved by the Department of Planning and Zoning.
- C. Trenching and/or tunneling should take place outside of the dripline of trees to be retained.

- D. Trenching and/or tunneling proposed inside the dripline of trees to be preserved shall be accomplished according to procedures which minimize root damage, and must be approved by the Department of Planning and Zoning.
- E. Temporary storage of any construction materials, including fill, gravel, felled trees, construction supplies or equipment, within the driplines of protected trees shall be prohibited.
- F. The routing of heavy equipment, including cars, trucks and bulldozers, and construction trailers within the driplines of protected trees shall be prohibited without the consent of the Department of Planning and Zoning.
- G. All sediment and erosion control silt fencing or straw bales shall be placed at the limits of grading or in those locations where deposition of sediment is minimized within the driplines of trees to be preserved.
- H. Where a cut is approved within the dripline of trees to be preserved, exposed and/or damaged roots are to be trimmed cleanly and covered temporarily with moist peat moss, burlap or other suitable material to keep them from drying out.
- I. Where a fill is approved within the dripline of trees to be preserved, all organic matter is to be removed and fertilizer is to be spread according to the Department of Planning and Zoning specifications prior to raising the grade.
- J. No protective devices, signs, utility poles or other objects shall be nailed to any trees which are to be preserved.
- K. Any other action within the dripline of protected trees which may result in the severing of roots, compaction of soil or the placing of any substance within the dripline which impedes the free access of air and water to tree roots is prohibited without the consent of the Department of Planning and Zoning.
- L. The Department of Planning and Zoning may require other tree protection practices as on-site circumstances may dictate.
- M. If it becomes necessary subsequent to clearing to remove additional trees which were shown on the plan to be preserved, the Department of Planning and Zoning shall be notified and must grant approval prior to performing any additional clearing.

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

- A. After construction is completed, temporary barriers, surplus materials and all debris shall be removed from protected tree areas.
- B. Any damage to the crown, trunk or root system of trees remaining on site shall be repaired immediately.
- C. Trees wounded during construction shall have their wounds cleaned, torn bark cut, and the wounds properly shaped for healing.
- D. Any dead or damaged branches are to be removed in a proper manner, as well as any noxious vines. Selective pruning may be necessary if cutting, filling, trenching or tunneling was undertaken within a tree's dripline, thereby reducing the healthy root area.
- E. Fertilization may be required where topsoil or surface litter within a tree's dripline has been removed, or a tree's root area has been reduced. Any fertilization shall be accomplished according to specifications provided by the Department of Planning and Zoning.
- F. The developer shall arrange an on-site inspection by the Department of Planning and Zoning. Approval of post-construction tree protection practices shall be required prior to the issuance of any use or occupancy permits.

**17.09.070 – Replacement value Mitigation Fee in lieu Exceptions.**

- A. Replacement Trees. It is the intent of this section to ensure that landscaping proposed in association with development will reflect the density and species of those trees necessarily removed for development. Therefore, trees removed for development shall be replaced according to the following requirements:
  1. The number of trees to be replaced are contained in the following table:

**Table 17.09.070**

**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)

\* Must obtain approved buffer management plan from the Department of Planning and Zoning

2. One or more trees may be transplanted as replacement trees from areas designated to be cleared on a development site; however transplanted trees shall only be used when a professional nursery, landscape contractor, or similar professional qualified to do this work, is employed to transplant the trees. This professional shall meet with City staff prior to moving any trees to ensure that the trees to be moved are healthy and suitable for transplanting.
  3. Replacement trees shall be a species native to Maryland and shall be healthy, free of pests or disease and in good condition. Deciduous species shall be a minimum of two inches in caliper measured six inches from the ground. Coniferous trees shall be a minimum of five feet in height. Transplanted trees shall be, at a minimum, of the approximate size as nursery stock and shall be healthy, free of pests or disease and in good condition.
  4. Any landscaping requirements imposed under other sections of this code shall include any and all replacement trees.
  5. Any waiver or modification to these requirements shall be made in accordance with Section 17.09.130 of this chapter.
- B. Mitigation. If the number of trees to be planted, as determined by the tree replacement requirements, exceeds the number of trees which can be accommodated practically on site as determined by the Department of Planning and Zoning, off-site planting may be requested at locations as determined by the developer and the Department of Planning and Zoning, or a fee in lieu of off-site planting may be required as provided in subsection C of this section. Trees removed for development within the critical area must be replaced within the critical area.
- C. Fee-in-Lieu. Where, pursuant to subsection A of this section, replacement on site is not practical and an off-

site location cannot be determined and agreed upon by the developer and the Department of Planning and Zoning, a fee-in-lieu as set by resolution of the City Council may be assessed which is adequate to ensure an equivalent tree replacement as required by subsection A of this section. All funds collected by this process will be expended exclusively for tree planting and tree maintenance within the City under the auspices of the urban forestry program and, wherever possible, within reasonable proximity to the development from which fees are collected for planting. Fees-in-lieu collected for trees removed within the critical area shall be expended exclusively for tree planting and tree maintenance within the critical area, and if possible within the same creek watershed.

1. All funds collected by this process will be expended exclusively for tree planting and tree maintenance within the City under the auspices of the urban forestry program and, wherever possible, within reasonable proximity to the development from which fees are collected for planting.
  2. Fees in lieu collected for trees removed within the critical area shall be expended exclusively for tree planting and tree maintenance within the critical area, and if possible within the same creek watershed.
- D. Exceptions. The following trees removed for development are not subject to the requirements of Subsections A, B and C of this section:
1. Trees removed for the construction of approved roads and the installation or maintenance of public utilities.
    - a. Approved roads include City required public roads and fire lanes, but does not include any portion of a parking lot.
    - b. Public utilities include gas, electric, water and sewer main transmission lines, and stormwater management structures within required easements.
  2. Trees which have been confirmed by the Department of Planning and Zoning to be hazardous, dead, dying or diseased;
  3. Trees transplanted from one part of a development site to another.
- E. General Applicability. Except as provided by Subsection D of this section, the requirements of this section apply to all development and construction undertaken pursuant to any grading permit or pursuant to any building permit for construction which may involve the disturbance of land but for which a grading permit previously was not required.
- F. Minimum Standards. Afforestation and reforestation as required by the Maryland Forest Conservation Act, Annotated Code of Maryland, Natural Resources Article, Title 5, Subtitle 16 (or its successors) shall be a minimum standard for the replacement and planting of trees where Chapter 17.09 of this code applies, regardless of the square footage of the area disturbed.
- G. The locations of intensely developed areas, limited development areas, resource conservation areas and the critical area buffer are shown on the approved critical areas map for the City of Annapolis and its amendments. Proposed development shall be consistent with the approved critical areas plan for the City of Annapolis.
- H. Additional Standards for Limited Development Areas.
1. Under normal circumstances, no more than twenty percent of any forest or woodland may be removed from forest use, except as permitted in Subsection (C)(3) of this section. The remaining eighty percent shall be maintained through recorded, restrictive covenants or similar instruments.
  2. A developer may clear or develop up to thirty percent of any forest or woodland, provided that the afforested area shall be one and one-half times the total surface acreage of the disturbed forest or developed woodland. The remaining seventy percent shall be maintained through recorded, restrictive covenants or other similar instruments.
  3. If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least fifteen percent of the total surface area of the site.
  4. Forests which have been cleared before obtaining a grading permit, or that exceed the maximum area allowed in Subsection (C)(3) of this section shall be planted at three times the areal extent of the cleared forest.

5. The developer shall consider the recommendations of the Maryland Forest, Parks and Wildlife Service when planning development on forested lands.
- ~~I. Additional Standards for Resource Conservation Areas.~~
1. In addition to the requirements of Subsection H of this section, the overall acreage of forest and woodland within the resource conservation area may not be decreased.
  2. Any development within a resource conservation area that requires the cutting or clearing of trees must replace the trees on a not less than an equal area basis, except where trees are removed according to Subparagraphs 4, 6 and 8 of Subsection J of this section.
- ~~J. Additional Standards for the Critical Area Buffer.~~
1. A one hundred-foot buffer is established landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands which is a protected area.
  2. New development activities, including structures, roads, parking areas and other impervious surfaces, mining or related facilities, or septic systems, may not be permitted in the buffer, except for those necessarily associated with water-dependent facilities.
  3. The buffer shall be maintained in natural vegetation, but may include planted vegetation as approved by the Department of Planning and Zoning where necessary to protect, stabilize or enhance the shoreline.
  4. Cutting of trees or removal of natural vegetation may be permitted where necessary to provide access to private piers, or to install and construct a shore erosion protection device or measure, or a water-dependent facility, provided the device, measure or facility has received all necessary City, State, and Federal permits.
  5. With the concurrence of the Department of Planning and Zoning, individual trees may be cut for personal use providing that this cutting does not impair the water quality or existing habitat value or other functions of the buffer, and provided that the trees are replaced on an equal area basis for each tree cut.
  6. With the concurrence of the Department of Planning and Zoning, individual trees may be removed which are in danger of falling and causing damage to dwellings or other structures, or which are in danger of falling and therefore causing the blockage of streams, or resulting in accelerated shore erosion.
  7. Horticultural practices shall be used to maintain the health of individual trees.
  8. Other cutting techniques may be permitted within the one hundred-foot buffer and under the advice and guidance of the Department of Planning and Zoning, if necessary to preserve the forest from extensive pest or disease infestation or threat from fire.
- ~~K. Forest Preservation Plan. The forest preservation plan as described within the approved critical areas program for the City of Annapolis shall be consistent with the provisions of this chapter.~~
- ~~L. Forest Undeveloped Wood Land. Where forests or developed woodland occur within the City of Annapolis, local policies and programs for tree cultural operations in the critical area shall be consistent with the critical area program of the City of Annapolis.~~
- ~~M. Applicability. The requirements of this section are in addition to, and not in lieu of, any and all requisites of this chapter.~~
- ~~N. Restrictions. The requirements of this section do not restrict the removal of hazardous, dead, dying or diseased trees, although replacement may be required as determined by the Department of Planning and Zoning, nor are accepted horticultural practices restricted.~~
- ~~O. Variance Procedures. Variance procedures shall be in accordance with the approved critical areas plan of the City of Annapolis.~~
- ~~P. Minimum Standards. The provisions of the Maryland Forest Conservation Act, Annotated Code of Maryland, Natural Resources Article, Title 5, Subtitle 16, (or its successors) do not apply to the critical area, except that afforestation and reforestation as required by the Act shall be a minimum standard for the replacement and planting of trees.~~

**17.09.080 – Critical area.**

**17.09.090 – Natural and landscaped buffers.**

- A. Guidelines for the Design of Areas Designated as Natural or Landscaped Buffers. The criteria set forth in this section shall be taken into consideration in the design of all buffer areas shown on the landscaping plan required by Section 17.09.030, including all buffers included to satisfy the requirements of Section 21.62.030 of this code.
1. The primary purpose of the buffer shall be defined on the landscaping plan and the natural or landscaped buffer shall reflect that definition. The purpose of a buffer may include, but not be limited to, urban streetscape beautification, enhancement of building architecture, visual shielding, noise reduction, wildlife habitat enhancement, and water quality management.
  2. A defined buffer shall comply with the standards for tree preservation as defined in Section 17.09.030 (B).
  3. Within the critical area, the buffer shall be consistent with the requisites for habitat protection areas in the critical area (Section 17.09.080(E) of this chapter).
  4. The buffer shall have vertical stratification, i.e., canopy layer, understory and shrub layer, as needed to reflect the stated purpose of the buffer.
  5. The buffer shall have continuous plantings and/or existing vegetation within the designated buffer area, as needed to reflect the stated purpose of the buffer.
  6. The buffer shall be designed in full cognizance of any utility plans, stormwater management plans, sedimentation and erosion control plans, and grading plans. Wherever architecturally or engineeringly possible, interference with designated buffer areas is to be avoided.
  7. Plantings within the buffer area shall not impair access to utilities for their maintenance and repair.
  8. Plantings may not be within or atop any stormwater management structures, but shall be placed to complement their function, if possible.
  9. Where a designated buffer area adjoins other landscaped or natural areas, the developer shall blend the proposed buffer with existing adjacent conditions, with particular attention to the necessity to provide wildlife corridors.
  10. Any landscaping of the designated buffer area shall occur after the placement of sidewalks, roads, driveways, utilities and stormwater management structures which may affect the buffer, and after final grade has been established.
  11. Trees required to be replaced on-site according to Section 17.09.070(A) and (B) shall be placed, as a first priority, within designated buffer areas if additional planting in the buffer is stipulated.
  12. Any changes made in the field to a designated buffer area must first be approved by the Department of Planning and Zoning.
  13. Natural and landscaped buffers within the critical area shall be subject to the requisites of Sections 17.09.080 in addition to the requisites of this section. If there are any inconsistencies between these sections, the more restrictive shall apply.

**17.09.100 – Landscape standards.**

- A. All designated buffer areas, as well as all other on-site natural or landscaped areas, shall be consistent with Chapter 14.12, and Sections 20.24.160 and 21.62.120 where applicable. If there are any inconsistencies between these sections, the more restrictive shall prevail.
- B. The developer/owner is responsible for the purchase, planting, care and maintenance of all trees planted in accordance with this chapter, except for the care and maintenance of trees planted off-site pursuant to Section 17.09.070(B). Additionally, the developer/owner is not responsible for the care and maintenance of trees and shrubs planted for a single-family or two-family attached or detached home after sale of the home by the builder or developer to the initial consumer. All trees of nursery stock installed according to the requisites of this chapter must be listed on the State and/or City recommended tree list and shall meet American Association of Nurserymen standards for nursery stock.
- C. The Department of Planning and Zoning may require that the installation of all improvements as noted on the approved landscape plan be bonded, including those trees designated for preservation, and excluding

those trees transplanted from one location on site to another, and excepting those trees to be planted off-site pursuant to Section 17.09.070(B). On the satisfactory completion of the improvements as noted on the approved landscape plan, the security described in this section shall be released; provided, however, that a one year maintenance bond or other appropriate security be substituted in an amount to be determined by the Director, which amount shall be not more than ten percent of the cost of installation of the improvements. The amount of this bond or other security shall be reduced to reflect the portion attributable to those trees on a lot with a single-family or two-family attached or detached home after the sale of that home by the developer or building to the initial consumer. Any waiver or modification to these requirements shall be made in accordance with Section 17.09.130 of this chapter.

**17.09.110 – Easements.**

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

**17.09.120 – Landscaping plans Approvals Inspections.**

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

B. Approvals.

1. No cutting, clearing, digging or grading may be undertaken until a landscape plan has been approved. No landscaping may be undertaken until the approval of the landscape plan.
2. Where development is proposed within the critical area, all plans must be consistent with the approved critical area program for the City of Annapolis.
3. Plan approvals or disapprovals shall be made in writing by the City of Annapolis Department of Planning and Zoning to the applicant.

C. Inspections.

1. Work which may affect tree areas designated for preservation may not proceed to the next phase of construction until the Department of Planning and Zoning approves tree protection measures pursuant to Sections 17.09.040, 17.09.050 and 17.09.060.
2. Areas designated as buffers shall be inspected by the Department of Planning and Zoning for agreement with the approved buffer site plan. Occupancy and/or use permit approvals shall be contingent upon the favorable inspection of buffer areas.
3. The project site shall be inspected by the Department of Planning and Zoning for agreement with the approved landscape plan. Occupancy and/or use permit approvals shall be contingent upon the favorable inspection of the project site.
4. Any bonds required by the City of Annapolis for landscaping will be reduced upon the final inspections by the Department of Planning and Zoning, or at that time that the landscape requirements are met by the developer/applicant.

**17.09.130 – Waiver or modification.**

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

1. Special practices may be undertaken which will meet the intent of this chapter but not the minimum requirements as strictly interpreted; or
2. Special circumstances exist which prevent the applicant from meeting the minimum requirements as strictly interpreted.

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

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

### **17.09.140 – Enforcement – Violation – Penalties.**

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

## **Chapter 17.10 – STORMWATER MANAGEMENT**

### **17.10.010 – Purpose, application and authority.**

- A. The purpose of this chapter is to protect and promote the public health, safety and general welfare through the management of stormwater, to protect public and private property from damage, to reduce the effects of land use changes on stream channel erosion, to maintain and assist in the improvement of water quality, and to preserve and enhance the environmental quality of streams and stream valleys. It is the expressed intent of this chapter to require that stormwater management, as it addresses water quality, be provided for all developed land within the City. The provisions of this chapter are adopted pursuant to Annotated Code of Maryland, Environment Article, Title 4, Subtitle 2, (or its successors) and the Charter of the City of Annapolis and shall apply to all development occurring within the corporate limits of the City of Annapolis.
- B. The application of this chapter and the requirements set forth herein shall be the minimum stormwater management requirements applicable in the City and shall not be deemed a limitation or repeal of any other powers granted by State statute.
- C. The City of Annapolis, Department of Public Works shall be responsible for the administration and enforcement of the provisions of this chapter.
- D. This chapter applies to all new and redevelopment projects that have not received final approval for erosion and sediment control and stormwater management plans by May 4, 2010.

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

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

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

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

**17.10.040 – Guide for stormwater management.**

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

**17.10.050 – Definitions.**

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

- A. "Administration" means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).
- B. "Adverse impact" means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- C. "Agricultural land management practices" means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
- D. "Applicant" means any person, firm, or governmental agency that executes the necessary forms to procure official approval of a project or of a permit to carry out construction of a project.
- E. "Approving agency" means the entity responsible for the review and approval of stormwater management plans.
- F. "Aquifer" means a porous water bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.
- G. "Best management practices" (BMP) means a structural or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.
- H. "Channel protection storage volume (CPV)" means the volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the 2000 Maryland Stormwater Design Manual, Volumes I & II.
- I. "Clearing" means the removal of trees and brush from the land but shall not include the ordinary mowing of grass.
- J. "Design manual" means the 2000 Maryland Stormwater Design Manual Volumes I & II (Maryland Department of the Environment, April 2000), and all subsequent revisions, that serves as the official

guide for stormwater management principles, methods, and practices.

- K. "Detention structure" means a permanent structure for the temporary storage of runoff, which is designed so as not to create a permanent pool of water.
- L. "Develop land" means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.
- M. "Direct discharge" means the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in the Critical Area.
- N. "Drainage area" means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridgeline.
- O. "Easement" means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.
- P. "Environmental site design (ESD)" means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Methods for designing ESD practices are specified in the Design Manual.
- Q. "Exemption" means those land development activities that are not subject to the stormwater management requirements contained in this chapter.
- R. "Extended detention" means a stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events. Methods for designing extended detention BMP's are specified in the Design Manual.
- S. "Extreme flood volume (Qf)" means the storage volume required controlling those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the one hundred-year floodplain.
- T. "Final stormwater management plan" means the last of three required plan approvals that includes all required information to allow all approvals and permits to be issued by the approving agency.
- U. "Flow attenuation" means prolonging the flow time of runoff to reduce the peak discharge.
- V. "Grading," means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof.
- W. "Impervious area" means any surface that does not allow stormwater to infiltrate into the ground.
- X. "Infiltration" means the passage or movement of water into the soil surface.
- Y. "Maximum extent practicable (MEP)" means designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and only where absolutely necessary, a structural BMP is implemented.
- Z. "Modification" means the change to the minimum stormwater management requirements for specific circumstances granted by the Director of Public Works based upon a showing by the applicant that strict adherence to the requirements would result in an unreasonable necessary hardship and not fulfill the intent of this chapter.
- AA. "New development" means any construction, alteration, or improvement exceeding five thousand square feet of land disturbance performed on sites where existing land use is rural, agricultural or single family residential or any site with impervious coverage of less than forty percent

imperviousness.

- BB. "Off-site stormwater management" means the design and construction of a stormwater management facility necessary to control stormwater from more than one development.
- CC. "On-site stormwater water management" means the design and construction of facilities necessary to control stormwater within a site.
- DD. "Overbank flood protection volume (Qp)" means the volume controlled by structural practices to prevent an increase in the frequency of out of bank flooding generated by development. Methods for calculating the overbank flood protection volume are specified in the design manual.
- EE. "Person" means the Federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.
- FF. "Planning techniques" means a combination of strategies employed early in project design to reduce the impact from development and to incorporate nature features into a stormwater management plan.
- GG. "Recharge volume (Rev)" means that portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the Design Manual.
- HH. "Redevelopment" means any construction, alteration, or improvement exceeding five thousand square feet of land disturbance performed on sites where existing land use is commercial, industrial, institutional, multifamily residential and existing site impervious area exceeds forty percent.
- II. "Regional stormwater management facility" means a stormwater management facility intended to control stormwater runoff from several separately owned parcels or developments within a watershed. "Regional stormwater management facility" does not include multi-lot stormwater management facilities, subdivision facilities or other stormwater management facilities constructed in connection with development or redevelopment, whether concurrently or in phases, of a site, or contiguous sites, by a single owner or a single owner's successor in title.
- JJ. "Retention structure" means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.
- KK. "Retrofitting" means the implementation of ESD practices, the construction of a structural BMP in a previously developed area, the modification of an existing structural BMP, or the implementation of a nonstructural practice to improve water quality over current conditions.
- LL. "Sediment" means soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- MM. "Site" means any tract, lot, or parcel of land, or combination of tracts, lots, parcels of land that are in one ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unity, subdivision, or project.
- NN. "Site development plan" means the second of three required plan approvals that includes the information necessary to allow a detailed evaluation of a proposed project.
- OO. "Stabilization" means the prevention of soil movement by any of various vegetative and/or structural means.
- PP. "Stormwater" means water that originates from a precipitation event.
- QQ. "Stormwater management system" means natural areas, ESD practices, stormwater management

measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.

- RR. "Stripping" means any activity that removes the vegetative surface cover including tree removal, clearing, grubbing and storage or removal of topsoil.
- SS. "Waiver" means the relinquishment from stormwater management requirements by the Director of Public Works for a specific development on a case-by-case review basis.
1. "Qualitative stormwater management waiver" means a reduction of water quality volume and recharge volume parameters.
  2. "Quantitative stormwater management waiver" means a reduction of channel protection storage volume, overbank flood protection volume, and extreme flood volume design parameter.
- TT. "Watercourse" means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.
- UU. "Watershed" means the total drainage area contributing runoff to a single point.
- VV. "Water quality volume (WQv)" means the volume needed to capture and treat the runoff from ninety percent of the average annual rainfall at a development site. Methods for calculating the water quality volume are specified in the design manual.

#### **17.10.060 – Application.**

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

#### **B. Application Required.**

1. Preliminary approval may not be granted for any subdivision plat unless an applicant includes preliminary stormwater management plans and designs as required by the Director of Public Works for the proposed on-site development and for related off-site stormwater controls according to the provisions of this chapter.
2. Final approval may not be granted for a subdivision plat unless an applicant includes stormwater management plans and designs for the proposed development in sufficient detail as required by the Director of Public Works according to the provisions of this chapter. Easements shall be platted and recorded for all stormwater management facilities as required by the Director of Public Works. Stormwater management facilities shall be publicly owned and maintained upon the request of the Director of Public Works and in accordance with the City's watershed management program.
3. An application for a building or grading permit shall include a stormwater water management plan in accordance with the provisions of this chapter providing for stormwater management of the applicant's proposed development or redevelopment. No building or grading permit may be issued unless a stormwater management plan for the development or redevelopment has been approved by the Director of Public Works according to the provisions of this chapter. Construction of the development or redevelopment shall be in accordance with the stormwater management plan approved by the Director.

### **17.10.070 – Exemptions.**

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

- A. Agricultural land management activities;
- B. An addition or modification to an existing single-family detached residential structure provided the addition or modification complies with Subsection C or D of this section;
- C. Development on a non-waterfront lot that does not disturb more than five thousand square feet of land area except in the case of a new single family dwelling which is not exempted from the requirements of this chapter regardless of the extent of the area of disturbance;
- D. Development on a waterfront lot that does not disturb more than two thousand square feet of land area and does not require a grading permit, except in the case of a new single family dwelling which is not exempted from the requirements of this chapter regardless of the extent of the area of disturbance;
- E. Any land development activity that the Administration determines is regulated by specific State laws governing the management of stormwater runoff.

### **17.10.080 – Stormwater management criteria.**

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

- 1. The Department of Public Works requires that the planning techniques, nonstructural practices, and design methods specified in the Design Manual are to be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. Stormwater management plans for development projects subject to this Ordinance shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the Design Manual. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.
- 2. Control of the two and ten-year frequency storm event shall be required according to the design manual if the Department of Public Works determines that historical flooding problems exist and impact existing downstream floodplain development.
- 3. The Director of the Department of Public Works may require more than the minimum control requirements specified in this section if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.
- 4. Alternative minimum control requirements may be adopted subject to Administration approval. The Administration shall require a demonstration that alternative requirements will implement ESD to the MEP and control flood damages, accelerated stream erosion, water quality, and sedimentation. Comprehensive watershed studies may also be required.
- 5. Stormwater management and development plans where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

B. In the case of redevelopment, every stormwater management plan shall satisfy the following requirements.

- 1. The stormwater management plan shall be consistent with the Design Manual.
- 2. The stormwater management plan shall reduce existing site impervious areas by at least fifty percent.

Where site conditions prevent the reduction of impervious area by fifty percent, the stormwater management plan shall provide qualitative control for at least fifty percent of the site's existing impervious area. When a combination of impervious area reduction and stormwater practice implementation is used, the combined area shall equal or exceed fifty percent of the site's impervious area. Any permit application legally submitted prior to April 9, 2007, shall meet the requirements of the unamended regulation.

3. Upon application by the owner or his or her agent, the Director of Public Works may waive the requirements of the preceding paragraph if hydrologic and hydraulic design conditions prevent impervious area reduction or on-site stormwater management. Waivers shall be consistent with Section 17.10.120 of this Code. In granting such a waiver, the Director shall direct the applicant to the following practical alternatives:
  - a. Off-site BMP implementation for a drainage area at least one and one-half times the size and percent imperviousness to that of the project;
  - b. Watershed or stream restoration;
  - c. Retrofitting; and/or
  - d. Other practices to reduce impervious surfaces or the impact of stormwater runoff not inconsistent with the purposes of this chapter.
4. The Department of Public Works may develop separate policies for providing water quality treatment for redevelopment projects. Any separate redevelopment policy shall be reviewed and approved by the Administration and may include, but not be limited to:
  - a. A combination of ESD and an on-site or off-site structural BMP;
  - b. Retrofitting including existing BMP upgrades, filtering practices, and off-site ESD implementation;
  - c. Participation in a stream restoration project;
  - d. Pollution trading with another entity;
  - e. Payment of a fee in lieu; or
  - f. A partial waiver of the treatment requirements if ESD is not practicable.
5. The determination of what alternatives will be available may be made by the Department of Public Works at the appropriate point in the development review process. The Department shall consider the prioritization of alternatives in Section 17.10.08[0].B.4. of this Code after it has been determined that it is not practicable to meet the 2009 regulatory requirements using ESD. In deciding what alternatives may be required, the Department may consider factors including, but not limited to:
  - a. Whether the project is in an area targeted for development incentives such as a Priority Funding Area, a designated Transit Oriented Development area, or a designated Base Realignment and Closure Revitalization and Incentive Zone;
  - b. Whether the project is necessary to accommodate growth consistent with comprehensive plans; or
  - c. Whether bonding and financing have already been secured based on an approved development plan.

#### **17.10.085 – Stormwater management measures.**

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

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

- ~~a. The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in 17.10.080 of this Ordinance:
  - ~~i. Preserving and protecting natural resources;~~
  - ~~ii. Conserving natural drainage patterns;~~
  - ~~iii. Minimizing impervious area;~~
  - ~~iv. Reducing runoff volume;~~
  - ~~v. Using ESD practices to maintain one hundred percent of the annual predevelopment groundwater recharge volume;~~
  - ~~vi. Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;~~
  - ~~vii. Limiting soil disturbance, mass grading, and compaction;~~
  - ~~viii. Clustering development; and~~
  - ~~ix. Any practices approved by the Administration.~~~~
- ~~b. The following ESD treatment practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Section 17.10.080 of this Ordinance:
  - ~~i. Disconnection of rooftop runoff;~~
  - ~~ii. Disconnection of non-rooftop runoff;~~
  - ~~iii. Sheetflow to conservation areas;~~
  - ~~iv. Rainwater harvesting;~~
  - ~~v. Submerged gravel wetlands;~~
  - ~~vi. Landscape infiltration;~~
  - ~~vii. Infiltration berms;~~
  - ~~viii. Dry wells~~
  - ~~ix. Micro-bioretenion;~~
  - ~~x. Rain gardens;~~
  - ~~xi. Swales;~~
  - ~~xii. Enhanced filters; and~~
  - ~~xiii. Any practices approved by the administration.~~~~
- ~~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.~~

~~2. Structural Stormwater Management Measures.~~

- ~~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.~~

- ~~i. Stormwater management ponds;~~
    - ~~ii. Stormwater management wetlands;~~
    - ~~iii. Stormwater management infiltration;~~
    - ~~iv. Stormwater management filtering systems; and~~
    - ~~v. Stormwater management open channel systems.~~
  - ~~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.~~
  - ~~e. Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the State.~~
- ~~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 Public Works shall be obtained before any stormwater management practice is altered or removed.~~
  - ~~4. Alternative ESD planning techniques and treatment practices and structural stormwater measures may be used for new development runoff control if they meet the performance criteria established in the Design Manual and all subsequent revisions and are approved by the Administration. Practices used for redevelopment projects shall be approved by the Department of Public Works.~~
  - ~~5. For the purposes of modifying the minimum control requirements or design criteria, the owner/developer shall submit to the Department of Public Works an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted streamflow. The point of investigation is to be established with the concurrence of the Department of Public Works, downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.~~
  - ~~6. Incorporation of green roofs as part of the site design is encouraged. Applicant must show the quantity of storage for the design proposed which will be considered as an offset for the overall stormwater management requirement.~~
  - ~~7. Alternative structural and nonstructural stormwater management practices may be used for new development water quality control if they meet the performance criteria established in the design manual and approved by the administration. Practices used for redevelopment projects shall be approved by the Department of Public Works.~~
  - ~~8. For the purposes of modifying the minimum control requirements or design criteria, the owner/developer shall submit to the Department of Public Works an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon any downstream area and any downstream appurtenances, structure, obstructions and hydraulically significant natural features. The points of investigation are to be established with the concurrence of the Department of Public Works.~~
  - ~~9. Stormwater management and development plans where applicable, shall be consistent with adopted and approved watershed management plans, flood management or floodplain management plans as~~

approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976 and any subsequent revisions.

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

- A. Stormwater management design criteria, methodologies, and construction specifications shall be subject to the approval of the Department of Public Works, and shall satisfy the requirements of the of the design manual.
- B. Wherever possible, the applicant shall incorporate and enhance existing natural topography and land cover such as wetlands, ponds, natural swales, and depressions into the proposed development design.
- C. Stormwater management practices shall be designed for water quality enhancement and to facilitate maintenance of the stormwater management facility.
- D. All retention and detention basins shall contain forebays to facilitate the maintenance of the basins. The forebays shall accommodate an approved percentage of the total volume of the basin, based on accepted engineering practices.
- E. ~~Wherever possible and feasible, the stormwater management design will mimic pre-development hydrology.~~

**17.10.100 – Stormwater management plans.**

~~A. Review and Approval of Stormwater Management Plans.~~

- 1. Unless otherwise exempted, for any proposed development, the owner or his/her agent shall submit to the Department of Public Works for review and approval, phased stormwater management plans or waiver application as part of the grading permit application. At a minimum, plans shall be submitted for the concept, site development, and final stormwater management construct phases of project design. The stormwater management plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff from the entire development will be managed, and shall be consistent with the requirement of the Design Manual. The Department of Public Works shall review the plans to determine compliance with the requirements of this chapter prior to approval. The plans shall serve as the basis for all subsequent construction.
- 2. The Department of Public Works shall perform a comprehensive review of the stormwater management plans for each phase of site design. Coordinated comments will be provided for each plan phase that reflects input from all appropriate agencies including, but not limited to, the Anne Arundel County Soil Conservation District (SCD) and the Departments of Planning and Zoning. All comments from other appropriate agencies shall be addressed and approval received at each phase of project design before subsequent submissions.
- 3. Issuance of the grading permit shall constitute approval of the Stormwater Management Plan for construction.

~~B. Contents and Submission of the Stormwater Management Plan.~~

- 1. The owner/developer shall submit a concept plan that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided according to Section 17.10.080 of this Ordinance and the Design Manual. Plans submitted for concept approval shall include, but are not limited to:
  - a. A map at a scale specified by the Department of Public Works showing site location, existing natural features, water and other sensitive resources, topography, and natural drainage patterns at a

scale of 1:10, 1:20 or 1:50;

- b. The anticipated location of all proposed impervious areas, buildings, roadways parking, sidewalks, utilities, and other site improvements;
  - e. The location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction;
  - d. Preliminary estimates of stormwater management requirements, the selection and location of ESD practices to be used, and the location of all points of discharge from the site;
  - e. A narrative that supports the concept design and describes how ESD will be implemented to the MEP; and
  - f. Any other information required by the Department of Public Works.
2. Following concept plan approval by the Department of Public Works, the owner/developer shall submit site development plans that reflect comments received during the previous review phase. Plans submitted for site development approval shall be of sufficient detail to allow site development to be reviewed and include but not be limited to:
- a. All information provided during the concept plan review phase;
  - b. Final site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;
  - e. A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;
  - d. A narrative that supports the site development design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure; and
  - e. Any other information required by the approving agency.
3. Following site development approval by the Department of Public Works, the owner/developer shall submit final erosion and sediment control and stormwater management plans that reflect the comments received during the previous review phase. Plans submitted for final approval shall be of sufficient detail to allow all approvals and permits to be issued according to the following:
- a. Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05; and
  - b. Final stormwater management plans shall be submitted for approval in the form of construction drawings and be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.
4. Reports submitted for final stormwater management plan approval shall include, but are not limited to:
- a. Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;
  - b. Drainage area maps depicting predevelopment and post development runoff flow path segmentation and land use;
  - e. Hydrologic computations of the applicable ESD and unified sizing criteria according to the Design Manual for all points of discharge from the site;
  - d. Hydraulic and structural computations for all ESD practices and structural stormwater management

measures to be used;

e. ~~A narrative that supports the final stormwater management design; and~~

f. ~~Any other information required by the Department of Public Works.~~

5. ~~Construction drawings submitted for final stormwater management plan approval shall include, but are not limited to:~~

a. ~~A vicinity map;~~

b. ~~Existing and proposed topography and proposed drainage areas, including areas necessary to determine downstream analysis for proposed stormwater management facilities;~~

e. ~~Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;~~

d. ~~The location of existing and proposed structures and utilities;~~

e. ~~Any easements and rights-of-way;~~

f. ~~The delineation, if applicable, of the one hundred-year floodplain, on-site wetlands or Critical Area designation and one hundred-foot buffer;~~

g. ~~Structural and construction details including representative cross sections for all components of the proposed drainage system or systems, and stormwater management facilities;~~

h. ~~All necessary construction specifications;~~

i. ~~A sequence of construction;~~

j. ~~Data for total site area, disturbed area, new impervious area, and total impervious area;~~

k. ~~A table showing ESD and unified sizing criteria volumes required in the Design Manual;~~

l. ~~A table of materials to be used for stormwater management facility planting;~~

m. ~~All soil borings logs and locations;~~

n. ~~An inspection and maintenance schedule;~~

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

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

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

#### C. ~~Preparation of the Stormwater Management Plan.~~

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

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

#### D. ~~Design Requirements.~~

1. ~~Stormwater management facilities shall be designed to minimize the need of maintenance, to provide~~

access for maintenance purposes and to be structurally sound. Additionally, a stormwater management facility shall be designed in accordance with standard construction specifications and details established and promulgated by the Department of Public Works.

2. Prior to approval of a stormwater management design, the applicant shall submit a proposed staged inspection and construction control schedule. The schedule shall provide for regular inspections by a registered professional engineer to be conducted during construction of stormwater management systems in accordance with accepted engineering practices.
  3. The permittee shall notify the Department of Public Works before commencing any work to implement the stormwater management plan and upon completion of the work.
  4. No stage of work involving the installation of stormwater management facilities shall proceed until the work previously completed is inspected and approved by the Department of Public Works.
  5. Any portion of the work that does not comply with the stormwater management plan shall be corrected promptly by the permittee.
  6. A final inspection shall be conducted by the Department of Public Works upon completion of the stormwater management facility to determine if the completed work is constructed in accordance with the approved stormwater management plan. The final inspection by the Department of Public Works does not relieve the permittee of any of requirement imposed on the permittee by this chapter.
- E. ~~Construction Compliance.~~ Archive able and reproducible as-built plans of the stormwater management facility shall be forwarded to the Department of Public Works upon completion of the stormwater management facility and final inspection by the Department of Public Works. The permittee's professional engineer shall certify that the stormwater management facility has been constructed as shown on the as-built plans and that the stormwater management facility meets the approved stormwater management plan's design and specifications.
- F. ~~Electronic Documentation.~~ The Director of Public Works may require the permittee and his/her engineer to submit all of the documents associated with the grading permit in an electronic format for archiving purposes. The documents shall be submitted in the format required by the Director of Public Works.
- G. ~~Release of Security.~~ The performance bond shall not be reduced nor released until all aspects of the stormwater management plan are completed, including, but not limited to:
1. The submission and acceptance of "as built drawings" in accordance with Subsection E of this section;
  2. The completion of all forms required by the administration, and
  3. The stormwater management facility has been in operation for a minimum of one year without failure.

#### **17.10.110 – Right to discharge.**

- A. ~~If a stormwater management plan involves conveyance of runoff from a site, the applicant shall:~~
1. Provide written notification to all property owners within five hundred feet downstream of the proposed terminus point at which runoff will be discharged of the intended stormwater management plan; and
  2. Obtain from property owners adjacent to the intended terminus point at which runoff will be discharged any necessary right to discharge or other property interests required to authorize the flowage of water.
- B. Approval of a stormwater management plan shall not be construed to create or affect any real property rights.

#### **17.10.120 – Waivers.**

- A. Except as provided in Section 17.10.120.D. of this code, The Department of Public Works shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with Section 17.10.075F of this Ordinance. Written requests for quantitative stormwater management waivers shall be submitted that contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that ESD has been implemented to the MEP. A separate written waiver request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development receiving a waiver.
- B. Except as provided in Section 17.10.120D of this code, if watershed management plans consistent with Section 17.10.075F of this code have not been developed, stormwater management quantitative control waivers may be granted to the following projects provided that it has been demonstrated that ESD has been implemented to the MEP:
1. That have direct discharges to tidally influenced receiving waters;
  2. That are in-fill development located in a Priority Funding Area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2009 regulatory requirements would result in a loss of the planned development density provided that:
    - a. Public water and sewer and stormwater conveyance exist;
    - b. The quantitative waiver is applied to the project for the impervious cover that previously existed on the site only;
    - c. ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or
  3. When the approving agency determines that circumstances exist that prevent the reasonable implementation of quantity control practices.
- C. Except as provided in Section 17.10.120D of this code, stormwater management qualitative control waivers apply only to:
1. In-fill development projects where ESD has been implemented to the MEP and it has been demonstrated that other BMPs are not feasible;
  2. Redevelopment projects if the requirements of Section 17.10.085 of this Ordinance are satisfied; or
  3. Sites where the approving agency determines that circumstances exist that prevent the reasonable implementation of ESD to the MEP.
- D. Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the 2009 regulatory requirements and the Department of Public Works requirements for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.
- E. Waivers shall only be granted when it has been demonstrated that ESD has been implemented to the MEP and must:
1. Be on a case-by-case basis;
  2. Consider the cumulative effects the Department of Public Works waiver policy; and
  3. Reasonable ensure the development will not adversely impact stream quality.

- F. If the Department of Public Works has established an overall watershed management plan for a specific watershed, the Department may develop quantitative waiver and redevelopment provisions that differ from Section 17.10.120 of this Ordinance.
- G. A watershed management plan developed for the purpose of implementing different stormwater management policies for waivers and redevelopment shall:
1. Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
  2. Evaluate both quantity and quality management and opportunities for ESD implementation;
  3. Include a cumulative impact assessment of current and proposed watershed development;
  4. Identify existing flooding and receiving stream channel conditions;
  5. Be conducted at a reasonable scale;
  6. Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;
  7. Be consistent with the General Performance Standards for Stormwater Management in Maryland found in the Design Manual; and
  8. Be approved by the Administration.
- H. If the Director of Public Works determines that a waiver is appropriate under this section but that the construction of the proposed alternative to on-site stormwater quantity or quality management is not in the City's interest, the Director of Public Works may require the applicant to make a monetary contribution to the stormwater utility or to an identified City capital project intended to provide water quantity and/or quality improvements to the drainage basin in which the proposed development site is located. The amount of the contribution shall not exceed the cost of constructing an effective on-site stormwater management facility, including the value of the land that would be required to construct the stormwater management facility, as well as the cost of constructing, landscaping and perpetually maintaining the facility. The cost of perpetually maintaining the stormwater management facility is presumed to equal to the cost of constructing the stormwater management facility.

#### **17.10.130 – Grandfathering.**

- A. In this section, the following terms shall have the meanings indicated:
1. Administrative waiver means a decision by the Department of Public Works pursuant to this code to allow the construction of a development to be governed by the stormwater management requirements in effect as of May 4, 2009, in the local jurisdiction where the project will be located.
    - a. An administrative waiver is distinct from a waiver granted pursuant to Section 17.10.120 of this code.
  2. Approval means a documented action by the Department of Public Works following a review to determine and acknowledge the sufficiency of submitted material to meet the requirements of a specified stage in a local development review process.
    - a. An approval does not mean an acknowledgement by the Department of Public Works that submitted material has been received for review.
  3. Final project approval means approval of the final stormwater management plan and erosion and sediment control plan required to construct a project's stormwater management facilities.
    - a. A final project approval also includes securing bonding or financing for final development plans if

either is required as a prerequisite for approval.

4. Preliminary project approval means an approval as part of a local preliminary development or planning review process that includes, at a minimum:
    - a. The number of planned dwelling units or lots;
    - b. The proposed project density;
    - c. The proposed size and location of all land uses for the project;
    - d. A plan that identifies the proposed drainage patterns, the location of all points of discharge from the site, and the type, location, and size of all stormwater management measures based on site-specific stormwater management requirement computations; and
    - e. Any other information required by the Department of Public Works, including, but not limited to:
      - i. The proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic;
      - ii. A demonstration that the methods by which the development will be supplied with water and wastewater service are adequate; and
      - iii. The size, type, and general location of all proposed wastewater and water system infrastructure.
- B. The Department of Public Works may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010. Administrative waivers expire and may be extended according to the provisions of this section.
- C. Expiration of administrative waivers.
1. Except as provided for in Section 17.10.130D of this code, an administrative waiver shall expire on:
    - a. May 4, 2013, if the development does not receive final project approval prior to that date; or
    - b. May 4, 2017, if the development receives final project approval prior to May 4, 2013.
  2. All construction authorized pursuant to an administrative waiver must be completed by May 4, 2017, or, if the waiver is extended as provided in Section 17.10.130D of this code, by the expiration date of the waiver extension.
- D. Extension of administrative waivers.
1. Except as provided in Section 17.10.130D2 of this code, an administrative waiver shall not be extended.
  2. An administrative waiver may only be extended if, by May 4, 2010, the development:
    - a. Has received a preliminary project approval; and
    - b. Was subject to a Development Rights and Responsibilities Agreement, a Tax Increment Financing approval, or an Annexation Agreement.
  3. Administrative waivers extended according to Section 17.10.130D2 of this code shall expire when the Development Rights and Responsibilities Agreement, the Tax Increment Financing approval, or the Annexation Agreement expires.

#### **17.10.140 – Modifications.**

Upon written application of the property owner or his/her agent, the Director of Public Works may grant a written modification to any requirement of Section 17.10.080 if there are exceptional circumstances applicable

to the site such that strict adherence to the requirement would result in unnecessary hardship and would not fulfill the intent of the chapter. The application shall state the specific modifications sought and the reasons for the desired modifications. The Director of Public Works shall not grant a modification to any requirement of Section 17.10.080 except for good cause, consistent with the provisions for exceptions provided in this chapter, shown by the applicant requesting the modification.

#### **17.10.150 – Permits.**

##### **A. Permit Requirement.**

1. A grading permit shall not be issued for any parcel or lot unless a stormwater management plan, meeting all of the requirements of this chapter, has been approved or waived by the Department of Public Works. Where appropriate, a grading permit shall not be issued without:
  - a. Approval of the Anne Arundel Soil Conservation District;
  - b. A recorded private stormwater management facility inspection and maintenance agreement pursuant to Section 17.10.190;
  - c. A performance bond; and
  - d. Proof of property interests as required under Section 17.10.110.

##### **B. Permit Suspension and Revocation.**

1. A grading permit issued by the Department of Planning and Zoning may be suspended or revoked by giving written notice thereof to the permittee, if the Directors of Planning and Zoning or Public Works finds any of the following:
  - a. Violation of any condition of the stormwater management plan approval.
  - b. Change in any site runoff characteristics upon which an approval or waiver was granted.
  - c. Construction of a stormwater management facility not in accordance with the approved plan.
  - d. Noncompliance with a correction notice or a stop work order related to the construction of the stormwater management facility.
  - e. An immediate danger to a downstream area.
2. The grounds for suspension or revocation set forth in the preceding subsection are in addition to, and are not intended to supersede, other grounds for the issuance of a stop work order or the suspension or revocation of a grading permit.

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

#### **17.10.160 – Performance bond.**

- A. Prior to the issuance of a grading permit for any construction, the applicant shall provide the City of Annapolis with a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the City Attorney in a format acceptable to the City Attorney. The amount of the security shall not be less than the total estimated construction cost per the estimate form.
- B. The security shall not be fully released until all aspects of the grading permit are completed, including, but not limited to:
  1. The submission and acceptance of "as built drawings" in accordance with Subsection G of Section

17.10.100;

2. Compliance with all landscaping plans;
3. Absence of erosion or other site problems;
4. The completion of all forms required by the administration; and,
5. The stormwater management facility has been in operation for a minimum of one year without failure.

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

- A. All stormwater management facilities that serve a single lot, facility or subdivision shall be privately owned and privately maintained except as provide in Subsection C of this section.
- B. All stormwater management facilities measures relying on vegetated areas or site features shall be privately owned and privately maintained.
- C. At the discretion of the Director of Public Works, a regional stormwater management facility may be publicly owned and publicly maintained. If a regional stormwater management facility is to be publicly owned, it shall be conveyed to the City of Annapolis prior to the final release of security.

**17.10.180 – Watershed restoration fund.**

- A. A watershed restoration fund shall be established and the moneys therein shall be used by the City for land acquisition (including easements and rights-of-way), and the study, engineering, design, purchase, construction, expansion, repair, maintenance, landscaping and inspection of public stormwater management systems.
- B. The watershed restoration fee schedule applicable to the fund shall be established by resolution of the City Council. The fees schedule shall reflect an annual two percent rate increase in effect from July 1, 2015 until June 30, 2018 for stormwater fees under this section. To encourage environmentally sound and effective stormwater management practices, the Director of the Department of Public Works may authorize a reduction in the watershed restoration fee not to exceed fifty percent in accordance with a duly established policy setting forth which stormwater management facilities shall qualify for a reduction of the watershed restoration fee and how such reductions shall be calculated.
- C. In the case of an application for a waiver to on-site water quantity and/or water quality management under this chapter, the Director of Public Works may in his/her discretion accept the conveyance of an interest in land, the construction of a stormwater management facility, the scheduled fee or any equivalent combination thereof as the watershed restoration fee.
- D. The Director of Public Works shall not accept a conveyance of land or the construction of a stormwater management facility pursuant to the preceding subsection that does not cover adequately the cost to the City of managing the stormwater generated from the subject property or if such acceptance is otherwise not in the interest of the City.
- E. Public Works is responsible for maintenance, repair and retrofit of stormwater facilities that lie in the public right-of-way and these funds shall be used to this effect.

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

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

stormwater management facility.

B. The agreement required by the preceding subsection shall:

1. Authorize access to the stormwater management facility at reasonable times, for periodic inspection by the City (or its contractor or agent),
2. Require the property owner and/beneficial users periodically inspect and maintain the stormwater management facility in a proper working condition satisfying the requirements of this chapter,
3. Include such other items and conditions as the Director of Public Works may require.

C. The agreement required by this section shall also provide that if, after notice by the Director of Public Works to correct a violation of this chapter, satisfactory corrective measures have not been completed by the owner and or beneficial users within the time specified in the notice, the Director of Public Works may cause to be performed all necessary work to correct the violation and may assess the owner, and/or beneficial users, the cost of the work. The agreement shall further provide that the cost of the work shall constitute a lien on the property and may be placed on the tax bill for the property and collected in the same manner as property taxes. The agreement shall also provide that the owner and/or beneficial users shall be liable for interest, calculated at the maximum legal rate, on the unpaid balance of any such charges until paid, as well as reasonable attorney fees incurred by the City in collecting such balance.

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

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

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

#### **17.10.210 – Inspection program.**

- A. All privately owned stormwater management facilities shall be inspected during construction, during the first year of operation, and annually thereafter by the Department of Public Works.
- B. Regular inspections shall be made and documented for each ESD system at the stages of construction specified in the Design Manual and certified by a professional engineer licensed in the State of Maryland. At a minimum, all ESD system and other nonstructural practices shall be inspected upon completion of final grading, the establishment of permanent stabilization, and before issuance of use and occupancy approval.
- C. All privately owned stormwater management facilities shall be inspected and maintained in accordance with the stormwater management facility inspection and maintenance agreement. Not later than August first of each year, the owner and/or beneficial users shall provide the Department of Public Works with an inspection and maintenance report, in such format as may be specified by the Director of Public Works.
- D. The Department of Public Works shall maintain copies of inspection and maintenance reports for privately owned stormwater management facilities among their departmental records for a period of seven years from the date of the inspection.

#### **17.10.220 – Emergency authority.**

If the Director of Public Works determines that the condition of any stormwater management facility, storm drainage system or drainage way presents an immediate danger to the public health or safety, the Director of Public Works may take any action to protect the public. Costs incurred by the City as a result such action shall be assessed against the owners and beneficial uses of the stormwater management facility, who shall be jointly

and severally liable for such costs. The property served by the stormwater management facility shall be subject to a lien for the costs that may be placed on the tax bill for such property and collected in the same manner as property taxes.

**17.10.230 – Interpretation.**

In interpreting and applying this chapter, the stated requirements are declared to be minimum requirements which are imposed and are in addition to, and not in lieu of, all other legal requirements, and shall be interpreted to accomplish the purposes set forth in Section 17.10.010. The provisions of this chapter shall be applied prospectively and any amendments hereto shall not apply to sites for which grading or building permit applications have been filed on or before that date which is forty five days after adoption.

**17.10.240 – Penalties.**

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

**Chapter 17.11 - FLOODPLAIN MANAGEMENT**

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

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

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

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

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

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

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

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

### 17.11.350 - Review of application.

The Floodplain Administrator shall:

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

### 17.11.720 - Considerations for variances.

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

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

- (1) The danger that materials may be swept onto other lands to the injury of others.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services to the community provided by the proposed development.
- (5) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
- (6) The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
- (9) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (11) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

- (12) The comments provided by MDE (NFIP State Coordinator).
- (13) Considerations related to the reconstruction, rehabilitation, or restoration of structures listed in the National Register of Historic Places or State Inventory of Historic Places.

### **17.11.730 - Limitations for granting variances.**

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

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

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

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

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

(E) A determination that the building, structure or other development is protected by methods to minimize flood damages.

(F) A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.

## **Chapter 17.12 - BUILDING CODE**

### **17.12.050 - Building permit-Application.**

- A. Both the owner of the property and the contractor engaged to do the work equally are responsible for obtaining the required building permit.
- B. No building permit shall be issued prior to the issuance of a grading permit, where applicable under Chapter ~~17.08~~19.40.
- C. Before any permit required by Section 17.12.022 shall be issued, the applicant shall file with the Department of Planning and Zoning verification from the City Finance Director that the applicant has paid all applicable Anne Arundel County School impact fees, or proof that the project is not subject to the County's school impact fees.
- D. With regard to building location, when a discrepancy is found between the grading permit and building permit, the grading permit shall prevail.

### **17.12.052 - Building permit-Plans and specifications.**

- A. Before any permit required by Section 17.12.022 shall be issued the applicant shall file an application with construction drawings supported by an affidavit, which specifies the contract price of the construction in its entirety, the type of building, structure, or alteration to be erected or made, the material to be used, the number of stories and the dimensions of the building or area to which alterations will be made. If the permit is for the interior or exterior alteration of an existing building or structure, construction drawings shall be submitted showing the nature and location of all alterations unless

- approved otherwise.
- B. The building permit application shall also include those plans and specifications as required and as detailed in Section ~~17.08.060~~19.40.060. At a minimum, the application shall be accompanied by a scaled drawing showing the proposed location of the building on the lot and the front yard, side yard, and rear yard dimensions to the property line.
  - C. No permit for a commercial building or structure, or building or structure to be used for a public assembly, shall be issued unless construction drawings and specifications, drawn and certified by an architect or engineer registered under the laws of the State of Maryland, are submitted. Certified construction drawings and specifications shall be submitted with permit application for all other buildings or structures, unless approved otherwise by the building official.
  - D. All construction drawings and specifications submitted as part of a permit application which indicates they have been completed by an architect or engineer shall be certified on each drawing and specification with the architect's or engineer's Maryland seal, original signature and date.
  - E. All structural evaluations including drawings shall be certified by a Maryland Structural Engineer or Architect.
  - F. All new and revised construction drawings and submittals requiring review shall pay a fee per schedule as established by resolution of the City Council.

## **TITLE 19 - ENVIRONMENT**

### **CHAPTER 19.04 - DEFINITIONS**

#### **19.04.010- [RESERVED]**

#### **19.04.020 - ADVERSE IMPACT.**

"ADVERSE IMPACT" MEANS ANY DELETERIOUS EFFECT ON WATERS OR WETLANDS, INCLUDING THEIR QUALITY, QUANTITY, SURFACE AREA, SPECIES COMPOSITION, AESTHETICS OR USEFULNESS FOR HUMAN OR NATURAL USES. SUCH DELETERIOUS EFFECT IS OR POTENTIALLY MAY BE HARMFUL OR INJURIOUS TO HUMAN HEALTH, WELFARE, SAFETY OR PROPERTY, TO BIOLOGICAL PRODUCTIVITY, DIVERSITY OR STABILITY; OR UNREASONABLY MAY INTERFERE WITH THE ENJOYMENT OF LIFE OR PROPERTY, INCLUDING OUTDOOR RECREATION.

#### **19.04.030 - AFFORESTATION.**

"AFFORESTATION" MEANS THE ESTABLISHMENT OF A TREE CROP ON AN AREA FROM WHICH IT ALWAYS HAS OR VERY LONG HAS BEEN ABSENT, OR THE PLANTING OF OPEN AREAS WHICH ARE NOT PRESENTLY IN FOREST COVER.

#### **19.04.040 - AGRICULTURAL LAND MANAGEMENT PRACTICES.**

"AGRICULTURAL LAND MANAGEMENT PRACTICES" MEANS THOSE METHODS AND PROCEDURES USED IN THE CULTIVATION OF LAND IN ORDER TO FURTHER CROP AND LIVESTOCK PRODUCTION AND CONSERVATION OF RELATED SOIL AND WATER RESOURCES. LOGGING AND TIMBER REMOVAL OPERATIONS MAY NOT BE CONSIDERED A PART OF THIS DEFINITION.

#### **19.04.050 - APPLICANT.**

"APPLICANT" MEANS AN OWNER, DEVELOPER OR THEIR AUTHORIZED AGENT WHO EXECUTES THE FORMS REQUIRED FOR OBTAINING A PERMIT PURSUANT TO THIS TITLE.

#### **19.04.060 - APPROVED.**

"APPROVED," AS USED IN THIS TITLE, MEANS ACCEPTED BY THE DEPARTMENT OF THE ENVIRONMENT.

**19.04.065 - [RESERVED]**

**19.04.070 - AS-BUILT PLANS.**

"AS-BUILT PLANS" MEANS APPROVED SITE PLANS THAT HAVE BEEN REVISED, IF NECESSARY, TO REPRESENT THE ACTUAL, PHYSICAL CHARACTERISTICS OF THE COMPLETED SITE. ALL REVISIONS SHALL BE CLEARLY MARKED, AND SHALL INCLUDE OR REFERENCE ANY AND ALL SUPPORT CALCULATIONS, MEASUREMENTS AND INFORMATION.

**19.04.095 - BEST MANAGEMENT PRACTICE (BMP).**

"BEST MANAGEMENT PRACTICE" (BMP) MEANS A STRUCTURAL DEVICE OR NONSTRUCTURAL PRACTICE DESIGNED TO TEMPORARILY STORE OR TREAT STORMWATER RUNOFF IN ORDER TO MITIGATE FLOODING, REDUCE POLLUTION, AND PROVIDE OTHER AMENITIES.

**19.04.100 - BUFFER.**

"BUFFER" MEANS A NATURALLY VEGETATED AREA OR VEGETATED AREA ESTABLISHED OR MANAGED TO PROTECT AQUATIC, WETLAND, SHORELINE AND TERRESTRIAL ENVIRONMENTS FROM MANMADE DISTURBANCES.

**19.04.110 - CANOPY.**

"CANOPY" MEANS THE HIGHEST LAYER OF WOODY VEGETATION.

**19.04.120 - CERTIFICATION.**

"CERTIFICATION" MEANS A SIGNED, WRITTEN STATEMENT THAT SPECIFIC CONSTRUCTION, INSPECTIONS OR TESTS SHALL BE OR HAVE BEEN PERFORMED AND THAT THEY COMPLY WITH THE APPLICABLE STANDARD OF THIS TITLE. CERTIFICATION SHALL BE REQUIRED BY A REGISTERED PROFESSIONAL OF AN APPROPRIATE DISCIPLINE FOR THE WORK PERFORMED, AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT.

**19.04.130 - CITY.**

"CITY" MEANS THE CITY OF ANNAPOLIS, MARYLAND.

**19.04.140 - CITY ATTORNEY.**

"CITY ATTORNEY" MEANS THE CITY ATTORNEY OF THE CITY OF ANNAPOLIS.

**19.04.150 - CLEARING.**

"CLEARING" MEANS ANY ACTIVITY THAT REMOVES THE VEGETATIVE GROUND COVER WHILE LEAVING THE ROOT MAT INTACT.

**19.04.155 - COAL TAR PAVEMENT PRODUCT.**

COAL TAR PAVEMENT PRODUCT MEANS A MATERIAL THAT CONTAINS COAL TAR OR POLYCYCLIC AROMATIC HYDROCARBONS AND IS USED FOR AN ASPHALT OR CONCRETE SURFACE.

**19.04.160 - [RESERVED]**

**19.04.165 - CONCEPT PLAN.**

"CONCEPT PLAN" MEANS THE FIRST OF THREE PLANS SUBMITTED UNDER THE COMPREHENSIVE REVIEW AND APPROVAL PROCESS REQUIRED BY THE STORMWATER MANAGEMENT ACT OF 2007 (ACT), AS MAY BE AMENDED FROM TIME TO TIME, AND DESCRIBED IN CODE OF MARYLAND REGULATIONS (COMAR) 26.17.02 AND SHALL INCLUDE THE FOLLOWING INFORMATION NECESSARY TO ALLOW AN INITIAL EVALUATION OF A PROPOSED PROJECT, PER SECTION 19.40.065 OF THE CITY CODE.

**19.04.170 - CONSTRUCTION.**

"CONSTRUCTION" MEANS ANY ACTIVITY ON A SITE WHICH IN ANY WAY ALTERS ITS PHYSICAL CHARACTER.

**19.04.80 - CRITICAL AREA.**

"CRITICAL AREA" MEANS ALL LANDS AND WATERS DEFINED IN ANNOTATED CODE OF MARYLAND, NATURAL RESOURCES ARTICLE, SECTION 8-1807 (OR ITS SUCCESSORS).

**19.04.190 - CRUISING.**

"CRUISING" MEANS ANY FORESTRY ACTIVITY BY WHICH ESTIMATES ARE MADE OF TIMBER SIZE, DENSITY, AND EXTENT OR VALUE.

**19.04.200 - CUTTING.**

"CUTTING" MEANS ANY ACT OR THE CONDITIONS RESULTING FROM ANY ACT BY WHICH SOIL OR ROCK IS CUT INTO, DUG, QUARRIED, UNCOVERED, REMOVED, DISPLACED OR LOCATED.

**19.04.210 - DEMOLITION.**

"DEMOLITION" MEANS THE PHYSICAL ACT OF REMOVING OR RAZING A STRUCTURE OR GROUP OF STRUCTURES THAT DOES NOT REQUIRE CLEARING, STRIPPING OR GRADING OF THE SITE OTHER THAN FOR ACCESS OR FOR RUBBLE REMOVAL OR STABILIZATION.

**19.04.220 - DEPARTMENT.**

"DEPARTMENT" MEANS THE DEPARTMENT OF THE ENVIRONMENT OF THE CITY OF ANNAPOLIS.

**19.04.230 - DESIGN PROFESSIONAL.**

"DESIGN PROFESSIONAL" MEANS A REGISTERED PROFESSIONAL ENGINEER, REGISTERED LAND SURVEYOR, OR A REGISTERED LANDSCAPE ARCHITECT.

**19.04.240 - DETENTION STRUCTURE.**

"DETENTION STRUCTURE" MEANS A PERMANENT STRUCTURE FOR THE TEMPORARY STORAGE OF SURFACE WATER RUNOFF WHICH IS DESIGNED NOT TO CREATE A PERMANENT POOL OF WATER.

**19.04.250 - DEVELOPED WOODLANDS.**

"DEVELOPED WOODLANDS" MEANS THOSE AREAS ONE ACRE OR MORE IN SIZE WHICH PREDOMINANTLY CONTAIN TREES AND NATURAL VEGETATION AND WHICH ALSO INCLUDE RESIDENTIAL, COMMERCIAL OR INDUSTRIAL STRUCTURES AND USES.

**19.04.260 - DEVELOPER.**

"DEVELOPER" MEANS ANY PERSON OR ENTITY ACTING AS A PROPERTY OWNER OR IN BEHALF OF A PROPERTY OWNER TO DEVELOP A SITE.

**19.04.270 - DEVELOPMENT.**

"DEVELOPMENT" MEANS ANY MANMADE CHANGE TO IMPROVED OR UNIMPROVED REAL ESTATE, INCLUDING BUT NOT LIMITED TO ANY CONSTRUCTION, RECONSTRUCTION, MODIFICATION, EXTENSION OR EXPANSION OF BUILDINGS OR OTHER STRUCTURES, PLACEMENT OF FILL OR CONCRETE, CONSTRUCTION OF NEW OR REPLACEMENT INFRASTRUCTURE, DUMPING, MINING, DREDGING, GRADING, PAVING, DRILLING OPERATIONS, STORAGE OF MATERIALS, LAND EXCAVATION, LAND CLEARING, LAND IMPROVEMENT OR LANDFILL OPERATION. THIS TERM ALSO INCLUDES THE SUBDIVISION OF LAND.

**19.04.280 - DIAMETER AT BREAST HEIGHT.**

"DIAMETER AT BREAST HEIGHT" ("DBH") MEANS THE DIAMETER OF A TREE MEASURED AT FOUR AND ONE-HALF FEET ABOVE EXISTING, NATURAL GRADE.

**.04.290 - DIRECTOR.**

"DIRECTOR" MEANS THE DIRECTOR OF DEPARTMENT OF THE ENVIRONMENT OF THE CITY OF ANNAPOLIS.

**19.04.300 - [RESERVED]**

**19.04.310 - DRAINAGE AREA.**

"DRAINAGE AREA" MEANS THAT AREA CONTRIBUTING SURFACE WATER RUNOFF TO A SINGLE POINT, AS MEASURED IN A HORIZONTAL PLANE.

**19.04.315 - DRAINAGE WAY.**

"DRAINAGE WAY" MEANS ANY NATURAL OR ARTIFICIAL FLOW OR PATH, INCLUDING, BUT NOT LIMITED TO, STREAMS, RIVERS, CREEKS, PONDS, LAKES, DITCHES, CHANNELS, CANALS, CONDUITS, CULVERTS, DRAINS, WATERWAYS, GULLIES, RAVINES OR WASHES IN WHICH WATERS FLOW IN A DEFINITE DIRECTION OR COURSE, EITHER CONTINUOUSLY OR INTERMITTENTLY, AND INCLUDING ANY ADJACENT AREA WHICH IS SUBJECT TO INUNDATION BY REASON OF OVERFLOW OR FLOODWATERS.

**19.04.320 - DREDGING.**

"DREDGING" MEANS ANY ACT OF EXCAVATING IN A BODY OF WATER BELOW THE LEVEL OF MEAN HIGH TIDE.

**19.04.330 - DRIPLINE.**

"DRIPLINE" MEANS THE AREA ON THE GROUND BENEATH A TREE AS DEFINED BY THE CIRCUMFERENCE OF THE TREE'S BRANCHES.

**19.04.350 - ENGINEER.**

"ENGINEER" MEANS A "PROFESSIONAL ENGINEER" AS DEFINED IN THE MARYLAND PROFESSIONAL ENGINEERS ACT, ANNOTATED CODE OF MARYLAND, BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, TITLE 14 (OR ITS SUCCESSORS), WHO IS IN GOOD STANDING AND PROPERLY REGISTERED BY THE STATE OF MARYLAND TO PRACTICE ENGINEERING IN ACCORDANCE WITH THE ACT.

**19.04.355 - ENVIRONMENTAL SITE DESIGN (ESD).**

"ENVIRONMENTAL SITE DESIGN" (ESD) MEANS USING SMALL-SCALE STORMWATER MANAGEMENT PRACTICES, NONSTRUCTURAL TECHNIQUES, AND SITE PLANNING TO MIMIC NATURAL HYDROLOGIC RUNOFF CHARACTERISTICS AND MINIMIZE THE IMPACT OF LAND DEVELOPMENT ON WATER RESOURCES.

**19.04.360 - EROSION.**

"EROSION" MEANS THE PROCESS OF WEARING AWAY OF THE LAND SURFACE. EROSION MAY RESULT FROM EITHER NATURAL PROCESSES OR MANMADE ACTIVITIES.

**19.04.370 - EROSION AND SEDIMENT CONTROL.**

"EROSION AND SEDIMENT CONTROL" MEANS A SYSTEM OF STRUCTURAL AND VEGETATIVE MEASURES THAT MINIMIZE SOIL EROSION AND OFF-SITE SEDIMENTATION.

**19.04.380 - EROSION AND SEDIMENT CONTROL PLAN.**

"EROSION AND SEDIMENT CONTROL PLAN" MEANS A STRATEGY OR PLAN DESIGNED TO MINIMIZE EROSION AND PREVENT OFF-SITE SEDIMENTATION BY CONTAINING SEDIMENT ON SITE OR BY PASSING SEDIMENT-LADEN RUNOFF THROUGH A SEDIMENT CONTROL MEASURE, PREPARED AND APPROVED IN ACCORDANCE WITH THE SPECIFIC REQUIREMENTS OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT AND THIS TITLE, AND DESIGNED IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS.

**19.04.390 - EXCAVATION.**

"EXCAVATION" MEANS ANY ACT OR THE CONDITIONS RESULTING FROM ANY ACT BY WHICH SOIL OR ROCK IS CUT INTO, DUG, QUARRIED, UNCOVERED, REMOVED, DISPLACED OR RELOCATED.

**19.04.395 - EXEMPTION.**

"EXEMPTION" MEANS THOSE LAND DEVELOPMENT ACTIVITIES THAT ARE NOT SUBJECT TO THE EROSION AND SEDIMENT CONTROL REQUIREMENTS CONTAINED IN THIS CHAPTER.

**19.04.400 - EXISTING GRADE.**

"EXISTING GRADE" MEANS THE VERTICAL LOCATION OF THE EXISTING GROUND SURFACE PRIOR TO ANY GRADING ACTIVITY.

**19.04.410 - FACILITY.**

"FACILITY" MEANS A STORMWATER MANAGEMENT DESIGN, AND SHALL INCLUDE ALL LAND, MATERIALS AND APPURTENANCES USED IN CONSTRUCTION AND OPERATION OF THAT DESIGN.

**19.04.420 - FILL.**

"FILL" MEANS ANY ACT, OR ANY RESULTANT OF THE ACT, BY WHICH SOIL, EARTH, SAND, GRAVEL, ROCK OR ANY SIMILAR MATERIAL IS DEPOSITED, PLACED, PUSHED, PULLED OR TRANSPORTED.

**19.04.425 - FINAL EROSION AND SEDIMENT CONTROL PLAN.**

"FINAL EROSION AND SEDIMENT CONTROL PLAN" MEANS, ALONG WITH THE FINAL STORMWATER MANAGEMENT PLAN, THE LAST OF THREE PLANS SUBMITTED UNDER THE

COMPREHENSIVE REVIEW AND APPROVAL PROCESS REQUIRED BY CHAPTER 19.50 OF THE CITY CODE AND DESCRIBED IN CHAPTER 19.40 OF THE CITY CODE. FINAL EROSION AND SEDIMENT CONTROL PLANS SHALL BE PREPARED AND APPROVED IN ACCORDANCE WITH THE SPECIFIC REQUIREMENTS OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT, THE DIRECTOR, AND THIS CHAPTER AND DESIGNED IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS.

**19.04.430 - FINISHED GRADE.**

"FINISHED GRADE" MEANS THE FINAL GRADE OR ELEVATION OF THE GROUND SURFACE CONFORMING TO THE APPROVED SITE PLAN, INCLUDING ALL DEPARTMENT-APPROVED MODIFICATIONS TO THE SITE PLAN. THE INTENT FOR GRADING IS TO HAVE GRADES THAT ARE NOT TOO STEEP OR TOO FLAT FOR SITE CONDITIONS AND TO PROVIDE FOR DRAINAGE PATTERNS.

**19.04.450 - [RESERVED]**

**19.04.460 - [RESERVED]**

**19.04.490 - FOREST.**

"FOREST" MEANS A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS COVERING A LAND AREA OF ONE ACRE OR MORE. THIS ALSO INCLUDES FORESTS THAT HAVE BEEN CUT, BUT NOT CLEARED.

**19.04.500 - GRADING.**

"GRADING" MEANS TO DISTURB EARTH BY, INCLUDING BUT NOT LIMITED TO, EXCAVATING, FILLING, STOCKPILING, DREDGING OF EARTH MATERIALS, GRUBBING, REMOVING ROOT MAT OR TOPSOIL, OR ANY COMBINATION THEREOF.

**19.04.503 - GRADING UNIT.**

"GRADING UNIT" MEANS THE MAXIMUM CONTIGUOUS AREA ALLOWED TO BE GRADED AT A GIVEN TIME. FOR THE PURPOSES OF THIS CHAPTER, A GRADING UNIT IS TWENTY ACRES OR LESS.

**19.04.507 - HIGHLY ERODIBLE SOILS.**

"HIGHLY ERODIBLE SOILS" MEANS THOSE SOILS WITH A SLOPE GREATER THAN FIFTEEN PERCENT OR THOSE SOILS WITH A SOIL ERODABILITY FACTOR, K, GREATER THAN 0.35 AND WITH SLOPES GREATER THAN FIVE PERCENT.

**19.04.510 - [RESERVED]**

**19.04.511 - IMPERVIOUS SURFACES.**

"IMPERVIOUS SURFACES" MEANS THOSE AREAS WHICH DO NOT HAVE A VEGETATED COVER WITH A NATURAL SOIL SUBSTRATE OR A STORMWATER MANAGEMENT RESERVOIR.

**19.04.520 - [RESERVED]**

**19.04.530 - LANDSCAPING.**

"LANDSCAPING" MEANS ANY ACT OF PLANTING, PRUNING, CARE OR MAINTENANCE, OR ANY OTHER HORTICULTURAL ACTIVITY INVOLVING EXISTING OR TRANSPLANTED

VEGETATIVE MATERIAL, INCLUDING ANY ASSOCIATED DIGGING OR GRADING.

**19.04.535 - [RESERVED]**

**19.04.550 - [RESERVED]**

**.19.04.565 - MAXIMUM EXTENT PRACTICABLE (MEP).**

"MAXIMUM EXTENT PRACTICABLE" (MEP) MEANS DESIGNING STORMWATER MANAGEMENT SYSTEMS SO THAT ALL REASONABLE OPPORTUNITIES FOR USING ENVIRONMENTAL SITE DESIGN PLANNING TECHNIQUES AND TREATMENT PRACTICES ARE EXHAUSTED AND ONLY WHERE ABSOLUTELY NECESSARY IS A STRUCTURAL BEST MANAGEMENT PRACTICE IMPLEMENTED.

**19.04.580 - NATURAL VEGETATION.**

"NATURAL VEGETATION" MEANS THOSE PLANT COMMUNITIES THAT DEVELOP IN THE ABSENCE OF HUMAN ACTIVITIES.

**19.04.590 - [RESERVED]**

**19.04.600 - [RESERVED]**

**19.04.610 - [RESERVED]**

**19.04.620 - OWNER/DEVELOPER.**

"OWNER/DEVELOPER" MEANS A PERSON UNDERTAKING, OR FOR WHOSE BENEFIT, ACTIVITIES COVERED BY THIS CHAPTER ARE CARRIED ON. GENERAL CONTRACTORS OR SUBCONTRACTORS, OR BOTH, WITHOUT A PROPRIETARY INTEREST IN A PROJECT ARE NOT INCLUDED WITHIN THIS DEFINITION.

**19.04.630 - PERMIT AND TOLLING.**

- A. "PERMIT" MEANS WRITTEN, AUTHORIZED APPROVAL TO PERFORM THE PROPOSED WORK.
- B. PERMITS AND ANY PERMIT APPLICATION REVIEWED, APPROVED, AND READY FOR ISSUANCE PURSUANT TO TITLE 19; AND ANY EXTENSIONS THEREOF WHICH ARE ACTIVE AND VALID AS OF JUNE 30, 2012, SHALL BY DEFINITION BE TOLLED UNTIL JUNE 30, 2014 SO THAT ALL SUCH PERMITS, PERMIT APPLICATION APPROVALS, AND EXTENSIONS SHALL EXPIRE ON, OR ANY APPLICABLE EXTENSION REQUEST SHALL HAVE BEEN REQUESTED BY, JUNE 30, 2014.
  - 1. THE CITY OF ANNAPOLIS CODE IN FORCE AT THE TIME CONSTRUCTION COMMENCES SHALL APPLY TO ALL SUCH PERMIT APPLICATION APPROVALS.

**19.04.640 - PERMITTEE.**

"PERMITTEE" MEANS ANY PERSON TO WHOM A PERMIT IS ISSUED PURSUANT TO THIS TITLE.

**19.04.650 - PERSON.**

"PERSON" MEANS AND INCLUDES THE FEDERAL GOVERNMENT, THE STATE, ANY COUNTY, MUNICIPAL CORPORATION OR OTHER POLITICAL SUBDIVISION OF THE STATE, OR ANY OF THEIR UNITS, OR AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, EXECUTOR,

ADMINISTRATOR, FIDUCIARY OR REPRESENTATIVE OF ANY KIND, OR ANY PARTNERSHIP, FIRM, ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, OR ANY OF THEIR AFFILIATES, OR ANY OTHER ENTITY.

**19.04.655 - POLLUTANT.**

"POLLUTANT" MEANS ANY LIQUID, GASEOUS, SOLID, OR OTHER SUBSTANCES, INCLUDING COAL TAR PAVEMENT PRODUCTS AS DEFINED IN SECTION 19.04.155, WHICH WILL CAUSE WATER POLLUTION OF A WATER RESOURCE OF THE CITY.

**19.04.660 - PRE-DEVELOPMENT.**

"PRE-DEVELOPMENT" MEANS THE UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) SOIL CONSERVATION SERVICE CLASSIFICATION FOR "MEADOW" IN GOOD HYDROLOGIC CONDITION.

**19.04.670 - PRINCIPALLY ABOVE GROUND.**

"PRINCIPALLY ABOVE GROUND" MEANS THAT AT LEAST FIFTY-ONE PERCENT OF THE ACTUAL CASH VALUE OF A STRUCTURE, LESS LAND VALUE, IS ABOVE GROUND AS IT PERTAINS TO THE FLOODPLAIN DISTRICT.

**19.04.680 - PRIVATE STORMWATER MANAGEMENT FACILITY.**

"PRIVATE STORMWATER MANAGEMENT FACILITY" MEANS ANY STORMWATER MANAGEMENT FACILITY WHICH IS NOT TO BE OWNED AND MAINTAINED BY THE CITY OR ANY OTHER GOVERNMENT AGENCY.

**19.04.690 - PRUNING.**

"PRUNING" MEANS ANY ACT OF CUTTING OR REMOVING DEAD OR LIVING PARTS OF BRANCHES OF A TREE OR SHRUB IN ORDER TO IMPROVE SHAPE OR GROWTH.

**19.04.700 - PUBLIC STORMWATER MANAGEMENT FACILITY.**

"PUBLIC STORMWATER MANAGEMENT FACILITY" MEANS ANY STORMWATER MANAGEMENT FACILITY WHICH IS TO BE OWNED AND MAINTAINED BY THE CITY OR ANY OTHER GOVERNMENTAL AGENCY.

**19.04.710 - RESPONSIBLE PERSONNEL.**

"RESPONSIBLE PERSONNEL" MEANS ANY FOREMAN, SUPERINTENDENT OR PROJECT ENGINEER WHO IS IN CHARGE OF ON-SITE CLEARING AND GRADING OPERATIONS OR SEDIMENT CONTROL ASSOCIATED WITH EARTH CHANGES OR DISTURBANCES.

**19.04.720 - RETENTION STRUCTURE.**

"RETENTION STRUCTURE" MEANS A PERMANENT STRUCTURE THAT PROVIDES FOR THE STORAGE OF SURFACE WATER RUNOFF BY MEANS OF A PERMANENT POOL OF WATER.

**19.04.730 - SEDIMENT.**

"SEDIMENT" MEANS SOILS OR OTHER MATERIALS TRANSPORTED OR DEPOSITED BY THE ACTION OF WIND, WATER, ICE, GRAVITY OR ARTIFICIAL MEANS.

**19.04.750 - SHRUB LAYER.**

"SHRUB LAYER" MEANS THE LOWEST LAYER OF WOODY VEGETATION.

**19.04.760 - SITE.**

"SITE" MEANS THAT PORTION OF LAND, LOT OR PARCEL OF LAND OR COMBINATION OF CONTIGUOUS LOTS OR PARCELS OF LAND UPON WHICH GRADING OR OTHER LAND-DISTURBING ACTIVITY IS TO BE PERFORMED AS PART OF A UNIT, SUBDIVISION OR PROJECT.

**19.04.770 - SITE DESIGN PLAN.**

"SITE DESIGN PLAN" MEANS DRAWINGS THAT REFLECT A CONCEPTUAL DESIGN FOR THE PHYSICAL CHARACTERISTICS OF A SITE FOR PLANNING PURPOSES. THE SITE DESIGN PLAN PROVIDES PRELIMINARY ENGINEERING WHICH MAY BE SUBJECT TO THE REVISIONS DURING FINAL ENGINEERING DESIGN.

**19.04.780 - SITE PLAN.**

"SITE PLAN" MEANS DRAWINGS THAT REFLECT THE PHYSICAL CHARACTERISTICS OF A SITE. THESE DRAWINGS INCLUDE EXISTING AND PROPOSED CONDITIONS.

**19.04.790 - SLOPE.**

"SLOPE" MEANS THE INCLINED EXPOSED SURFACE OF A FILL, EXCAVATION OR NATURAL TERRAIN, ALSO THE STEEPNESS OR GRADE OF THAT SURFACE, EXPRESSED IN TERMS OF THE RATIO OF HORIZONTAL DISTANCE TO VERTICAL RISE, OR IN TERMS OF A PERCENTAGE.

**19.04.800 - SOIL.**

"SOIL" MEANS ALL EARTH MATERIAL OF WHATEVER ORIGIN THAT OVERLIES BEDROCK, INCLUDING, BUT NOT LIMITED TO, THE DECOMPOSED ZONE OF BEDROCK WHICH READILY CAN BE EXCAVATED BY MECHANICAL EQUIPMENT.

**19.04.810 - SPECIMEN.**

"SPECIMEN" MEANS AN INDIVIDUAL TREE UNIQUELY REPRESENTATIVE OF ITS SPECIES.

**19.04.820 - STABILIZATION.**

"STABILIZATION" MEANS THE PROTECTION OF EXPOSED SOILS FROM EROSION BY THE APPLICATION OF SEED AND MULCH, SEED AND MATTING, SOD, OTHER VEGETATIVE MEASURES, AND/OR STRUCTURAL MEANS.

**19.04.825 - STANDARDS AND SPECIFICATIONS.**

"STANDARDS AND SPECIFICATIONS" MEANS THE "2011 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL" OR ANY SUBSEQUENT REVISIONS.

**19.04.830 - STEEP SLOPE.**

"STEEP SLOPE" MEANS A SLOPE OF GREATER THAN FIFTEEN PERCENT GRADE, WHICH IS CHARACTERIZED BY INCREASED RUNOFF, EROSION AND SEDIMENT HAZARDS.

**19.04.840 - START OF CONSTRUCTION.**

"START OF CONSTRUCTION" MEANS THE DATE OF ISSUANCE OF THE BUILDING PERMIT FOR ANY DEVELOPMENT, INCLUDING NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS, PROVIDED THAT THE ACTUAL START OF THE CONSTRUCTION OR IMPROVEMENT WAS WITHIN ONE HUNDRED TWENTY DAYS OF PERMIT ISSUANCE. THE ACTUAL START OF NEW CONSTRUCTION MEANS THE INITIATION OF ANY LAND-DISTURBING ACTIVITY. FOR SUBSTANTIAL IMPROVEMENT, THE START OF CONSTRUCTION IS THE FIRST

ALTERATION OF ANY STRUCTURAL PART OF THE BUILDING.

**19.04.850 - STORMWATER.**

"STORMWATER" MEANS WATER THAT ORIGINATES FROM A PRECIPITATION EVENT.

**19.04.860 - STORMWATER MANAGEMENT.**

"STORMWATER MANAGEMENT" ("SWM") REFERS BOTH TO QUANTITATIVE CONTROL: A SYSTEM OF VEGETATIVE AND STRUCTURAL MEASURES WHICH CONTROL THE INCREASED VOLUME AND RATE OF SURFACE RUNOFF CAUSED BY MANMADE CHANGES TO THE LAND AND HAVE THE EFFECT OF MAINTAINING THE EXISTING PATTERNS OF FLOOD MAGNITUDE AND FREQUENCY; AND QUALITATIVE CONTROL: A SYSTEM OF VEGETATIVE, STRUCTURAL AND OTHER MEASURES WHICH CONTROL OR TREAT POLLUTANTS CARRIED BY SURFACE RUNOFF.

**19.04.865 - STORMWATER MANAGEMENT SYSTEM.**

"STORMWATER MANAGEMENT SYSTEM" MEANS NATURAL AREAS, ESD PRACTICES, STORMWATER MANAGEMENT MEASURES, AND ANY OTHER STRUCTURE THROUGH WHICH STORMWATER FLOWS, INFILTRATES, OR DISCHARGES FROM A SITE.

**19.04.870 - STRUCTURE.**

"STRUCTURE" MEANS THAT WHICH IS BUILT OR CONSTRUCTED, TO INCLUDE BUT NOT LIMITED TO THE FOLLOWING: A WALLED OR ROOFED BUILDING, A GAS OR LIQUID STORAGE TANK, A BUILDING FOUNDATION, PLATFORM DECK, SWIMMING POOL, BULKHEAD OR GREENHOUSE THAT IS PRINCIPALLY ABOVE GROUND AND AFFIXED TO A PERMANENT SITE OR LOCATION.

**19.04.880 - SUBDIVISION.**

"SUBDIVISION" MEANS THE DIVISION OR REDIVISION OF A LOT, TRACT OR PARCEL OF LAND BY ANY MEANS INTO TWO OR MORE LOTS, TRACTS, PARCELS OR OTHER DIVISIONS OF LAND, INCLUDING A CHANGE IN EXISTING LOT LINES, FOR THE PURPOSE, WHETHER IMMEDIATE OR FUTURE, OF LEASE, TRANSFER OF OWNERSHIP, OR BUILDING OR LOT DEVELOPMENT.

**19.04.890 - SUBSTANTIAL IMPROVEMENT.**

ANY RECONSTRUCTION, REHABILITATION, ADDITION, OR OTHER IMPROVEMENT OF A BUILDING OR STRUCTURE, THE COST OF WHICH EQUALS OR EXCEEDS FIFTY PERCENT OF THE MARKET VALUE OF THE BUILDING OR STRUCTURE BEFORE THE START OF CONSTRUCTION OF THE IMPROVEMENT. THE TERM INCLUDES STRUCTURES WHICH HAVE INCURRED SUBSTANTIAL DAMAGE, REGARDLESS OF THE ACTUAL REPAIR WORK PERFORMED. THE TERM DOES NOT; HOWEVER, INCLUDE EITHER:

- (1) ANY PROJECT FOR IMPROVEMENT OF A BUILDING OR STRUCTURE TO CORRECT EXISTING VIOLATIONS OF STATE OR LOCAL HEALTH, SANITARY, OR SAFETY CODE SPECIFICATIONS WHICH HAVE BEEN IDENTIFIED BY THE LOCAL CODE ENFORCEMENT OFFICIAL PRIOR TO SUBMISSION OF AN APPLICATION FOR A PERMIT AND WHICH ARE THE MINIMUM NECESSARY TO ASSURE SAFE LIVING CONDITIONS; OR
- (2) ANY ALTERATION OF A HISTORIC STRUCTURE, PROVIDED THAT THE ALTERATION WILL NOT PRECLUDE THE STRUCTURE'S CONTINUED DESIGNATION AS A HISTORIC STRUCTURE.

**19.04.900 - [RESERVED]**

**19.04.910 - TRENCHING.**

"TRENCHING" MEANS ANY ACT OF CUTTING, DIGGING OR EXCAVATING A TRENCH FOR THE EMPLACEMENT OF UTILITIES.

**19.04.920 - [RESERVED]**

**19.04.930 - TUNNELING.**

"TUNNELING" MEANS ANY ACT OF CUTTING, DIGGING OR EXCAVATING A TUNNEL FOR THE EMPLACEMENT OF UTILITIES.

**19.04.940 - UNDERSTORY.**

"UNDERSTORY" MEANS THE INTERMEDIATE LAYER OF WOODY VEGETATION.

**19.04.950 - VARIANCE.**

"VARIANCE" MEANS THE MODIFICATION OF THE MINIMUM EROSION AND SEDIMENT CONTROL REQUIREMENTS FOR EXCEPTIONAL CIRCUMSTANCES SUCH THAT STRICT ADHERENCE TO THE REQUIREMENTS WOULD RESULT IN UNNECESSARY HARDSHIP AND NOT FULFILL THE INTENT OF THIS CHAPTER.

**19.04.955 - WATER POLLUTION.**

"WATER POLLUTION" MEANS ANY CONTAMINATION, INCLUDING COAL TAR PAVEMENT PRODUCTS AS DEFINED IN SECTION 19.04.155, OR OTHER ALTERATION OF THE PHYSICAL, CHEMICAL, OR BIOLOGICAL PROPERTIES OF ANY WATERS, INCLUDING A CHANGE IN TEMPERATURE, TASTE, COLOR, TURBIDITY, OR ODOR OF THE WATERS OR THE DISCHARGE OR DEPOSIT OF ANY ORGANIC MATTER, HARMFUL ORGANISM, OR LIQUID, GASEOUS, SOLID, RADIOACTIVE, OR OTHER SUBSTANCE INTO ANY WATERS THAT WILL RENDER THE WATERS HARMFUL, OR DETRIMENTAL TO PUBLIC HEALTH AND SAFETY, LEGITIMATE BENEFICIAL USES, WILD ANIMALS, OR AQUATIC LIFE.

**19.04.960 - WATER RESOURCE.**

"WATER RESOURCE" MEANS ANY WETLANDS, EPHEMERAL STREAMS, INTERMITTENT STREAMS, PERENNIAL STREAMS, OTHER BODIES OF WATER, AND ANY OTHER DRAINAGE WAY THAT MAY CONTINUOUSLY OR INTERMITTENTLY CARRY WATER TO ONE OF THESE WATER RESOURCES.

**19.04.970 - WATERSHED.**

"WATERSHED" MEANS THE TOTAL DRAINAGE AREA CONTRIBUTING RUNOFF TO A SPECIFIC WATER BODY, OR TO A SPECIFIC POINT.

**19.04.980 - WETLANDS.**

"WETLANDS" MEANS ANY AREA THAT HAS SATURATED SOILS OR PERIODIC HIGH GROUNDWATER LEVELS AND VEGETATION ADAPTED TO WET CONDITIONS AND PERIODIC FLOODING, TO INCLUDE BUT NOT LIMITED TO LAND WHICH IS EITHER CONSIDERED "PRIVATE WETLAND" OR "STATE WETLAND" PURSUANT TO ANNOTATED CODE OF MARYLAND, ENVIRONMENT ARTICLE, TITLE 16 (OR ITS SUCCESSORS), OR DEFINED AS "WETLAND" BY THE U.S. FISH AND WILDLIFE SERVICE IDENTIFICATION AND CLASSIFICATION PROCEDURES (OR ITS SUCCESSORS).

**19.04.990 - [RESERVED]**

**19.04.1000 - WILDLIFE CORRIDOR.**

"WILDLIFE CORRIDOR" MEANS A STRIP OF LAND HAVING VEGETATION THAT PROVIDES HABITAT AND A SAFE PASSAGEWAY FOR WILDLIFE.

**19.04.1010 - WORK.**

"WORK" MEANS ANY CONSTRUCTION-RELATED ACTIVITY THAT LEADS TO THE PERFORMANCE OF ACTION PROVIDED BY THE GRADING OR BUILDING PERMIT.

**CHAPTER 19.10 - TREES IN PUBLIC SPACES**

**19.10.010 - POLICY.**

IT IS THE POLICY OF THE CITY TO REGULATE THE PLANTING, REMOVAL, MAINTENANCE AND PROTECTION OF TREES AND SHRUBS ON ALL PUBLIC LANDS SUBJECT TO ITS JURISDICTION; TO ELIMINATE AND GUARD AGAINST DANGEROUS CONDITIONS WHICH MAY RESULT IN INJURY TO PERSONS USING PUBLIC AREAS, TO PROMOTE AND ENHANCE THE BEAUTY OF THE CITY, TO PREVENT DAMAGE TO ANY PUBLIC SEWER OR WATER MAIN, STREET, SIDEWALK OR OTHER PUBLIC PROPERTY, TO PROTECT TREES AND SHRUBS LOCATED IN PUBLIC AREAS FROM UNDESIRABLE AND UNSAFE PRACTICES, AND TO GUARD TREES AND SHRUBS AGAINST THE SPREAD OF DISEASE OR PESTS.

**19.10.020 - APPLICABILITY.**

THIS CHAPTER APPLIES TO ALL TREES AND SHRUBS PLANTED IN OR ADJACENT TO ANY PUBLIC AREAS, AND TO ALL TREES AND SHRUBS PLANTED IN OR UPON ANY PRIVATE PREMISES WHICH ENDANGER THE LIFE, HEALTH OR SAFETY OF PERSONS OR PROPERTY.

**19.10.030 - DEFINITIONS.**

AS USED IN THIS CHAPTER, THE FOLLOWING WORDS AND PHRASES HAVE THE MEANINGS INDICATED:

- A. "CROWN AREA" MEANS THE LEAFY PART OF A TREE.
- B. "CUTTING" MEANS FELLING OR REMOVAL OF A TREE OR ANY PROCEDURE THE RESULT OF WHICH IS TO CAUSE THE DEATH OR SUBSTANTIAL DESTRUCTION OF A TREE. CUTTING DOES NOT INCLUDE NORMAL PRUNING OR TRIMMING.
- C. "DEPARTMENT" MEANS THE DEPARTMENT OF THE ENVIRONMENT.
- D. "DIRECTOR OF THE DEPARTMENT OF THE ENVIRONMENT" SHALL BE READ TO INCLUDE HIS/HER DESIGNEE.
- E. "MAINTENANCE" AND "PROTECTION" INCLUDE ALL OPERATIONS OF TRIMMING, PRUNING, SPRAYING, INJECTING, FERTILIZING, TREATING, BRACING, DOING SURGERY WORK, AND CUTTING ABOVE OR BELOW GROUND.
- F. "PUBLIC AREA" INCLUDES ALL PUBLIC WAYS, PUBLIC PARKS AND OTHER PUBLIC LANDS EXCEPT THOSE OWNED OR LEASED BY THE UNITED STATES OF AMERICA OR BY THE STATE.
- G. "PUBLIC WAY" INCLUDES ALL PUBLIC STREETS, ROADS, BOULEVARDS, ALLEYS AND SIDEWALKS.
- H. "REMOVE" OR "REMOVAL" MEANS THE ACTUAL PHYSICAL REMOVAL, OR THE EFFECTIVE REMOVAL THROUGH DAMAGING, POISONING OR OTHER DIRECT OR

INDIRECT ACTIONS RESULTING IN, OR LIKELY TO RESULT IN, THE DEATH OF A TREE.  
I. "TREES" AND "SHRUBS" INCLUDES ALL WOODY VEGETATION.

**19.10.040 - ENVIRONMENTAL COMMISSION.**

IN ADDITION TO ANY OTHER DUTIES ASSIGNED BY THIS CODE, THE ENVIRONMENTAL COMMISSION SHALL PERFORM THE FOLLOWING FUNCTIONS:

- A. RECOMMEND THE APPOINTMENT OF A FORESTER;
- B. STUDY THE PROBLEMS AND DETERMINE THE NEEDS OF THE CITY IN CONNECTION WITH ITS TREE PLANTING, PROTECTION AND MAINTENANCE PROGRAMS;
- C. ASSIST IN THE DISSEMINATION OF NEWS AND INFORMATION REGARDING THE SELECTION, PLANTING AND MAINTENANCE OF TREES WITHIN THE AREAS SUBJECT TO THE JURISDICTION OF THE CITY, WHETHER THE AREAS ARE PRIVATE OR PUBLIC PROPERTY, AND MAKE RECOMMENDATIONS FOR LEGISLATION CONCERNING THE TREE PROGRAM AND ACTIVITIES;
- D. INVESTIGATE AND IMPLEMENT ALTERNATIVE FUNDING SOURCES FOR THE PLANTING AND MAINTENANCE OF TREES AND SHRUBS ON PUBLIC LANDS;
- E. CONDUCT MEETINGS AND FORUMS AT WHICH THE SUBJECT OF TREES IS DISCUSSED.

**19.10.050 - RESPONSIBILITIES OF THE DIRECTOR OF THE DEPARTMENT OF THE ENVIRONMENT.**

A. IMPLEMENTATION, ADMINISTRATION AND EXECUTION OF THE REQUIREMENTS OF THIS CHAPTER ARE THE RESPONSIBILITY OF THE DEPARTMENT OF THE ENVIRONMENT.

B. THE DIRECTOR OR HIS OR HER DESIGNEE SHALL HAVE THE FOLLOWING GENERAL POWERS AND DUTIES:

- 1. TO DIRECT, MANAGE, SUPERVISE AND CONTROL THE STREET TREE PROGRAM, INCLUDING ALL PLANTING, REMOVAL, MAINTENANCE, AND PROTECTION OF ALL TREES AND SHRUBS ON ALL PUBLIC AREAS;
- 2. TO GUARD ALL TREES AND SHRUBS TO PREVENT THE SPREAD OF DISEASE OR PESTS AND TO ELIMINATE DANGEROUS CONDITIONS WHICH MAY AFFECT THE LIFE, HEALTH OR SAFETY OF PERSONS OR PROPERTY;
- 3. TO PERFORM OTHER RELATED FUNCTIONS AS ARE ASSIGNED.

**19.10.060 - DAMAGE TO TREES AND SHRUBS.**

NO PERSON SHALL BREAK, INJURE, MUTILATE, KILL OR DESTROY ANY TREE OR SHRUB IN ANY PUBLIC AREA, OR PERMIT ANY ANIMAL UNDER THAT PERSON'S CONTROL TO DO SO; PERMIT ANY LEAK TO EXIST IN ANY GAS LINE WITHIN THE ROOT ZONE OF ANY TREE OR SHRUB; PERMIT ANY TOXIC CHEMICAL TO SEEP, DRAIN OR BE EMPTIED ON OR ABOUT ANY TREE OR SHRUB; OR PERMIT ELECTRIC OR COMMUNICATION WIRES TO COME IN CONTACT WITH ANY TREE OR SHRUB. DURING BUILDING OR CONSTRUCTION OPERATIONS, SUITABLE PROTECTIVE BARRIERS SHALL BE ERECTED AROUND TREES AND SHRUBS IN PUBLIC AREAS WHICH MAY BE SUBJECT TO INJURY OR DESTRUCTION.

**19.10.070 - FASTENING MATERIALS TO TREES AND SHRUBS.**

NO PERSON SHALL FASTEN ANY SIGN, ROPE, WIRE, OR OTHER MATERIALS TO, AROUND OR THROUGH ANY TREES OR SHRUBS IN ANY PUBLIC AREA WITHOUT OBTAINING PRIOR WRITTEN APPROVAL FROM THE DEPARTMENT, EXCEPT IN EMERGENCIES SUCH AS STORMS OR ACCIDENTS.

**19.10.080 - PLANT, REMOVE, MAINTAIN AND PROTECT PUBLIC TREES WITHOUT PERMIT.**

A. A PERSON NEITHER SHALL PLANT TREES OR SHRUBS IN ANY PUBLIC AREA, NOR UNDERTAKE ANY MAINTENANCE OR PROTECTION, OR OTHERWISE DISTURB ANY TREE OR SHRUB IN ANY PUBLIC AREA, WITHOUT OBTAINING PRIOR WRITTEN APPROVAL FROM THE DEPARTMENT, EXCEPT IN EMERGENCIES SUCH AS STORMS OR ACCIDENTS. ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF WORKMANSHIP AS SET FORTH IN THE WRITTEN APPROVAL SHALL BE ADHERED TO IN THE PERFORMANCE OF THE WORK.

B. SUBJECT TO THE PROVISIONS OF CHAPTER 16.12, APPROVAL OF THE DEPARTMENT IS NOT REQUIRED TO WATER TREES OR SHRUBS.

C. ANY PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

**19.10.090 - POWER TO PLANT, REMOVE, MAINTAIN AND PROTECT.**

THE DEPARTMENT MAY PLANT, REMOVE, MAINTAIN AND PROTECT TREES AND SHRUBS ON OR ADJACENT TO ALL PUBLIC AREAS AS MAY BE NECESSARY TO ENSURE SAFETY OR PRESERVE THE SYMMETRY AND BEAUTY OF THE GROUNDS. APPROPRIATE ADVANCE WRITTEN NOTIFICATION SHALL BE MADE TO ADJACENT PROPERTY OWNERS OF THE CITY'S INTENT TO PLANT OR REMOVE TREES OR SHRUBS.

**19.10.095 - TREE CONSERVATION AREA-TREE REMOVAL.**

A. "TREE CONSERVATION AREAS" ARE ESTABLISHED TO BE THE SAME AREAS AS THE LEGALLY DEFINED FRONT, SIDE OR REAR YARD SETBACKS OF ANY RESIDENTIAL OR COMMERCIAL PROPERTY AS DESCRIBED IN THE ZONING REGULATIONS OF THE CITY OF ANNAPOLIS, WHICH ARE ADJACENT TO A PUBLIC RIGHT-OF-WAY.

B. WITHIN A TREE CONSERVATION AREA, NO TREE GREATER THAN FIVE INCHES IN DIAMETER AS MEASURED AT FOUR AND ONE-HALF FEET ABOVE THE GROUND SHALL BE REMOVED EXCEPT AS PROVIDED FOR IN THIS SECTION. WITHIN A TREE CONSERVATION AREA, THE PROPERTY OWNER MAY REMOVE TREES THAT ARE LESS THAN FIVE INCHES IN DIAMETER AS MEASURED AT FOUR AND ONE-HALF FEET ABOVE THE GROUND.

C. A PERMIT ISSUED BY THE DIRECTOR OR HIS OR HER DESIGNEE IS REQUIRED FOR THE REMOVAL OF ANY TREE GREATER THAN FIVE INCHES IN DIAMETER, AS MEASURED AT FOUR AND ONE-HALF FEET ABOVE THE GROUND, LOCATED WITHIN THE TREE CONSERVATION AREA. THE TREE REMOVAL PERMIT APPLICATION FEE AND PERMIT FEE SHALL BE SET BY RESOLUTION OF THE CITY COUNCIL. CONDITIONS UNDER WHICH SUCH A PERMIT MAY BE ISSUED INCLUDE BUT SHALL NOT BE LIMITED TO THE FOLLOWING:

1. THE TREE IS DEAD, DYING OR DISEASED, SUCH THAT FIFTY PERCENT OR MORE OF THE CROWN AREA IS VISIBLY DEAD;
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 DEPARTMENT 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 DEPARTMENT SOLELY AT ITS 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, IN ITS SOLE DISCRETION), THEN THE ISSUANCE OF THE PERMIT SHALL BE CONDITIONED UPON THE APPROVAL BY THE DIRECTOR OF A PLANTING PLAN, DEVELOPED BY THE OWNER, TO PLANT REPLACEMENT TREES IN ANOTHER LOCATION APPROVED BY THE DEPARTMENT.

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 OF SUCH REPLACEMENT TREES SHALL BE REVIEWED AND APPROVED BY THE DIRECTOR OR HIS OR HER DESIGNEE IN ACCORDANCE WITH THE STANDARDS SET FORTH HEREIN.

H. VIOLATION OF THIS SECTION SHALL BE A MUNICIPAL INFRACTION PUNISHABLE BY A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL FOR EACH TREE GREATER THAN FIVE INCHES IN DIAMETER AT 4.5 FEET ABOVE THE GROUND REMOVED FROM THE TREE CONSERVATION AREA WITHOUT A PERMIT. IN ADDITION, THE DIRECTOR OR HIS OR HER DESIGNEE MAY REVOKE ANY PERMIT ISSUED UNDER THIS SECTION AND/OR ISSUE AN ORDER STOPPING FURTHER TREE REMOVAL WHENEVER THE DIRECTOR OR DESIGNEE

DETERMINES THAT SUCH ACTION IS NECESSARY TO ACCOMPLISH THE PURPOSE OF THIS SECTION. ENFORCEMENT OF THIS SECTION SHALL BE THE RESPONSIBILITY OF THE DEPARTMENT. ALL FINES MUST BE PAID IN FULL BEFORE ANY WORK CAN CONTINUE.

I. WHERE THIS SECTION AND ANY OTHER FEDERAL, STATE OR LOCAL LAW REGARDING TREE REMOVAL AND/OR REPLACEMENT APPLY TO A GIVEN CIRCUMSTANCE, THE MORE RESTRICTIVE LAW SHALL CONTROL.

**19.10.100 - MASTER STREET TREE PLAN.**

A. THE DEPARTMENT SHALL FORMULATE A MASTER STREET TREE PLAN WITH THE ADVICE OF THE ENVIRONMENTAL COMMISSION. THE MASTER STREET TREE PLAN SHALL SPECIFY THE SPECIES OF TREES TO BE PLANTED ON EACH OF THE STREETS OR OTHER PUBLIC SITES OF THE CITY. AFTER APPROVAL BY THE HISTORIC DISTRICT COMMISSION OF THE PORTIONS OF THE PLAN AFFECTING THE HISTORIC DISTRICT, AND FOLLOWING THE ADOPTION OF THE PLAN BY THE CITY COUNCIL, ALL PLANTING SHALL CONFORM TO THE PLAN.

B. IN PREPARING THE MASTER STREET TREE PLAN, THE DEPARTMENT SHALL EVALUATE ALL SPACE AND SITE FACTORS WHICH WILL AID IN THE DETERMINATION OF THE TREE SPECIES BEST SUITED TO A PARTICULAR PLANTING SITE BEFORE RECOMMENDING A SPECIFIC SPECIES.

C. THE DEPARTMENT SHALL RECOMMEND REVISIONS OF THE MASTER STREET TREE PLAN WHEN ADVISABLE.

**19.10.110 - RULES AND REGULATIONS.**

THE DEPARTMENT SHALL RECOMMEND RULES AND REGULATIONS FOR THE ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE GOVERNING THE PLANTING, MAINTENANCE, REMOVAL, FERTILIZATION, PRUNING AND BRACING OF TREES IN ALL PUBLIC AREAS. ALL ARBORICULTURAL PRACTICES SHALL FOLLOW THE NATIONAL ARBORIST ASSOCIATION STANDARDS AND SHALL TAKE EFFECT UPON ADOPTION BY THE CITY COUNCIL.

**19.10.120 - SPECIES AND VARIETIES.**

A. THE DEPARTMENT SHALL PREPARE LISTS OF TREES ACCEPTABLE FOR PLANTING IN THE PUBLIC AREAS. UNDESIRABLE TREES SHALL NOT BE RECOMMENDED FOR GENERAL PLANTING, AND THEIR USE, IF ANY, SHALL BE RESTRICTED TO SPECIAL LOCATIONS WHERE, BECAUSE OF CERTAIN CHARACTERISTICS OF ADAPTABILITY OR LANDSCAPE EFFECT, THEY CAN BE USED TO ADVANTAGE.

B. ONLY DESIRABLE TREES OF GOOD APPEARANCE, BEAUTY, ADAPTABILITY, AND GENERALLY FREE FROM INJURIOUS INSECTS OR DISEASE SHALL BE PLANTED IN PUBLIC AREAS.

C. WHERE STREET BLOCKS HAVE BEEN ASSIGNED A PARTICULAR SPECIES OR VARIETY ON THE MASTER STREET TREE PLAN, ONLY THAT SPECIES OR VARIETY SHALL BE PLANTED, SUBJECT TO REVISIONS BY THE DEPARTMENT.

**19.10.130 - SIZE.**

A. UNLESS OTHERWISE SPECIFIED BY THE DEPARTMENT, ALL DECIDUOUS TREE SPECIES AND THEIR CULTIVARS AND VARIETIES SHALL CONFORM TO AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS AND BE AT LEAST ONE AND THREE-FOURTHS INCHES IN DIAMETER SIX INCHES ABOVE GROUND LEVEL, AND AT LEAST EIGHT TO TEN FEET IN HEIGHT WHEN PLANTED. THE CROWN SHALL BE IN GOOD BALANCE WITH THE TRUNK.

B. UNLESS OTHERWISE ALLOWED FOR SPECIFIC REASONS, ALL TREES SHALL HAVE COMPARATIVELY STRAIGHT TRUNKS, WELL-DEVELOPED LEADERS AND TOPS, AND ROOTS CHARACTERISTIC OF THE SPECIES, CULTIVAR OR VARIETY SHOWING EVIDENCE OF PROPER NURSERY PRUNING. ALL TREES MUST BE FREE OF INSECTS, DISEASES, MECHANICAL INJURIES, AND OTHER OBJECTIONABLE FEATURES AT THE TIME OF PLANTING.

**19.10.140 - LOCATION**

- A. WHERE A TREE IS REQUESTED BY AN OWNER OF PRIVATE PROPERTY ADJACENT TO PUBLIC PROPERTY, AND THE LOCATION IS DETERMINED TO BE DESIRABLE, AND NO APPROPRIATE PUBLIC PROPERTY IS AVAILABLE, AN EASEMENT OR OTHER LEGAL AGREEMENT MAY BE SOUGHT TO PLANT ON THE PRIVATE PROPERTY THAT IS IN PROXIMITY TO PUBLIC PROPERTY. THE LEGAL AGREEMENT MAY CONTAIN PROVISIONS GRANTING THE CITY PERMISSION TO SELECT AND PLANT TREES UNDER THE DIRECTION OF THE DEPARTMENT. THE LEGAL AGREEMENT SHALL CONTAIN PROVISIONS DEFINING THE CITY'S ABSENCE OF LIABILITY IN THE EVENT OF PERSONAL INJURY OR DAMAGE CAUSED DURING, OR AS A RESULT OF, PLANTING ON PRIVATE PROPERTY. APPROPRIATE ADVANCE WRITTEN NOTIFICATION SHALL BE MADE TO THE ADJACENT PROPERTY OWNERS OF THE CITY'S INTENT TO PLANT TREES.
- B. TREES SHALL BE PLANTED AT LEAST THIRTY FEET FROM THE STREET INTERSECTIONS AND AT LEAST FIFTEEN FEET FROM DRIVEWAYS AND ALLEYS.
- C. NO TREE SHALL BE PLANTED CLOSER THAN TEN FEET TO A UTILITY POLE OR FIRE HYDRANT.
- D. SPACING OF TREES SHALL BE DETERMINED BY THE DEPARTMENT ACCORDING TO LOCAL CONDITIONS, THE SPECIES, CULTIVARS OR VARIETIES USED, THEIR MATURE HEIGHT, SPREAD AND FORM. GENERALLY, ALL TREES SHALL BE PLANTED TWENTY-FIVE TO FIFTY FEET ON CENTER. THE EXACT PLANTING LOCATION OF EACH TREE AND SHRUB SHALL BE DETERMINED BY THE DEPARTMENT.
- E. ALL PLANTING ON UNPAVED STREETS WITHOUT CURBS SHALL HAVE THE APPROVAL OF THE DEPARTMENT. THE TREES SHALL BE LOCATED SO THAT THEY WILL NOT BE INJURED OR DESTROYED WHEN THE STREET IS CURBED AND PAVED.

**19.10.150 - PRUNING AND REMOVAL OF TREES.**

- A. NO TOPPING OR DEHORNING OF TREES SHALL BE PERMITTED, EXCEPT UPON PRIOR WRITTEN APPROVAL OF THE DEPARTMENT.
- B. ALL LARGE, ESTABLISHED TREES SHALL BE PRUNED TO SUFFICIENT HEIGHT TO ALLOW FREE PASSAGE FOR PEDESTRIAN AND VEHICULAR TRAFFIC, WHICH SHALL BE TEN FEET OVER A SIDEWALK AND TWELVE FEET OVER A STREET, EXCEPT A STREET SUBJECT TO TRUCK TRAFFIC WHICH, AT THE DISCRETION OF THE DEPARTMENT MAY HAVE CLEARANCE OF FIFTEEN FEET. THE DEPARTMENT MAY WAIVE THE PROVISIONS OF THIS SECTION FOR A NEWLY PLANTED TREE UPON A DETERMINATION THAT THE TREE DOES NOT INTERFERE WITH PUBLIC TRAVEL, OBSTRUCT THE LIGHT OF ANY STREET LIGHT, OR ENDANGER PUBLIC SAFETY.
- C. ALL DEAD WOOD, STUBS, BROKEN BRANCHES, BADLY FORMED BRANCHES, DISEASE-INFECTED AND INSECT-INFESTED BRANCHES, AND BRANCHES INTERFERING WITH PUBLIC TRAVEL, LIGHTING, EXISTING BUILDINGS AND TRAFFIC SIGNS SHALL BE REMOVED DURING THE TRIMMING OPERATION, WITH CONSIDERATION GIVEN TO THE SYMMETRY AND BEAUTY OF THE TREE OR SHRUB.
- D. ALL TREES AND SHRUBS IN PUBLIC AREAS WHICH ARE MARKED FOR REMOVAL SHALL

BE REMOVED COMPLETELY FROM THE GROWING SITE AND DISPOSED OF IN AN AUTHORIZED MANNER. THE STUMP SHALL BE REMOVED TO A DEPTH SUITABLE FOR FUTURE PLANTING OF TREES OR TURF.

E. ANY PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

**19.10.160 - RIGHT OF ENTRY.**

THE DEPARTMENT, AFTER GIVING REASONABLE ADVANCE NOTICE TO THE OWNER OR TENANT HAVING CHARGE, MAY ENTER UPON PRIVATE PREMISES AT REASONABLE TIMES FOR THE PURPOSE OF EXAMINING OR INSPECTING ANY SUSPECTED NUISANCE TREE OR SHRUB. ALL NUISANCE TREES AND SHRUBS TO BE REMOVED OR TO BE WORKED UPON MAY BE MARKED APPROPRIATELY BY THE DEPARTMENT.

**19.10.170 - COST OF PLANTING, REMOVING, MAINTAINING AND PROTECTING.**

A. THE COST OF PLANTING TREES ON PUBLIC RIGHTS-OF-WAY SHALL BE FINANCED JOINTLY BY THE ADJACENT PROPERTY OWNER AND THE CITY. WHEN A STREET TREE IS REQUESTED BY AN ADJACENT PROPERTY OWNER, THAT ADJACENT PROPERTY OWNER SHALL PAY TO THE CITY THE SUM OF THIRTY DOLLARS PER TREE. THE CITY SHALL ASSUME THE REMAINING COSTS FOR THE PURCHASE AND PLANTING OF THE TREE.

B. A SPECIAL ANNUAL ASSESSMENT ON PROPERTY OWNERS NOT TO EXCEED FIVE CENTS PER LINEAR FOOT OF STREET FRONTAGE MAY BE IMPOSED BY THE CITY COUNCIL. THE FUNDS GENERATED BY THE IMPOSITION OF THE ASSESSMENT SHALL BE USED ONLY FOR THE PLANTING, MAINTENANCE AND REMOVAL OF TREES AND SHRUBS IN PUBLIC AREAS.

**19.10.180 - INTERFERENCE WITH DEPARTMENT.**

NO PERSON SHALL PREVENT, DELAY, OR INTERFERE WITH THE DEPARTMENT IN THE EXECUTION OR ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER.

**19.10.190 - NUISANCE-DESIGNATED.**

ANY TREE OR SHRUB OR PART OF A TREE OR SHRUB GROWING UPON PRIVATE OR PUBLIC PROPERTY WHICH IS INTERFERING WITH THE USE OF ANY PUBLIC AREA, INFESTED WITH AN INFECTIOUS PLANT DISEASE, INFESTED WITH INJURIOUS INSECTS, INJURIOUS TO PUBLIC IMPROVEMENTS, OR ENDANGERING THE LIFE, HEALTH OR SAFETY OF PERSONS OR PROPERTY IS A PUBLIC NUISANCE.

**19.10.200 - NUISANCE-ABATEMENT.**

A. IF THE DEPARTMENT DETERMINES, UPON INSPECTION OR EXAMINATION, THAT ANY NUISANCE TREE OR SHRUB EXISTS IN OR UPON ANY PUBLIC AREA, THE DEPARTMENT IMMEDIATELY SHALL CAUSE THE TREE OR SHRUB TO BE TREATED, TRIMMED, REMOVED OR OTHERWISE ABATED TO ELIMINATE OR PREVENT THE SPREAD OF THE NUISANCE. THE MANNER IN WHICH THE NUISANCE IS ABATED SHALL BE DETERMINED BY THE DEPARTMENT.

B. IF THE DEPARTMENT DETERMINES, UPON INSPECTION OR EXAMINATION, THAT ANY NUISANCE TREE OR SHRUB EXISTS IN OR UPON ANY PRIVATE PROPERTY, THE OWNER OR TENANT HAVING CHARGE OF THE PREMISES SHALL BE GIVEN WRITTEN NOTICE DESCRIBING THE NUISANCE TREE OR SHRUB AND THE NECESSARY CORRECTIVE ACTION. WITHIN THIRTY DAYS AFTER THE ISSUANCE OF THE NOTICE, THE PERSON SHALL UNDERTAKE THE CORRECTIVE ACTION SPECIFIED IN THE NOTICE UNLESS, IN THE OPINION OF THE DEPARTMENT, AN EMERGENCY EXISTS, IN WHICH CASE THE

DEPARTMENT IMMEDIATELY SHALL CAUSE THE TREE OR SHRUB TO BE TREATED, TRIMMED, REMOVED OR OTHERWISE ABATED TO PREVENT THE SPREAD OF THE NUISANCE. IF THE OWNER OR TENANT REFUSES OR NEGLECTS TO COMPLY WITH THE TERMS OF THE WRITTEN NOTICE WITHIN THIRTY DAYS AFTER RECEIVING IT, THE DEPARTMENT SHALL ABATE THE NUISANCE AND THE EXPENSE OF ABATEMENT SHALL BE A CHARGE AND LIEN UPON THE REAL PROPERTY ON WHICH THE TREE OR SHRUB IS LOCATED, TO BE COLLECTED IN THE SAME MANNER, AND BEAR THE SAME INTEREST AND PRIORITY AS REAL PROPERTY TAXES.

**19.10.210 - APPEALS.**

A PERSON AGGRIEVED BY AN ORDER FROM THE DEPARTMENT MAY APPEAL TO THE BUILDING BOARD OF APPEALS WITHIN FIFTEEN CALENDAR DAYS OF RECEIPT OF THE ORDER, PER SECTION 17.12.130. THE PETITION FOR APPEAL SHALL BE IN WRITING AND SHALL STATE THE GROUNDS FOR APPEAL. THE SCHEDULING OF THE HEARING AND THE RENDERING OF THE DECISION SHALL BE EXPEDITED IF WARRANTED BY THE CIRCUMSTANCES. THE BOARD MAY AFFIRM, RESCIND OR MODIFY THE ORDER, IN ITS DISCRETION, TO CONFORM THE ORDER TO THE INTENT OF THIS CHAPTER.

**CHAPTER 19.20 - TREES IN DEVELOPMENT AREAS**

**19.20.010 - FINDINGS.**

A. TREES IN THE LANDSCAPE PROVIDE A PRODUCTIVE LAND USE WITH SIGNIFICANT WATER QUALITY AND WILDLIFE HABITAT BENEFITS. TREES ALSO DIMINISH AIR POLLUTION, REDUCE NOISE, MODERATE TEMPERATURE EXTREMES, AND INCREASE PROPERTY VALUES, BUT CAN BE AFFECTED ADVERSELY BY INDISCRIMINATE DEVELOPMENT.

B. INADEQUATE ATTENTION DURING DEVELOPMENT TO THE ECOLOGIC FUNCTION OF TREES CAN RESULT IN MEASURABLE ENVIRONMENTAL AND ECONOMIC DAMAGE TO PROPERTY.

C. THE CITY OF ANNAPOLIS IS COMMITTED TO THE COORDINATION OF CONTROLLED DEVELOPMENT WITH CERTAIN ENVIRONMENTAL OBJECTIVES, IN COMPLIANCE WITH THE CHESAPEAKE BAY CRITICAL AREAS PROGRAM AS REQUIRED BY ANNOTATED CODE OF MARYLAND, NATURAL RESOURCES ARTICLE, TITLE 8, SUBTITLE 18, (OR ITS SUCCESSORS), AND AS STATED THROUGHOUT THE CITY CHARTER AND CITY CODE. THE PRESENCE OF TREES IN THE LANDSCAPE HELPS TO ACHIEVE THESE GOALS.

**19.20.020 - PURPOSE.**

THE PURPOSE OF THIS CHAPTER IS TO PROTECT AND PROMOTE THE PUBLIC HEALTH, SAFETY, PROPERTY AND GENERAL WELFARE BY ESTABLISHING STANDARDS OF PRACTICE FOR THE PRESERVATION OF TREES AND THE ENVIRONMENTAL DESIGN OF LANDSCAPES IN DEVELOPMENT AREAS IN ORDER TO BETTER CONTROL SOIL EROSION AND THE TRANSPORT OF SEDIMENT, IMPROVE THE ENVIRONMENTAL QUALITY OF SURFACE AND GROUNDWATERS, SCREEN NOISE, AND PRESERVE, PROTECT AND ENHANCE WILDLIFE HABITAT. THIS CHAPTER ESTABLISHES GUIDELINES THAT WILL PERMIT DEVELOPMENT WHILE MINIMIZING IMPACT TO EXISTING WOODLAND COMMUNITIES AND ENCOURAGES REFORESTATION WITH SPECIES NATIVE TO THE AREA.

**19.20.025 - APPLICABILITY.**

A. THE REQUIREMENTS OF THIS CHAPTER SHALL APPLY FOR ANY APPLICATION FOR A BUILDING AND GRADING PERMIT, OR ANY APPLICATION FOR A DEVELOPMENT PROJECT REQUIRING SITE DESIGN PLAN REVIEW IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 21.22.

B. CHAPTER 19.30 OF THE CITY CODE SHALL APPLY TO ANY PUBLIC OR PRIVATE SUBDIVISION PLAN, OR APPLICATION FOR A GRADING PERMIT, OR ANY APPLICATION FOR A DEVELOPMENT PROJECT REQUIRING SITE DESIGN REVIEW, OR ANY APPLICATION FOR A SPECIAL EXCEPTION ON AREAS FORTY THOUSAND SQUARE FEET OR GREATER, EXCEPT AS PROVIDED IN ANNOTATED CODE OF MARYLAND, NATURAL RESOURCES ARTICLE, SECTION 5-1602(B) (OR ITS SUCCESSORS). WHERE ANY PROVISION OF THE FOREST CONSERVATION ACT AND A PROVISION OF THE CITY CODE BOTH APPLY, THE MORE RESTRICTIVE REQUIREMENTS MAY BE EMPLOYED.

**19.20.030 - LANDSCAPE PLAN.**

A. LANDSCAPE PLAN. ANY APPLICATION FOR A BUILDING OR GRADING PERMIT SUBMITTED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS TITLE, OR ANY APPLICATION FOR A DEVELOPMENT PROJECT REQUIRING SITE DESIGN PLAN REVIEW IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 21.22 INCLUDE A LANDSCAPE PLAN AT A SCALE OF ONE INCH TO FORTY FEET. THE LANDSCAPE PLAN SHALL BE CONSIDERED A PART OF THE PERMIT OR SITE PLAN DESIGN REVIEW APPLICATION AND SHALL BE SUBJECT TO THE REVIEW REQUIREMENTS AND ADMINISTRATIVE PROCEDURES OF THIS TITLE OR CHAPTER 21.22, WHICHEVER SHALL APPLY.

B. SUBMITTAL REQUIREMENTS. A LANDSCAPE PLAN SUBMITTED IN ACCORDANCE WITH THIS CHAPTER SHALL INCLUDE:

1. LIMITS OF DISTURBANCE (LOD). WITHIN THE LIMITS OF DISTURBANCE AND WITHIN FIFTEEN FEET OF THE LOD, THE LOCATION, DIAMETER AT BREAST HEIGHT (DBH), AND SPECIES OF ALL EXISTING TREES EQUAL TO OR GREATER THAN FIVE INCHES DBH. IF THE SIZE OF THE PARCEL AND THE NUMBER OF AFFECTED TREES RENDERS THE INDIVIDUAL IDENTIFICATION OF ALL TREES UNREASONABLE, AS MUTUALLY DETERMINED BY THE APPLICANT AND THE DEPARTMENT, ACCEPTED METHODS OF FOREST CRUISING MAY BE SUBSTITUTED, ALTHOUGH ALL INDIVIDUAL TREES IN EXCESS OF TWELVE INCHES DBH MUST BE INDIVIDUALLY IDENTIFIED;
2. LIMITS OF PROJECT DEVELOPMENT. DEPICT BUILDING FOOTPRINTS, ACCESS DRIVES, PARKING AREAS, PUBLIC STREETS, EXISTING AND PROPOSED UTILITIES AND STORMWATER MANAGEMENT STRUCTURES, PROPOSED FINISHED GRADES, AND SEDIMENT AND EROSION CONTROL STRUCTURES;
3. ALL TREES, REGARDLESS OF SIZE, OR TREE AREAS WITHIN THE LEGAL BOUNDARIES OF THE PROPERTY WHICH ARE TO BE PRESERVED FOR INCORPORATION INTO THE PROPOSED SITE DESIGN, NOTING ALL TREE DRIPLINES;
4. TREE PRESERVATION DETAILS, IN ACCORDANCE WITH SECTIONS 19.20.040 AND 19.20.050 OF THIS CHAPTER;
5. LOCATIONS OF TREES TO BE REPLACED UNDER SECTION 19.20.070 OF THIS CHAPTER, AND AREAS PROPOSED FOR ADDITIONAL LANDSCAPING. THE PLAN SHALL SHOW:
  - A. THE TREE NAME, BOTH BOTANICAL AND COMMON,
  - B. QUANTITY OF EACH SPECIES USED IN THE PLAN,
  - C. CALIPER MEASURED SIX INCHES ABOVE GROUND,
  - D. TYPE OF ROOTSTOCK, AND
  - E. TYPICAL PLANTING DETAIL;
6. PROPOSED AND REQUIRED BUFFER AREAS;

7. SUBSTANTIVE AGREEMENT WITH THE SITE DESIGN PLAN REVIEW AS REQUIRED BY CHAPTER 21.22 OF THIS CODE;
  8. CONFORMANCE WITH ALL APPLICABLE SECTIONS OF THIS CHAPTER;
  9. OTHER RELEVANT INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT.
- C. GUIDELINES FOR SELECTING TREES FOR PRESERVATION. IN DETERMINING WHICH TREES SHALL BE PRESERVED IN THE DEVELOPMENT PROCESS, CONSIDERATION SHALL BE GIVEN TO PRESERVING THOSE WHICH:
1. COMPLEMENT THE PROJECT DESIGN, INCLUDING THE ENHANCEMENT OF BUILDING ARCHITECTURE AND STREETScape APPEARANCE;
  2. EXHIBIT STRONG BRANCHING AND ROOTING CAPABILITIES AND ARE DISEASE AND INSECT RESISTANT;
  3. ARE TOLERANT OF ENVIRONMENTAL CHANGE, E.G., INCREASED SUNLIGHT, HEAT, WIND, ALTERATION OF WATER REGIME;
  4. PROVIDE A GOOD SOURCE OF FOOD, COVER OR NESTING SITES FOR WILDLIFE, OR ACT AS A WILDLIFE CORRIDOR;
  5. EXIST IN NATURAL GROUPINGS, INCLUDING ISLANDS OF TREES AND WILDLIFE CORRIDORS;
  6. COMPLEMENT STORMWATER MANAGEMENT DESIGNS;
  7. AUGMENT OR DO NOT CONFLICT WITH SEDIMENTATION AND EROSION CONTROL DESIGNS;
  8. DO NOT CONFLICT WITH EXISTING UTILITIES OR PROPOSED UTILITY INSTALLATION;
  9. DO NOT HAVE PROPOSED STRUCTURES, SIDEWALKS, ROADS, PARKING LOTS ETC. WITHIN DRIPLINES;
  10. ARE SPECIMENS FOR THE PARTICULAR SPECIES OR HAVE RECOGNIZED SIGNIFICANCE;
  11. ARE WITHIN PROPOSED BUFFER AREAS;
  12. ARE RECOMMENDED FOR PRESERVATION BY MARYLAND FOREST, PARKS AND WILDLIFE SERVICE (OR ITS SUCCESSOR AGENCIES); OR
  13. ARE RECOMMENDED FOR PRESERVATION BY THE DEPARTMENT FOR SOME OTHER REASON DEMONSTRATED TO BE IN FURTHERANCE OF THE PURPOSES OF THIS CHAPTER AS SET FORTH IN SECTION 19.20.020.
- D. CONFLICTING CRITERIA. IN THE EVENT THAT TWO OR MORE CONFLICTING GUIDELINES ARE PRESENT IN THE EVALUATION OF THE PRESERVATION OF TREES ON A SITE, CONSIDERATION SHALL BE GIVEN TO THOSE CRITERIA MOST RELEVANT TO THE PLANNED USE OF THE PROPOSED DEVELOPMENT.
- E. APPLICABILITY. NO CUTTING, CLEARING, DIGGING OR GRADING MAY BE UNDERTAKEN WITHIN A DEVELOPMENT AREA UNTIL A LANDSCAPING PLAN HAS BEEN APPROVED. NEITHER MAY ANY LANDSCAPING BE UNDERTAKEN UNTIL APPROVAL OF THE PERMIT APPLICATION AND SUBSEQUENT ISSUANCE OF THE PERMIT.
- F. REPLACEMENT VALUE OF REMOVED/DAMAGED TREES. ANY TREES WHICH HAVE BEEN DESIGNATED FOR PRESERVATION ON THE LANDSCAPING PLAN, OR ARE OUTSIDE THE LIMITS OF DEVELOPMENT, AND SUBSEQUENTLY HAVE BEEN REMOVED OR DAMAGED WITHIN THE BOUNDARIES OF THE PROPERTY UNDER DEVELOPMENT, OR ANY ADJACENT PROPERTIES, SHALL BE REPLACED CONSISTENT WITH THE MITIGATION REQUIREMENTS IN SECTION 19.20.070(C).
- G. EXCEPTIONS.
1. A LANDSCAPE PLAN SHALL NOT BE REQUIRED UNDER THE TERMS OF THIS CHAPTER WHERE THE APPLICANT CAN DEMONSTRATE CLEARLY THAT THERE ARE NO EXISTING TREES OR TREE AREAS WITHIN THE PROPOSED LIMITS OF DEVELOPMENT.
  2. A LANDSCAPING PLAN SHALL NOT BE REQUIRED FOR THE REGULAR MAINTENANCE

OF EXISTING PUBLIC UTILITIES OR THE APPROVED INSTALLATION OF PUBLIC UTILITIES, NOR SHALL A REPLACEMENT VALUE BE REQUIRED OR ASSESSED.

3. THE PROVISIONS OF THIS CHAPTER DO NOT APPLY TO PROJECTS WHICH WERE GRANTED SPECIAL EXCEPTION APPROVAL, OR BUILDING OR GRADING PERMIT APPROVAL PRIOR TO NOVEMBER 15, 1988, PROVIDED THAT THEY ARE IN CONFORMANCE WITH ALL OTHER APPROVED PLANS AND CONDITIONS.

**19.20.040 - PROTECTION OF TREES BEFORE CONSTRUCTION.**

A. TREES OR TREE AREAS THAT ARE TO BE PRESERVED SHALL BE MARKED VISIBLY IN THE FIELD PRIOR TO CLEARING OR CONSTRUCTION.

B. PROTECTION DEVICES SHALL BE INSTALLED PRIOR TO CLEARING OR CONSTRUCTION, AS SPECIFIED BY THE DEPARTMENT, AND SHALL BE SHOWN ON THE APPROVED PLAN. DEVICES MAY INCLUDE, BUT NOT BE LIMITED TO SNOW FENCING, BOARD FENCING, SILT FENCING, POSTS, STRING AND FLAGGING, WATER BASED PAINT. PROTECTIVE DEVICES SHALL BE EVIDENT AND EFFECTIVE. CONSTRUCTION PERSONNEL SHALL BE NOTIFIED OF THE PURPOSE AND PRESENCE OF THE PROTECTION DEVICES.

C. ALL CLEARING LIMITS AND PROTECTIVE DEVICES ARE TO BE INSPECTED AND APPROVED BY THE DEPARTMENT PRIOR TO COMMENCING CLEARING AND CONSTRUCTION. THE DEVELOPER SHALL ARRANGE AN ON-SITE INSPECTION PRIOR TO COMMENCING GRADING OR CLEARING.

**19.20.050 - PROTECTION OF TREES DURING CONSTRUCTION.**

A. GRADING OR FILLING SHALL NOT TAKE PLACE INSIDE THE DRIPLINE OF TREES TO BE PRESERVED, UNLESS APPROVED BY THE DEPARTMENT.

B. IF GRADING OR FILLING IS PROPOSED INSIDE THE DRIPLINE OF TREES TO BE PRESERVED, ROOT AERATION PRACTICES AND/OR TREE WELLS OR WALLS SHALL BE USED, THE DESIGN OF WHICH SHALL BE APPROVED BY THE DEPARTMENT.

C. TRENCHING AND/OR TUNNELING SHOULD TAKE PLACE OUTSIDE OF THE DRIPLINE OF TREES TO BE RETAINED.

D. TRENCHING AND/OR TUNNELING PROPOSED INSIDE THE DRIPLINE OF TREES TO BE PRESERVED SHALL BE ACCOMPLISHED ACCORDING TO PROCEDURES WHICH MINIMIZE ROOT DAMAGE, AND MUST BE APPROVED BY THE DEPARTMENT.

E. TEMPORARY STORAGE OF ANY CONSTRUCTION MATERIALS, INCLUDING FILL, GRAVEL, FELLED TREES, CONSTRUCTION SUPPLIES OR EQUIPMENT, WITHIN THE DRIPLINES OF PROTECTED TREES SHALL BE PROHIBITED.

F. THE ROUTING OF HEAVY EQUIPMENT, INCLUDING CARS, TRUCKS AND BULLDOZERS, AND CONSTRUCTION TRAILERS WITHIN THE DRIPLINES OF PROTECTED TREES SHALL BE PROHIBITED WITHOUT THE CONSENT OF THE DEPARTMENT.

G. ALL SEDIMENT AND EROSION CONTROL SILT FENCING OR STRAW BALES SHALL BE PLACED AT THE LIMITS OF GRADING OR IN THOSE LOCATIONS WHERE DEPOSITION OF SEDIMENT IS MINIMIZED WITHIN THE DRIPLINES OF TREES TO BE PRESERVED.

H. WHERE A CUT IS APPROVED WITHIN THE DRIPLINE OF TREES TO BE PRESERVED, EXPOSED AND/OR DAMAGED ROOTS ARE TO BE TRIMMED CLEANLY AND COVERED TEMPORARILY WITH MOIST PEAT MOSS, BURLAP OR OTHER SUITABLE MATERIAL TO KEEP THEM FROM DRYING OUT.

I. WHERE A FILL IS APPROVED WITHIN THE DRIPLINE OF TREES TO BE PRESERVED, ALL ORGANIC MATTER IS TO BE REMOVED AND FERTILIZER IS TO BE SPREAD ACCORDING TO THE DEPARTMENT SPECIFICATIONS PRIOR TO RAISING THE GRADE.

J. NO PROTECTIVE DEVICES, SIGNS, UTILITY POLES OR OTHER OBJECTS SHALL BE

NAILED TO ANY TREES WHICH ARE TO BE PRESERVED.

- K. ANY OTHER ACTION WITHIN THE DRIPLINE OF PROTECTED TREES WHICH MAY RESULT IN THE SEVERING OF ROOTS, COMPACTION OF SOIL OR THE PLACING OF ANY SUBSTANCE WITHIN THE DRIPLINE WHICH IMPEDES THE FREE ACCESS OF AIR AND WATER TO TREE ROOTS IS PROHIBITED WITHOUT THE CONSENT OF THE DEPARTMENT.
- L. THE DEPARTMENT MAY REQUIRE OTHER TREE PROTECTION PRACTICES AS ON-SITE CIRCUMSTANCES MAY DICTATE.
- M. IF IT BECOMES NECESSARY SUBSEQUENT TO CLEARING TO REMOVE ADDITIONAL TREES WHICH WERE SHOWN ON THE PLAN TO BE PRESERVED, THE DEPARTMENT SHALL BE NOTIFIED AND MUST GRANT APPROVAL PRIOR TO PERFORMING ANY ADDITIONAL CLEARING.

**19.20.060 - PROTECTION OF TREES AFTER CONSTRUCTION.**

- A. AFTER CONSTRUCTION IS COMPLETED, TEMPORARY BARRIERS, SURPLUS MATERIALS AND ALL DEBRIS SHALL BE REMOVED FROM PROTECTED TREE AREAS.
- B. ANY DAMAGE TO THE CROWN, TRUNK OR ROOT SYSTEM OF TREES REMAINING ON SITE SHALL BE REPAIRED IMMEDIATELY.
- C. TREES WOUNDED DURING CONSTRUCTION SHALL HAVE THEIR WOUNDS CLEANED, TORN BARK CUT, AND THE WOUNDS PROPERLY SHAPED FOR HEALING.
- D. ANY DEAD OR DAMAGED BRANCHES ARE TO BE REMOVED IN A PROPER MANNER, AS WELL AS ANY NOXIOUS VINES. SELECTIVE PRUNING MAY BE NECESSARY IF CUTTING, FILLING, TRENCHING OR TUNNELING WAS UNDERTAKEN WITHIN A TREE'S DRIPLINE, THEREBY REDUCING THE HEALTHY ROOT AREA.
- E. FERTILIZATION MAY BE REQUIRED WHERE TOPSOIL OR SURFACE LITTER WITHIN A TREE'S DRIPLINE HAS BEEN REMOVED, OR A TREE'S ROOT AREA HAS BEEN REDUCED. ANY FERTILIZATION SHALL BE ACCOMPLISHED ACCORDING TO SPECIFICATIONS PROVIDED BY THE DEPARTMENT.
- F. THE DEVELOPER SHALL ARRANGE AN ON-SITE INSPECTION BY THE DEPARTMENT. APPROVAL OF POST-CONSTRUCTION TREE PROTECTION PRACTICES SHALL BE REQUIRED PRIOR TO THE ISSUANCE OF ANY USE OR OCCUPANCY PERMITS.

**19.20.070 - REPLACEMENT VALUE-MITIGATION-FEE IN LIEU-EXCEPTIONS.**

- A. REPLACEMENT TREES. IT IS THE INTENT OF THIS SECTION TO ENSURE THAT LANDSCAPING PROPOSED IN ASSOCIATION WITH DEVELOPMENT WILL REFLECT THE DENSITY AND SPECIES OF THOSE TREES NECESSARILY REMOVED FOR DEVELOPMENT. THEREFORE, TREES REMOVED FOR DEVELOPMENT SHALL BE REPLACED ACCORDING TO THE FOLLOWING REQUIREMENTS:
  - 1. THE NUMBER OF TREES TO BE REPLACED ARE CONTAINED IN THE FOLLOWING TABLE:

**TABLE 19.20.070  
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
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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 FOUR SECTION	19.20.07	19.20.070 (G)(1-2)	19.20.070 (H) (1-5)	19.20.070 (I)(1-2)	19.20.070 (J)(1-8)

\* MUST OBTAIN APPROVED BUFFER MANAGEMENT PLAN FROM THE DEPARTMENT OF PLANNING AND ZONING

2. ONE OR MORE TREES MAY BE TRANSPLANTED AS REPLACEMENT TREES FROM AREAS DESIGNATED TO BE CLEARED ON A DEVELOPMENT SITE; HOWEVER, TRANSPLANTED TREES SHALL ONLY BE USED WHEN A PROFESSIONAL NURSERY, LANDSCAPE CONTRACTOR, OR SIMILAR PROFESSIONAL QUALIFIED TO DO THIS WORK, IS EMPLOYED TO TRANSPLANT THE TREES. THIS PROFESSIONAL SHALL MEET WITH CITY STAFF PRIOR TO MOVING ANY TREES TO ENSURE THAT THE TREES TO BE MOVED ARE HEALTHY AND SUITABLE FOR TRANSPLANTING.
3. REPLACEMENT TREES SHALL BE A SPECIES NATIVE TO MARYLAND AND SHALL BE HEALTHY, FREE OF PESTS OR DISEASE AND IN GOOD CONDITION. DECIDUOUS SPECIES SHALL BE A MINIMUM OF TWO INCHES IN CALIPER MEASURED SIX INCHES FROM THE GROUND. CONIFEROUS TREES SHALL BE A MINIMUM OF FIVE FEET IN HEIGHT. TRANSPLANTED TREES SHALL BE, AT A MINIMUM, OF THE APPROXIMATE SIZE AS

NURSERY STOCK AND SHALL BE HEALTHY, FREE OF PESTS OR DISEASE AND IN GOOD CONDITION.

4. ANY LANDSCAPING REQUIREMENTS IMPOSED UNDER OTHER SECTIONS OF THIS CODE SHALL INCLUDE ANY AND ALL REPLACEMENT TREES.

5. ANY WAIVER OR MODIFICATION TO THESE REQUIREMENTS SHALL BE MADE IN ACCORDANCE WITH SECTION 19.20.130 OF THIS CHAPTER.

B. MITIGATION. IF THE NUMBER OF TREES TO BE PLANTED, AS DETERMINED BY THE TREE REPLACEMENT REQUIREMENTS, EXCEEDS THE NUMBER OF TREES WHICH CAN BE ACCOMMODATED PRACTICALLY ON SITE AS DETERMINED BY THE DEPARTMENT, OFF-SITE PLANTING MAY BE REQUESTED AT LOCATIONS AS DETERMINED BY THE DEVELOPER AND THE DEPARTMENT, OR A FEE IN LIEU OF OFF-SITE PLANTING MAY BE REQUIRED AS PROVIDED IN SUBSECTION C OF THIS SECTION. TREES REMOVED FOR DEVELOPMENT WITHIN THE CRITICAL AREA MUST BE REPLACED WITHIN THE CRITICAL AREA.

C. FEE-IN-LIEU. WHERE, PURSUANT TO SUBSECTION A OF THIS SECTION, REPLACEMENT ON SITE IS NOT PRACTICAL AND AN OFF-SITE LOCATION CANNOT BE DETERMINED AND AGREED UPON BY THE DEVELOPER AND THE DEPARTMENT, A FEE-IN-LIEU AS SET BY RESOLUTION OF THE CITY COUNCIL MAY BE ASSESSED WHICH IS ADEQUATE TO ENSURE AN EQUIVALENT TREE REPLACEMENT AS REQUIRED BY SUBSECTION A OF THIS SECTION. ALL FUNDS COLLECTED BY THIS PROCESS WILL BE EXPENDED EXCLUSIVELY FOR TREE PLANTING AND TREE MAINTENANCE WITHIN THE CITY UNDER THE AUSPICES OF THE URBAN FORESTRY PROGRAM AND, WHEREVER POSSIBLE, WITHIN REASONABLE PROXIMITY TO THE DEVELOPMENT FROM WHICH FEES ARE COLLECTED FOR PLANTING. FEES-IN-LIEU COLLECTED FOR TREES REMOVED WITHIN THE CRITICAL AREA SHALL BE EXPENDED EXCLUSIVELY FOR TREE PLANTING AND TREE MAINTENANCE WITHIN THE CRITICAL AREA, AND IF POSSIBLE WITHIN THE SAME CREEK WATERSHED.

1. ALL FUNDS COLLECTED BY THIS PROCESS WILL BE EXPENDED EXCLUSIVELY FOR TREE PLANTING AND TREE MAINTENANCE WITHIN THE CITY UNDER THE AUSPICES OF THE URBAN FORESTRY PROGRAM AND, WHEREVER POSSIBLE, WITHIN REASONABLE PROXIMITY TO THE DEVELOPMENT FROM WHICH FEES ARE COLLECTED FOR PLANTING.

2. FEES IN LIEU COLLECTED FOR TREES REMOVED WITHIN THE CRITICAL AREA SHALL BE EXPENDED EXCLUSIVELY FOR TREE PLANTING AND TREE MAINTENANCE WITHIN THE CRITICAL AREA, AND IF POSSIBLE WITHIN THE SAME CREEK WATERSHED.

D. EXCEPTIONS. THE FOLLOWING TREES REMOVED FOR DEVELOPMENT ARE NOT SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS A, B AND C OF THIS SECTION:

1. TREES REMOVED FOR THE CONSTRUCTION OF APPROVED ROADS AND THE INSTALLATION OR MAINTENANCE OF PUBLIC UTILITIES.

A. APPROVED ROADS INCLUDE CITY REQUIRED PUBLIC ROADS AND FIRE LANES, BUT DOES NOT INCLUDE ANY PORTION OF A PARKING LOT.

B. PUBLIC UTILITIES INCLUDE GAS, ELECTRIC, WATER AND SEWER MAIN TRANSMISSION LINES, AND STORMWATER MANAGEMENT STRUCTURES WITHIN REQUIRED EASEMENTS.

2. TREES WHICH HAVE BEEN CONFIRMED BY THE DEPARTMENT TO BE HAZARDOUS, DEAD, DYING OR DISEASED;

3. TREES TRANSPLANTED FROM ONE PART OF A DEVELOPMENT SITE TO ANOTHER.

E. GENERAL APPLICABILITY. EXCEPT AS PROVIDED BY SUBSECTION D OF THIS SECTION, THE REQUIREMENTS OF THIS SECTION APPLY TO ALL DEVELOPMENT AND CONSTRUCTION UNDERTAKEN PURSUANT TO ANY GRADING PERMIT OR PURSUANT TO ANY BUILDING PERMIT FOR CONSTRUCTION WHICH MAY INVOLVE THE DISTURBANCE OF

LAND BUT FOR WHICH A GRADING PERMIT PREVIOUSLY WAS NOT REQUIRED.

F. MINIMUM STANDARDS. AFFORESTATION AND REFORESTATION AS REQUIRED BY THE MARYLAND FOREST CONSERVATION ACT, ANNOTATED CODE OF MARYLAND, NATURAL RESOURCES ARTICLE, TITLE 5, SUBTITLE 16 (OR ITS SUCCESSORS) SHALL BE A MINIMUM STANDARD FOR THE REPLACEMENT AND PLANTING OF TREES WHERE CHAPTER 19.20 OF THIS CODE APPLIES, REGARDLESS OF THE SQUARE FOOTAGE OF THE AREA DISTURBED.

G. THE LOCATIONS OF INTENSELY DEVELOPED AREAS, LIMITED DEVELOPMENT AREAS, RESOURCE CONSERVATION AREAS AND THE CRITICAL AREA BUFFER ARE SHOWN ON THE APPROVED CRITICAL AREAS MAP FOR THE CITY OF ANNAPOLIS AND ITS AMENDMENTS. PROPOSED DEVELOPMENT SHALL BE CONSISTENT WITH THE APPROVED CRITICAL AREAS PLAN FOR THE CITY OF ANNAPOLIS.

H. ADDITIONAL STANDARDS FOR LIMITED DEVELOPMENT AREAS.

1. UNDER NORMAL CIRCUMSTANCES, NO MORE THAN TWENTY PERCENT OF ANY FOREST OR WOODLAND MAY BE REMOVED FROM FOREST USE, EXCEPT AS PERMITTED IN SUBSECTION (C)(3) OF THIS SECTION. THE REMAINING EIGHTY PERCENT SHALL BE MAINTAINED THROUGH RECORDED, RESTRICTIVE COVENANTS OR SIMILAR INSTRUMENTS.
2. A DEVELOPER MAY CLEAR OR DEVELOP UP TO THIRTY PERCENT OF ANY FOREST OR WOODLAND, PROVIDED THAT THE AFFORESTED AREA SHALL BE ONE AND ONE-HALF TIMES THE TOTAL SURFACE ACREAGE OF THE DISTURBED FOREST OR DEVELOPED WOODLAND. THE REMAINING SEVENTY PERCENT SHALL BE MAINTAINED THROUGH RECORDED, RESTRICTIVE COVENANTS OR OTHER SIMILAR INSTRUMENTS.
3. IF NO FOREST IS ESTABLISHED ON PROPOSED DEVELOPMENT SITES, THESE SITES SHALL BE PLANTED TO PROVIDE A FOREST OR DEVELOPED WOODLAND COVER OF AT LEAST FIFTEEN PERCENT OF THE TOTAL SURFACE AREA OF THE SITE.
4. FORESTS WHICH HAVE BEEN CLEARED BEFORE OBTAINING A GRADING PERMIT, OR THAT EXCEED THE MAXIMUM AREA ALLOWED IN SUBSECTION (C)(3) OF THIS SECTION SHALL BE PLANTED AT THREE TIMES THE AREAL EXTENT OF THE CLEARED FOREST.
5. THE DEVELOPER SHALL CONSIDER THE RECOMMENDATIONS OF THE MARYLAND FOREST, PARKS AND WILDLIFE SERVICE WHEN PLANNING DEVELOPMENT ON FORESTED LANDS.

I. ADDITIONAL STANDARDS FOR RESOURCE CONSERVATION AREAS.

1. IN ADDITION TO THE REQUIREMENTS OF SUBSECTION H OF THIS SECTION, THE OVERALL ACREAGE OF FOREST AND WOODLAND WITHIN THE RESOURCE CONSERVATION AREA MAY NOT BE DECREASED.
2. ANY DEVELOPMENT WITHIN A RESOURCE CONSERVATION AREA THAT REQUIRES THE CUTTING OR CLEARING OF TREES MUST REPLACE THE TREES ON A NOT LESS THAN AN EQUAL AREA BASIS, EXCEPT WHERE TREES ARE REMOVED ACCORDING TO SUBPARAGRAPHS 4, 6 AND 8 OF SUBSECTION J OF THIS SECTION.

J. ADDITIONAL STANDARDS FOR THE CRITICAL AREA BUFFER.

1. A ONE HUNDRED-FOOT BUFFER IS ESTABLISHED LANDWARD FROM THE MEAN HIGH WATER LINE OF TIDAL WATERS, TRIBUTARY STREAMS, AND TIDAL WETLANDS WHICH IS A PROTECTED AREA.
2. NEW DEVELOPMENT ACTIVITIES, INCLUDING STRUCTURES, ROADS, PARKING AREAS AND OTHER IMPERVIOUS SURFACES, MINING OR RELATED FACILITIES, OR SEPTIC SYSTEMS, MAY NOT BE PERMITTED IN THE BUFFER, EXCEPT FOR THOSE NECESSARILY ASSOCIATED WITH WATER-DEPENDENT FACILITIES.
3. THE BUFFER SHALL BE MAINTAINED IN NATURAL VEGETATION, BUT MAY INCLUDE

PLANTED VEGETATION AS APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING OR THE DEPARTMENT OF THE ENVIRONMENT WHERE NECESSARY TO PROTECT, STABILIZE OR ENHANCE THE SHORELINE.

4. CUTTING OF TREES OR REMOVAL OF NATURAL VEGETATION MAY BE PERMITTED WHERE NECESSARY TO PROVIDE ACCESS TO PRIVATE PIERS, OR TO INSTALL AND CONSTRUCT A SHORE EROSION PROTECTION DEVICE OR MEASURE, OR A WATER-DEPENDENT FACILITY, PROVIDED THE DEVICE, MEASURE OR FACILITY HAS RECEIVED ALL NECESSARY CITY, STATE, AND FEDERAL PERMITS.
5. WITH THE CONCURRENCE OF THE DEPARTMENT OF PLANNING AND ZONING AND THE DEPARTMENT OF THE ENVIRONMENT, INDIVIDUAL TREES MAY BE CUT FOR PERSONAL USE PROVIDING THAT THIS CUTTING DOES NOT IMPAIR THE WATER QUALITY OR EXISTING HABITAT VALUE OR OTHER FUNCTIONS OF THE BUFFER, AND PROVIDED THAT THE TREES ARE REPLACED ON AN EQUAL AREA BASIS FOR EACH TREE CUT.
6. WITH THE CONCURRENCE OF THE DEPARTMENT OF PLANNING AND ZONING AND THE DEPARTMENT OF THE ENVIRONMENT, INDIVIDUAL TREES MAY BE REMOVED WHICH ARE IN DANGER OF FALLING AND CAUSING DAMAGE TO DWELLINGS OR OTHER STRUCTURES, OR WHICH ARE IN DANGER OF FALLING AND THEREFORE CAUSING THE BLOCKAGE OF STREAMS, OR RESULTING IN ACCELERATED SHORE EROSION.
7. HORTICULTURAL PRACTICES SHALL BE USED TO MAINTAIN THE HEALTH OF INDIVIDUAL TREES.
8. OTHER CUTTING TECHNIQUES MAY BE PERMITTED WITHIN THE ONE HUNDRED-FOOT BUFFER AND UNDER THE ADVICE AND GUIDANCE OF THE DEPARTMENT OF THE ENVIRONMENT AND DEPARTMENT OF PLANNING AND ZONING, IF NECESSARY TO PRESERVE THE FOREST FROM EXTENSIVE PEST OR DISEASE INFESTATION OR THREAT FROM FIRE.
- K. FOREST PRESERVATION PLAN. THE FOREST PRESERVATION PLAN AS DESCRIBED WITHIN THE APPROVED CRITICAL AREAS PROGRAM FOR THE CITY OF ANNAPOLIS SHALL BE CONSISTENT WITH THE PROVISIONS OF THIS CHAPTER.
- L. FOREST UNDEVELOPED WOOD LAND. WHERE FORESTS OR DEVELOPED WOODLAND OCCUR WITHIN THE CITY OF ANNAPOLIS, LOCAL POLICIES AND PROGRAMS FOR TREE CULTURAL OPERATIONS IN THE CRITICAL AREA SHALL BE CONSISTENT WITH THE CRITICAL AREA PROGRAM OF THE CITY OF ANNAPOLIS.
- M. APPLICABILITY. THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION TO, AND NOT IN LIEU OF, ANY AND ALL REQUISITES OF THIS CHAPTER.
- N. RESTRICTIONS. THE REQUIREMENTS OF THIS SECTION DO NOT RESTRICT THE REMOVAL OF HAZARDOUS, DEAD, DYING OR DISEASED TREES, ALTHOUGH REPLACEMENT MAY BE REQUIRED AS DETERMINED BY THE DEPARTMENT, NOR ARE ACCEPTED HORTICULTURAL PRACTICES RESTRICTED.
- O. VARIANCE PROCEDURES. VARIANCE PROCEDURES SHALL BE IN ACCORDANCE WITH THE APPROVED CRITICAL AREAS PLAN OF THE CITY OF ANNAPOLIS.
- P. MINIMUM STANDARDS. THE PROVISIONS OF THE MARYLAND FOREST CONSERVATION ACT, ANNOTATED CODE OF MARYLAND, NATURAL RESOURCES ARTICLE, TITLE 5, SUBTITLE 16, (OR ITS SUCCESSORS) DO NOT APPLY TO THE CRITICAL AREA, EXCEPT THAT AFFORESTATION AND REFORESTATION AS REQUIRED BY THE ACT SHALL BE A MINIMUM STANDARD FOR THE REPLACEMENT AND PLANTING OF TREES.

#### **19.20.090 - NATURAL AND LANDSCAPED BUFFERS.**

- A. GUIDELINES FOR THE DESIGN OF AREAS DESIGNATED AS NATURAL OR LANDSCAPED

BUFFERS. THE CRITERIA SET FORTH IN THIS SECTION SHALL BE TAKEN INTO CONSIDERATION IN THE DESIGN OF ALL BUFFER AREAS SHOWN ON THE LANDSCAPING PLAN REQUIRED BY SECTION 19.20.030, INCLUDING ALL BUFFERS INCLUDED TO SATISFY THE REQUIREMENTS OF SECTION 21.62.030 OF THIS CODE.

1. THE PRIMARY PURPOSE OF THE BUFFER SHALL BE DEFINED ON THE LANDSCAPING PLAN AND THE NATURAL OR LANDSCAPED BUFFER SHALL REFLECT THAT DEFINITION. THE PURPOSE OF A BUFFER MAY INCLUDE, BUT NOT BE LIMITED TO, URBAN STREETScape BEAUTIFICATION, ENHANCEMENT OF BUILDING ARCHITECTURE, VISUAL SHIELDING, NOISE REDUCTION, WILDLIFE HABITAT ENHANCEMENT, AND WATER QUALITY MANAGEMENT.
2. A DEFINED BUFFER SHALL COMPLY WITH THE STANDARDS FOR TREE PRESERVATION AS DEFINED IN SECTION 19.20.030(B).
3. WITHIN THE CRITICAL AREA, THE BUFFER SHALL BE CONSISTENT WITH THE REQUISITES FOR HABITAT PROTECTION AREAS IN THE CRITICAL AREA (SECTION 19.20.080(E) OF THIS CHAPTER).
4. THE BUFFER SHALL HAVE VERTICAL STRATIFICATION, I.E., CANOPY LAYER, UNDERSTORY AND SHRUB LAYER, AS NEEDED TO REFLECT THE STATED PURPOSE OF THE BUFFER.
5. THE BUFFER SHALL HAVE CONTINUOUS PLANTINGS AND/OR EXISTING VEGETATION WITHIN THE DESIGNATED BUFFER AREA, AS NEEDED TO REFLECT THE STATED PURPOSE OF THE BUFFER.
6. THE BUFFER SHALL BE DESIGNED IN FULL COGNIZANCE OF ANY UTILITY PLANS, STORMWATER MANAGEMENT PLANS, SEDIMENTATION AND EROSION CONTROL PLANS, AND GRADING PLANS. WHEREVER ARCHITECTURALLY OR ENGINEERINGLY POSSIBLE, INTERFERENCE WITH DESIGNATED BUFFER AREAS IS TO BE AVOIDED.
7. PLANTINGS WITHIN THE BUFFER AREA SHALL NOT IMPAIR ACCESS TO UTILITIES FOR THEIR MAINTENANCE AND REPAIR.
8. PLANTINGS MAY NOT BE WITHIN OR ATOP ANY STORMWATER MANAGEMENT STRUCTURES, BUT SHALL BE PLACED TO COMPLEMENT THEIR FUNCTION, IF POSSIBLE.
9. WHERE A DESIGNATED BUFFER AREA ADJOINS OTHER LANDSCAPED OR NATURAL AREAS, THE DEVELOPER SHALL BLEND THE PROPOSED BUFFER WITH EXISTING ADJACENT CONDITIONS, WITH PARTICULAR ATTENTION TO THE NECESSITY TO PROVIDE WILDLIFE CORRIDORS.
10. ANY LANDSCAPING OF THE DESIGNATED BUFFER AREA SHALL OCCUR AFTER THE PLACEMENT OF SIDEWALKS, ROADS, DRIVEWAYS, UTILITIES AND STORMWATER MANAGEMENT STRUCTURES WHICH MAY AFFECT THE BUFFER, AND AFTER FINAL GRADE HAS BEEN ESTABLISHED.
11. TREES REQUIRED TO BE REPLACED ON-SITE ACCORDING TO SECTION 19.20.070(A) AND (B) SHALL BE PLACED, AS A FIRST PRIORITY, WITHIN DESIGNATED BUFFER AREAS IF ADDITIONAL PLANTING IN THE BUFFER IS STIPULATED.
12. ANY CHANGES MADE IN THE FIELD TO A DESIGNATED BUFFER AREA MUST FIRST BE APPROVED BY THE DEPARTMENT
13. NATURAL AND LANDSCAPED BUFFERS WITHIN THE CRITICAL AREA SHALL BE SUBJECT TO THE REQUISITES OF SECTIONS 19.20.080 IN ADDITION TO THE REQUISITES OF THIS SECTION. IF THERE ARE ANY INCONSISTENCIES BETWEEN THESE SECTIONS, THE MORE RESTRICTIVE SHALL APPLY.

**19.20.100 - LANDSCAPE STANDARDS.**

- A. ALL DESIGNATED BUFFER AREAS, AS WELL AS ALL OTHER ON-SITE NATURAL OR LANDSCAPED AREAS, SHALL BE CONSISTENT WITH CHAPTER 19.10, AND SECTIONS 20.24.160 AND 21.62.120 WHERE APPLICABLE. IF THERE ARE ANY INCONSISTENCIES BETWEEN THESE SECTIONS, THE MORE RESTRICTIVE SHALL PREVAIL.
- B. THE DEVELOPER/OWNER IS RESPONSIBLE FOR THE PURCHASE, PLANTING, CARE AND MAINTENANCE OF ALL TREES PLANTED IN ACCORDANCE WITH THIS CHAPTER, EXCEPT FOR THE CARE AND MAINTENANCE OF TREES PLANTED OFF-SITE PURSUANT TO SECTION 19.20.070(B). ADDITIONALLY, THE DEVELOPER/OWNER IS NOT RESPONSIBLE FOR THE CARE AND MAINTENANCE OF TREES AND SHRUBS PLANTED FOR A SINGLE-FAMILY OR TWO-FAMILY ATTACHED OR DETACHED HOME AFTER SALE OF THE HOME BY THE BUILDER OR DEVELOPER TO THE INITIAL CONSUMER. ALL TREES OF NURSERY STOCK INSTALLED ACCORDING TO THE REQUISITES OF THIS CHAPTER MUST BE LISTED ON THE STATE AND/OR CITY RECOMMENDED TREE LIST AND SHALL MEET AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS FOR NURSERY STOCK.
- C. THE DEPARTMENT MAY REQUIRE THAT THE INSTALLATION OF ALL IMPROVEMENTS AS NOTED ON THE APPROVED LANDSCAPE PLAN BE BONDED, INCLUDING THOSE TREES DESIGNATED FOR PRESERVATION, AND EXCLUDING THOSE TREES TRANSPLANTED FROM ONE LOCATION ON SITE TO ANOTHER, AND EXCEPTING THOSE TREES TO BE PLANTED OFF-SITE PURSUANT TO SECTION 19.20.070(B). ON THE SATISFACTORY COMPLETION OF THE IMPROVEMENTS AS NOTED ON THE APPROVED LANDSCAPE PLAN, THE SECURITY DESCRIBED IN THIS SECTION SHALL BE RELEASED; PROVIDED, HOWEVER, THAT A ONE YEAR MAINTENANCE BOND OR OTHER APPROPRIATE SECURITY BE SUBSTITUTED IN AN AMOUNT TO BE DETERMINED BY THE DEPARTMENT, WHICH AMOUNT SHALL BE NOT MORE THAN TEN PERCENT OF THE COST OF INSTALLATION OF THE IMPROVEMENTS. THE AMOUNT OF THIS BOND OR OTHER SECURITY SHALL BE REDUCED TO REFLECT THE PORTION ATTRIBUTABLE TO THOSE TREES ON A LOT WITH A SINGLE-FAMILY OR TWO-FAMILY ATTACHED OR DETACHED HOME AFTER THE SALE OF THAT HOME BY THE DEVELOPER OR BUILDING TO THE INITIAL CONSUMER. ANY WAIVER OR MODIFICATION TO THESE REQUIREMENTS SHALL BE MADE IN ACCORDANCE WITH SECTION 19.20.130 OF THIS CHAPTER.

**19.20.110 - EASEMENTS.**

IN THE CASE OF NEW DEVELOPMENT, EASEMENTS MAY BE SOUGHT FOR USE AS BUFFER OR LANDSCAPED AREAS AND ARE SUBJECT TO THE INTENT OF THIS CHAPTER. THESE EASEMENTS SHALL BE INDICATED ON THE PLAT OF RECORD AND GRANTED TO ALL PROPERTY OWNERS WITHIN THE DEVELOPMENT AREA, AND SHALL REQUIRE PROPERTY OWNERS TO MAINTAIN THE BUFFER AND/OR LANDSCAPED AREA IN ACCORDANCE WITH THE APPROVED LANDSCAPE PLAN.

**19.20.120 - LANDSCAPING PLANS-APPROVALS-INSPECTIONS.**

- A. PLANS. IN ACCORDANCE WITH SECTION 19.20.030 OF THIS CHAPTER, LANDSCAPING PLANS SHALL BE SUBMITTED FOR REVIEW TO THE DEPARTMENT.
- B. APPROVALS.
  - 1. NO CUTTING, CLEARING, DIGGING OR GRADING MAY BE UNDERTAKEN UNTIL A LANDSCAPE PLAN HAS BEEN APPROVED. NO LANDSCAPING MAY BE UNDERTAKEN UNTIL THE APPROVAL OF THE LANDSCAPE PLAN.
  - 2. WHERE DEVELOPMENT IS PROPOSED WITHIN THE CRITICAL AREA, ALL PLANS MUST BE CONSISTENT WITH THE APPROVED CRITICAL AREA PROGRAM FOR THE CITY OF

ANNAPOLIS.

3. PLAN APPROVALS OR DISAPPROVALS SHALL BE MADE IN WRITING BY THE DEPARTMENT TO THE APPLICANT.
- C. INSPECTIONS.
1. WORK WHICH MAY AFFECT TREE AREAS DESIGNATED FOR PRESERVATION MAY NOT PROCEED TO THE NEXT PHASE OF CONSTRUCTION UNTIL THE DEPARTMENT APPROVES TREE PROTECTION MEASURES PURSUANT TO SECTIONS 19.20.040, 19.20.050 AND 19.20.060.
  2. AREAS DESIGNATED AS BUFFERS SHALL BE INSPECTED BY THE DEPARTMENT FOR AGREEMENT WITH THE APPROVED BUFFER SITE PLAN. OCCUPANCY AND/OR USE PERMIT APPROVALS SHALL BE CONTINGENT UPON THE FAVORABLE INSPECTION OF BUFFER AREAS.
  3. THE PROJECT SITE SHALL BE INSPECTED BY THE DEPARTMENT FOR AGREEMENT WITH THE APPROVED LANDSCAPE PLAN. OCCUPANCY AND USE PERMIT APPROVALS SHALL BE CONTINGENT UPON THE FAVORABLE INSPECTION OF THE PROJECT SITE.
  4. ANY BONDS REQUIRED BY THE CITY OF ANNAPOLIS FOR LANDSCAPING WILL BE REDUCED UPON THE FINAL INSPECTIONS BY THE DEPARTMENT, OR AT THAT TIME THAT THE LANDSCAPE REQUIREMENTS ARE MET BY THE DEVELOPER/APPLICANT.

**19.20.130 - WAIVER OR MODIFICATION**

- A. THE DIRECTOR MAY WAIVE OR MODIFY THE MINIMUM REQUIREMENTS SET FORTH IN THIS CHAPTER IF IT CAN BE DEMONSTRATED BY THE APPLICANT THAT:
1. SPECIAL PRACTICES MAY BE UNDERTAKEN WHICH WILL MEET THE INTENT OF THIS CHAPTER BUT NOT THE MINIMUM REQUIREMENTS AS STRICTLY INTERPRETED; OR
  2. SPECIAL CIRCUMSTANCES EXIST WHICH PREVENT THE APPLICANT FROM MEETING THE MINIMUM REQUIREMENTS AS STRICTLY INTERPRETED.
- B. THE DIRECTOR MAY NOT WAIVE OR MODIFY, UNDER THE PROVISIONS OF THIS SECTION, ANY EXISTING CITY OR STATE REQUIREMENTS.
- C. ANY APPLICANT AGGRIEVED BY REFUSAL TO GRANT A WAIVER OR MODIFICATION OF ANY OF THE REQUIREMENTS OF THIS CHAPTER BY THE DIRECTOR MAY APPEAL THE DECISION TO THE BUILDING BOARD OF APPEALS WITHIN FIFTEEN WORKING DAYS OF THE DECISION.

**19.20.140 - ENFORCEMENT-VIOLATION-PENALTIES.**

- A. ENFORCEMENT. THE ADMINISTRATION AND ENFORCEMENT OF THIS CHAPTER SHALL BE THE RESPONSIBILITY OF THE DEPARTMENT OF THE ENVIRONMENT.
- B. VIOLATION. VIOLATION OF THIS CHAPTER MAY BE CAUSE FOR THE DEVELOPER TO BE REQUIRED TO STOP WORK UNTIL A SATISFACTORY RESOLUTION IS ESTABLISHED BY THE DEPARTMENT.
- C. PENALTIES. ANY DEVELOPER WHO VIOLATES THIS CHAPTER IS GUILTY OF A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. THE UNAPPROVED REMOVAL OF A SINGLE TREE CONSTITUTES A SINGLE VIOLATION AND EACH DAY A VIOLATION CONTINUES WITHOUT ABATEMENT OR MITIGATION WILL BE CONSIDERED A SEPARATE VIOLATION WITH FINES AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. IF ANY TREES SHOWN TO BE PRESERVED ON THE APPROVED PLAN SUBSEQUENTLY ARE REMOVED OR ARE DEAD OR DYING BECAUSE OF ACTS OF NEGLIGENCE BY A DEVELOPER, THIS SHALL BE CONSIDERED A VIOLATION AND FINES SHALL BE ASSESSED. THE TREES SHALL BE REPLACED BY THE DEVELOPER, OR THE DEVELOPER SHALL BE ASSESSED A FEE IN

LIEU. THE SIZE, SPECIES AND QUANTITY OF REPLACEMENT TREES OR FEE IN LIEU SHALL BE SPECIFIED BY THE DEPARTMENT AND SHALL BE CONSISTENT WITH SECTION 19.20.070(C). IF NECESSARY, OFF-SITE LOCATIONS IDENTIFIED BY THE DEPARTMENT MAY BE UTILIZED IF THERE ARE CONSTRAINTS ON THE SITE. REPLACEMENT SHALL BE WITHIN A TIME FRAME SPECIFIED BY THE DEPARTMENT.

- D. REPLACEMENT TREES. IN ADDITION TO ANY OTHER PENALTY OR REQUIREMENT THAT MAY BE IMPOSED UNDER THIS SECTION, IF ANY TREES SHOWN TO BE PRESERVED ON THE APPROVED PLAN SUBSEQUENTLY ARE REMOVED OR ARE DEAD OR DYING BECAUSE OF ACTS OF NEGLIGENCE BY A DEVELOPER, THEY SHALL BE REPLACED BY THE DEVELOPER. THE SIZE, SPECIES AND QUANTITY OF REPLACEMENT TREES SHALL BE SPECIFIED BY THE DEPARTMENT BASED UPON SECTION 19.20.070(C). THE QUANTITY SHALL BE DICTATED BY THE CONSTRAINTS OF THE SITE. REPLACEMENT SHALL BE WITHIN A TIME FRAME SPECIFIED BY THE DEPARTMENT.
- E. APPEALS. THE BUILDING BOARD OF APPEALS SHALL CONSIDER APPEALS FROM THE PROVISIONS OF THIS CHAPTER FROM THE DETERMINATION OF THE DIRECTOR IN THE MANNER SPECIFIED IN THE BUILDING CODE. THE BOARD MAY MAKE DETERMINATIONS OF ALTERNATIVE METHODS, STANDARDS OR MATERIALS WHEN, IN ITS OPINION, STRICT COMPLIANCE WITH THIS CHAPTER IS UNNECESSARY. THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO ANY MUNICIPAL CITATION ISSUED PURSUANT TO SECTION.

## **CHAPTER 19.30 - FOREST CONSERVATION**

### **19.30.010 - PURPOSE AND GENERAL PROVISIONS.**

THE CITY COUNCIL HAS DETERMINED THAT TO MEET THE REQUIREMENTS OF NATURAL RESOURCES ARTICLE, §§ 5-1601-5-1612, ANNOTATED CODE OF MARYLAND, THE PROVISIONS OF THIS CHAPTER MUST BE ENACTED TO PROTECT FORESTS AND ENVIRONMENTALLY SENSITIVE AREAS IN THE CITY.

### **19.30.020 - FOREST AND TREE CONSERVATION DEFINITIONS.**

FOR THE PURPOSES OF THIS CHAPTER ONLY, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED:

"AFFORESTATION" MEANS:

1. ESTABLISHMENT OF TREE COVER ON AN AREA FROM WHICH FOREST COVER HAS BEEN ABSENT FOR A LONG PERIOD OF TIME; OR

2. PLANTING ON OPEN AREAS ON WHICH THERE IS NO EXISTING FOREST COVER.

"AGRICULTURAL AND RESOURCE AREAS" MEANS UNDEVELOPED AREAS ZONED FOR DENSITIES OF LESS THAN OR EQUAL TO ONE DWELLING UNIT PER FIVE ACRES.

"APPLICANT" MEANS A PERSON WHO HAS LAWFULLY SUBMITTED AN APPLICATION FOR APPROVAL OF A PLANNED DEVELOPMENT, SPECIAL EXCEPTION, SUBDIVISION SITE DESIGN PLAN, OR PROJECT PLAN, OR A GRADING OR SEDIMENT CONTROL PERMIT, OR WHO HAS SUBMITTED A FOREST STAND DELINEATION FOR REVIEW, A PRELIMINARY FOREST CONSERVATION PLAN FOR REVIEW, OR A FINAL FOREST CONSERVATION PLAN FOR APPROVAL FOR A TRACT OF LAND THAT, IN ITS EXISTING OR REDEVELOPED STATE, IS FORTY THOUSAND SQUARE FEET OR GREATER OR WHO HAS RECEIVED APPROVAL OF A FOREST STAND DELINEATION OR FOREST CONSERVATION PLAN.

"APPROVED FOREST MANAGEMENT PLAN" MEANS A DOCUMENT:

1. APPROVED BY THE DEPARTMENT OF NATURAL RESOURCES FORESTER ASSIGNED TO

THE CITY; AND

2. WHICH OPERATES AS A PROTECTIVE AGREEMENT FOR FOREST CONSERVATION AS DESCRIBED IN THE NATURAL RESOURCES ARTICLE, §§ 5-1607(E)-(F), ANNOTATED CODE OF MARYLAND.

"CALIPER" MEANS THE DIAMETER MEASURED AS TWO INCHES ABOVE THE ROOT COLLAR.

"CHAMPION TREE" MEANS THE LARGEST TREE OF ITS SPECIES WITHIN THE UNITED STATES, THE STATE, COUNTY, OR THE CITY, AS APPLICABLE.

"COMAR" MEANS THE MARYLAND CODE OF REGULATIONS.

"COMMERCIAL AND INDUSTRIAL USES" MEANS MANUFACTURING OPERATIONS, OFFICE COMPLEXES, SHOPPING CENTERS, AND OTHER SIMILAR USES AND THEIR ASSOCIATED STORAGE AREAS, YARDING AND PARKING AREAS, MORE SPECIFICALLY DESCRIBED AND DELINEATED IN CITY CODE SECTION 21.48.020, TABLE OF USES.

"COMMERCIAL LOGGING OR TIMBER HARVESTING OPERATIONS" MEANS THE CUTTING AND REMOVING OF TREE STEMS FROM A SITE FOR COMMERCIAL PURPOSES, LEAVING THE ROOT MASS INTACT.

"CONTIGUOUS FOREST" MEANS A FOREST OF TWENTY ACRES OR MORE THAT CONNECTS THE LARGEST UNDEVELOPED OR VEGETATED TRACTS OF LAND WITHIN, AND ADJACENT TO, A SITE.

"CRITICAL HABITAT AREA" MEANS A CRITICAL HABITAT FOR AN ENDANGERED SPECIES AND ITS SURROUNDING PROTECTION AREA. A CRITICAL HABITAT AREA SHALL:

1. BE LIKELY TO CONTRIBUTE TO THE LONG-TERM SURVIVAL OF THE SPECIES;
2. BE LIKELY TO BE OCCUPIED BY THE SPECIES FOR THE FORESEEABLE FUTURE; AND
3. CONSTITUTE HABITAT OF THE SPECIES WHICH IS CONSIDERED CRITICAL UNDER

NATURAL RESOURCES ARTICLE, §§ 4-2A-04 AND 10-2A-06, ANNOTATED CODE OF MARYLAND.

"CRITICAL HABITAT FOR ENDANGERED SPECIES" MEANS A HABITAT OCCUPIED BY AN ENDANGERED SPECIES AS DETERMINED OR LISTED UNDER NATURAL RESOURCES ARTICLE, §§ 4-2A-04 AND 10-2A-04, ANNOTATED CODE OF MARYLAND.

"DBH" OR "DIAMETER AT BREAST HEIGHT" MEANS A TREE DIAMETER MEASURED AT FOUR AND ONE-HALF FEET ABOVE THE GROUND.

"DECLARATION OF INTENT" MEANS:

1. A SIGNED AND NOTARIZED STATEMENT BY A LANDOWNER OR THE LANDOWNER'S AGENT CERTIFYING THAT THE ACTIVITY ON THE LANDOWNER'S PROPERTY:

I. IS FOR CERTAIN ACTIVITIES EXEMPTED UNDER THE ANNAPOLIS CITY CODE OR NATURAL RESOURCES ARTICLE, §§ 5-103 AND 5-1601--5-1612, ANNOTATED CODE OF MARYLAND,

II. DOES NOT CIRCUMVENT THE REQUIREMENTS OF THE ANNAPOLIS CITY CODE OR NATURAL RESOURCES ARTICLE, §§ 5-103 AND 5-1601-5-1612, ANNOTATED CODE OF MARYLAND, AND

III. DOES NOT CONFLICT WITH THE PURPOSES OF ANY OTHER DECLARATION OF INTENT; OR

2. THE DOCUMENT REQUIRED UNDER COMAR 08.19.01.05 OR THIS CHAPTER.

"DEPARTMENT" MEANS THE DEPARTMENT OF THE ENVIRONMENT.

"DEVELOPMENT PLAN" MEANS A DRAWING OR DRAWINGS WHICH DELINEATE A PLANNED DEVELOPMENT, SPECIAL EXCEPTION, SUBDIVISION, SITE DESIGN PLAN, OR PROJECT PLAN, OR A GRADING OR SEDIMENT CONTROL PERMIT FOR A TRACT OF LAND THAT, IN ITS EXISTING OR REDEVELOPED STATE, IS FORTY THOUSAND SQUARE FEET OR GREATER. DEVELOPMENT PROJECT.

1. "DEVELOPMENT PROJECT" MEANS THE GRADING OR CONSTRUCTION ACTIVITIES OCCURRING ON A SPECIFIC TRACT THAT IS FORTY THOUSAND SQUARE FEET OR

GREATER.

2. "DEVELOPMENT PROJECT" INCLUDES REDEVELOPMENT.

"DEVELOPMENT PROJECT COMPLETION" MEANS FOR THE PURPOSES OF AFFORESTATION, REFORESTATION:

1. THE RELEASE OF THE DEVELOPMENT BOND, IF REQUIRED;
2. ACCEPTANCE OF THE PROJECT'S STREETS, UTILITIES, AND PUBLIC SERVICES BY THE DEPARTMENT; OR
3. DESIGNATION IN WRITING BY THE DEPARTMENT OR STATE THAT A:
  - I. DEVELOPMENT PROJECT HAS BEEN COMPLETED, OR
  - II. PARTICULAR STAGE OF A STAGED DEVELOPMENT PROJECT, INCLUDING A PLANNED UNIT DEVELOPMENT, HAS BEEN COMPLETED.

"ENVIRONMENT ARTICLE" MEANS THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED FROM TIME TO TIME.

"EPHEMERAL STREAM" MEANS A STREAM THAT FLOWS ONLY IN DIRECT RESPONSE TO PRECIPITATION IN THE IMMEDIATE WATERSHED OR IN RESPONSE TO THE MELTING OF A COVER OF SNOW OR ICE, AND WHICH HAS A CHANNEL BOTTOM THAT IS ALWAYS ABOVE THE LOCAL WATER TABLE.

FOREST.

1. "FOREST" MEANS A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS COVERING A LAND AREA OF TEN THOUSAND SQUARE FEET OR GREATER.

2. "FOREST" INCLUDES:

- I. AREAS THAT HAVE AT LEAST ONE HUNDRED LIVE TREES PER ACRE WITH AT LEAST FIFTY PERCENT OF THOSE TREES HAVING A TWO-INCH OR GREATER DIAMETER AT FOUR AND ONE-HALF FEET ABOVE THE GROUND AND LARGER; AND
- II. AREAS THAT HAVE BEEN CUT BUT NOT CLEARED.

3. "FOREST" DOES NOT INCLUDE ORCHARDS.

"FOREST CONSERVATION" MEANS THE RETENTION OF EXISTING FOREST OR THE CREATION OF NEW FOREST AT THE LEVELS SET BY THE DEPARTMENT.

"FOREST CONSERVATION AND MANAGEMENT AGREEMENT" MEANS AN AGREEMENT AS STATED IN TAX-PROPERTY ARTICLE, § 8-211, ANNOTATED CODE OF MARYLAND.

"FOREST CONSERVATION TECHNICAL MANUAL" MEANS THE CITY TECHNICAL MANUAL, INCORPORATED BY REFERENCE HEREIN, USED TO ESTABLISH STANDARDS OF PERFORMANCE REQUIRED IN PREPARING FOREST STAND DELINEATIONS AND FOREST CONSERVATION PLANS.

"FOREST CONSERVATION PLAN" MEANS A PLAN APPROVED PURSUANT TO SECTIONS 19.30.070, 19.30.080, 19.30.090 AND 19.30.100 OF THIS CHAPTER.

"FOREST COVER" MEANS THE AREA OF A SITE MEETING THE DEFINITION OF FOREST.

"FOREST MANAGEMENT PLAN" MEANS A PLAN ESTABLISHING BEST CONSERVATION AND MANAGEMENT PRACTICES FOR A LANDOWNER IN ASSESSMENT OF THE RESOURCE VALUES OF FORESTED PROPERTY.

"FOREST MITIGATION BANK" MEANS AN AREA OF LAND WHICH HAS BEEN INTENTIONALLY AFFORESTED OR REFORESTED FOR THE EXPRESS PURPOSE OF PROVIDING CREDITS FOR REFORESTATION REQUIREMENTS.

"FOREST MITIGATION BANK AGREEMENT" MEANS AN AGREEMENT ENTERED INTO BY AN INDIVIDUAL OWNING A FOREST MITIGATION BANK AND THE DEPARTMENT OR LOCAL GOVERNMENT WHICH COMMITS THE BANKER TO CERTAIN PROCEDURES AND REQUIREMENTS WHEN CREATING AND OPERATING THE FOREST MITIGATION BANK.

"FOREST MITIGATION BANK PLAN" MEANS A PLAN SUBMITTED FOR APPROVAL OF A FOREST MITIGATION BANK TO THE DEPARTMENT, OR TO A LOCAL GOVERNMENT WITH AN APPROVED LOCAL PROGRAM, BY AN INDIVIDUAL PROPOSING TO ESTABLISH A FOREST MITIGATION

BANK.

"FOREST STAND DELINEATION" MEANS THE METHODOLOGY FOR EVALUATING THE EXISTING VEGETATION ON A SITE PROPOSED FOR DEVELOPMENT, AS PROVIDED IN THE FOREST CONSERVATION TECHNICAL MANUAL.

"GROWING SEASON" MEANS THE PERIOD OF CONSECUTIVE FROST-FREE DAYS AS STATED IN THE CURRENT SOIL SURVEY FOR THIS COUNTRY PUBLISHED BY THE NATIONAL COOPERATIVE SOIL SURVEY PROGRAM, 16 U.S.C. § 590(A)-(F).

"HIGH DENSITY RESIDENTIAL AREAS" MEANS AREAS ZONED FOR DENSITIES GREATER THAN ONE DWELLING UNIT PER ACRE, INCLUDING BOTH EXISTING AND PLANNED DEVELOPMENT AND THEIR ASSOCIATED INFRASTRUCTURE, SUCH AS ROADS, UTILITIES, AND WATER AND SEWER SERVICE IDENTIFIED AS ALL RESIDENTIAL ZONES IN THE ANNAPOLIS CITY CODE, CHAPTER 21.40.

"HISTORIC SITE" OR "HISTORIC STRUCTURE" MEANS ANY SITE OR STRUCTURE THAT IS:

1. INDIVIDUALLY LISTED IN THE NATIONAL REGISTER OF HISTORIC PLACES (A LISTING MAINTAINED BY THE U.S. DEPARTMENT OF THE INTERIOR) OR PRELIMINARILY DETERMINED BY THE SECRETARY OF THE INTERIOR AS MEETING THE REQUIREMENTS FOR INDIVIDUAL LISTINGS ON THE NATIONAL REGISTER;
2. CERTIFIED OR PRELIMINARILY DETERMINED BY THE SECRETARY OF THE INTERIOR AS CONTRIBUTING TO THE HISTORICAL SIGNIFICANCE OF A REGISTERED HISTORIC DISTRICT OR A DISTRICT PRELIMINARILY DETERMINED BY THE SECRETARY TO QUALIFY AS A REGISTERED HISTORIC DISTRICT;
3. INDIVIDUALLY LISTED ON THE MARYLAND REGISTER OF HISTORIC PLACES; OR
4. INDIVIDUALLY LISTED ON THE INVENTORY OF HISTORIC PLACES MAINTAINED BY THE CITY OF ANNAPOLIS WHOSE HISTORIC PRESERVATION PROGRAM HAS BEEN CERTIFIED BY THE MARYLAND HISTORIC TRUST OR THE SECRETARY OF THE INTERIOR.

"INSTITUTIONAL DEVELOPMENT AREA" MEANS AREAS ZONED TO ALLOW THE INCLUSION OF SCHOOLS, COLLEGES AND UNIVERSITIES, MILITARY INSTALLATIONS, TRANSPORTATION FACILITIES, UTILITY AND SEWER PROJECTS, GOVERNMENT OFFICES AND FACILITIES, GOLF COURSES, RECREATION AREAS, PARKS, AND CEMETERIES AS IS APPLIED IN THE ANNAPOLIS CITY CODE.

"INTERMITTENT STREAM" MEANS A STREAM IN WHICH SURFACE WATER IS ABSENT DURING A PART OF THE YEAR AS SHOWN ON THE MOST RECENT SEVEN AND ONE-HALF MINUTE TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE UNITED STATES GEOLOGIC SURVEY OR AS DEFINED IN COMAR 26.23.01.01 AND CONFIRMED BY FIELD VERIFICATION.

"LANDSCAPING PLAN" FOR PURPOSES OF THIS SECTION MEANS A PLAN:

1. DRAWN TO SCALE, SHOWING DIMENSIONS AND DETAILS FOR REFORESTING AN AREA AT LEAST THIRTY-FIVE FEET WIDE AND COVERING TWO THOUSAND FIVE HUNDRED SQUARE FEET OR GREATER IN SIZE;
2. USING NATIVE OR INDIGENOUS PLANTS WHEN APPROPRIATE; AND
3. WHICH IS MADE PART OF AN APPROVED FOREST CONSERVATION PLAN.

"LINEAR PROJECT" MEANS A PROJECT WHICH:

1. IS ELONGATED WITH NEARLY PARALLEL SIDES;
2. IS USED TO TRANSPORT A UTILITY PRODUCT OR PUBLIC SERVICE NOT OTHERWISE CONTAINED IN AN APPLICATION FOR SUBDIVISION, SUCH AS ELECTRICITY, GAS, WATER, SEWER, COMMUNICATIONS, TRAINS, AND VEHICLES; AND
3. MAY TRAVERSE FEE SIMPLE PROPERTIES THROUGH DEFINED BOUNDARIES, OR ESTABLISHED EASEMENT RIGHTS.

"LOCAL AGENCY" MEANS EACH UNIT IN THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH OF A COUNTY OR MUNICIPAL GOVERNMENT, INCLUDING AN OFFICE OR

DEPARTMENT.

"LOT" MEANS A UNIT OF LAND, THE BOUNDARIES OF WHICH HAVE BEEN ESTABLISHED BY SUBDIVISION OF A LARGER PARCEL, AND WHICH WILL NOT BE THE SUBJECT OF FURTHER SUBDIVISION, AS DEFINED BY NATURAL RESOURCES ARTICLE, § 5-1601, ANNOTATED CODE OF MARYLAND AND THIS CHAPTER, AND WITHOUT AN APPROVED FOREST STAND DELINEATION AND FOREST CONSERVATION PLAN.

"MAINTENANCE AGREEMENT" MEANS THE SHORT-TERM MANAGEMENT AGREEMENT ASSOCIATED WITH AFFORESTATION OR REFORESTATION PLANS REQUIRED UNDER NATURAL RESOURCES ARTICLE § 5-1605, ANNOTATED CODE OF MARYLAND AND THIS CHAPTER.

"MEDIUM DENSITY RESIDENTIAL AREAS" MEANS AREAS ZONED FOR DENSITIES GREATER THAN ONE DWELLING UNIT PER FIVE ACRES AND LESS THAN OR EQUAL TO ONE DWELLING UNIT PER ACRE, INCLUDING BOTH EXISTING AND PLANNED DEVELOPMENT AND THEIR ASSOCIATED INFRASTRUCTURE, SUCH AS ROADS, UTILITIES, AND WATER AND SEWER SERVICE.

"MINOR DEVELOPMENT PROJECT" MEANS A PROJECT:

1. ON LESS THAN FIVE ACRES OF LAND CONTAINING NOT MORE THAN FOUR LOTS PER ACRE; OR
2. SUBSTANTIVELY SIMILAR AS DEFINED BY THE DEPARTMENT AND APPROVED BY THE STATE.

"MIXED USE DEVELOPMENT" MEANS A SINGLE, HIGH DENSITY DEVELOPMENT PROJECT WHICH INCLUDES TWO OR MORE TYPES OF USES, MORE SPECIFICALLY DESCRIBED AND DELINEATED IN CITY CODE SECTION 21.48.030, TABLE OF USES.

"NATURAL REGENERATION" MEANS THE NATURAL ESTABLISHMENT OF TREES AND OTHER VEGETATION WITH AT LEAST FOUR HUNDRED WOODY, FREE-TO-GROW SEEDLINGS PER ACRE, WHICH ARE CAPABLE OF REACHING A HEIGHT OF AT LEAST TWENTY FEET AT MATURITY.

"NATURAL RESOURCES INVENTORY" MEANS A COMPILATION OF NATURAL SITE FEATURES INCLUDING FOREST DELINEATION, GEOLOGICAL DATA, TOPOGRAPHY, SOILS SERIES AND PROPERTIES, WATERSHED DATA INCLUDING FLOODPLAINS, WATER RESOURCES INCLUDING SURFACE WATER, GROUND WATER AND WETLANDS, WILDLIFE HABITATS AND CONNECTIONS, HYDRIC SOILS, SOILS WITH K FACTORS OF .35 OR GREATER, AND SLOPES OF FIFTEEN PERCENT OR GREATER, AND AS FURTHER DEFINED IN THE TECHNICAL MANUAL.

"NET TRACT AREAS" MEANS:

1. EXCEPT IN AGRICULTURE AND RESOURCE AREAS, THE TOTAL AREA OF A SITE, INCLUDING BOTH FORESTED AND NONFORESTED AREAS, TO THE NEAREST ONE-TENTH -ACRE, REDUCED BY THAT AREA WHERE FOREST CLEARING IS RESTRICTED BY ANOTHER LOCAL ORDINANCE OR PROGRAM;
2. IN AGRICULTURE AND RESOURCE AREAS THE PART OF THE TOTAL TRACT FOR WHICH LAND USE WILL BE CHANGED OR WILL NO LONGER BE USED FOR PRIMARILY AGRICULTURAL ACTIVITIES, REDUCED BY THAT AREA WHERE FOREST CLEARING IS RESTRICTED BY ANOTHER LOCAL ORDINANCE OR PROGRAM; AND
3. FOR A LINEAR PROJECT:
  - I. THE AREA OF A RIGHT-OF-WAY WIDTH, NEW ACCESS ROADS, AND STORAGE; OR
  - II. THE LIMITS OF DISTURBANCE AS SHOWN ON AN APPLICATION FOR SEDIMENT AND EROSION CONTROL APPROVAL OR IN A CAPITAL IMPROVEMENTS PROGRAM PROJECT DESCRIPTION.

NONTIDAL WETLANDS.

1. "NONTIDAL WETLANDS" MEANS AN AREA THAT IS:
  - I. INUNDATED OR SATURATED BY SURFACE OR GROUNDWATER AT A FREQUENCY AND DURATION SUFFICIENT TO SUPPORT, AND UNDER NORMAL CONDITIONS DOES

SUPPORT, A PREVALENCE OF VEGETATION TYPICALLY ADAPTED FOR LIFE IN SATURATED SOIL CONDITIONS, COMMONLY KNOWN AS HYDROPHYTIC VEGETATION; AND

II. CONSIDERED A NONTIDAL WETLAND IN ACCORDANCE WITH THE PUBLICATION KNOWN AS THE "FEDERAL MANUAL FOR IDENTIFYING AND DELINEATING JURISDICTIONAL WETLAND," PUBLISHED IN 1989 AND AS MAY BE AMENDED AND INTERPRETED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY.

2. "NONTIDAL WETLANDS" DOES NOT INCLUDE TIDAL WETLANDS REGULATED UNDER ENVIRONMENT ARTICLE, TITLE 16, ANNOTATED CODE OF MARYLAND.

"OFFSITE" MEANS OUTSIDE OF THE LIMITS OF THE AREA ENCOMPASSED BY THE TRACT OR PARCEL OF RECORD ON WHICH THE ACTIVITY IS PROPOSED.

"ONSITE" MEANS WITHIN THE LIMITS OF THE AREA ENCOMPASSED BY THE TRACT OR PARCEL OF RECORD ON WHICH THE ACTIVITY IS PROPOSED, INCLUDING AN AREA CLASSIFIED AS A 100-YEAR FLOODPLAIN.

"100-YEAR FLOOD" MEANS A FLOOD WHICH HAS ONE PERCENT CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR.

"100-YEAR FLOODPLAIN" MEANS AN AREA ALONG OR ADJACENT TO A STREAM OR BODY OF WATER, EXCEPT TIDAL WATERS, THAT IS CAPABLE OF STORING OR CONVEYING FLOODWATERS DURING A 100-YEAR FREQUENCY STORM EVENT, OR A 100-YEAR FLOOD.

"PERENNIAL STREAM" MEANS A STREAM CONTAINING SURFACE WATER THROUGHOUT AN AVERAGE RAINFALL YEAR, AS SHOWN ON THE MOST RECENT SEVEN AND ONE-HALF-MINUTE TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE UNITED STATES GEOLOGIC SURVEY, OR AS DEFINED IN COMAR 26.23.01.01 AND CONFIRMED BY FIELD VERIFICATION.

"PERSON" MEANS THE FEDERAL GOVERNMENT, THE STATE, A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE STATE, OR ANY OF THEIR UNITS, OR AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, EXECUTOR, ADMINISTRATOR, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND, OR ANY PARTNERSHIP, FIRM, ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, OR ANY OF THEIR AFFILIATES, OR ANY OTHER ENTITY.

"PLANNED UNIT DEVELOPMENT" OR "PLANNED DEVELOPMENT" FOR PURPOSES OF THIS SECTION MEANS A DEVELOPMENT COMPRISED OF A COMBINATION OF LAND USES OR VARYING INTENSITIES OF THE SAME LAND USE IN ACCORDANCE WITH AN INTEGRATED PLAN THAT PROVIDES FLEXIBILITY IN LAND USE DESIGN APPROVED BY THE CITY WITH AT LEAST TWENTY PERCENT OF THE LAND PERMANENTLY DEDICATED TO OPEN SPACE IN RESIDENTIAL PLANNED DEVELOPMENTS AND AT LEAST FIVE PERCENT OF THE LAND PERMANENTLY DEDICATED TO OPEN SPACE IN COMMERCIAL, MIXED USE AND OTHER PLANNED DEVELOPMENTS.

"PLANTING PLAN" MEANS A LABELED DIAGRAM THAT SHOWS THE QUANTITIES, LOCATION, SIZE, SHAPE, COLOR, DETAILS AND SPECIFICATIONS OF SPECIFIC PLANTS TO BE USED IN THE LANDSCAPE.

"PRIORITY RETENTION AREA" MEANS:

1. SPECIFIC AREAS WITH TREES, SHRUBS AND PLANTS LOCATED IN SENSITIVE AREAS INCLUDING 100-YEAR FLOODPLAINS, INTERMITTENT, PERENNIAL AND EPHEMERAL STREAMS AND THEIR BUFFERS, COASTAL BAYS AND THEIR BUFFERS, NON-TIDAL WETLANDS AND THEIR BUFFERS, STEEP SLOPES AND THEIR BUFFERS, HYDRIC SOILS AND CRITICAL HABITATS AS FURTHER DEFINED IN THE FOREST CONSERVATION TECHNICAL MANUAL;
2. AREAS CONTAINING TREES, SHRUBS, OR PLANTS IDENTIFIED ON THE LIST OF RARE, THREATENED, AND ENDANGERED SPECIES OF THE U.S. FISH AND WILDLIFE SERVICE OR THE DEPARTMENT;

3. TREES THAT ARE PART OF A HISTORIC SITE OR ASSOCIATED WITH A HISTORIC STRUCTURE OR DESIGNATED BY THE DEPARTMENT AS A NATIONAL, STATE, OR CITY CHAMPION TREE;
4. AREAS CONTAINING ONE OR MORE SIGNIFICANT TREES;
5. AREAS OF CONTIGUOUS FOREST.

"PROJECT PLAN" MEANS A CONSTRUCTION, GRADING, OR SEDIMENT CONTROL ACTIVITY ON AN AREA OF FORTY THOUSAND SQUARE FEET OR GREATER BY A LOCAL AGENCY OR A "SITE DESIGN PLAN" AS SPECIFIED IN CITY CODE SECTION 21.22.020.

"PUBLIC UTILITY" MEANS ANY:

1. FACILITY, FIXTURE OR MEANS OF TRANSMISSION OPERATED IN ASSOCIATION WITH A PUBLIC SERVICE COMPANY AS DEFINED IN PUBLIC UTILITIES ARTICLE, ANNOTATED CODE OF MARYLAND § 1-101(X);
2. WATER AND SEWER SERVICES AS SPECIFIED IN TITLE 16 OF THE ANNAPOLIS CITY CODE; OR
3. CABLE TELEVISION SYSTEMS AS DEFINED IN LOCAL GOVERNMENT ARTICLE, ANNOTATED CODE OF MARYLAND § 1-708(A).

"REFORESTATION" OR "REFORESTED" MEANS:

1. CREATION OF A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS CONTAINING AT LEAST ONE HUNDRED LIVE TREES PER ACRE WITH AT LEAST FIFTY PERCENT OF THOSE TREES HAVING THE POTENTIAL OF ATTAINING A TWO-INCH OR GREATER DIAMETER MEASURED AT FOUR AND ONE-HALF FEET ABOVE THE GROUND, WITHIN SEVEN YEARS; OR
2. ESTABLISHMENT OF A FOREST ACCORDING TO PROCEDURES SET FORTH IN THE FOREST CONSERVATION TECHNICAL MANUAL;
3. LANDSCAPING OF AREAS UNDER AN APPROVED LANDSCAPING PLAN;
4. FOR A LINEAR PROJECT INVOLVING OVERHEAD TRANSMISSION LINES MAY CONSIST OF A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND WOODY SHRUBS WITH NO MINIMUM HEIGHT OR DIAMETER CRITERIA.

"REGULATED ACTIVITY" MEANS ANY OF THE FOLLOWING ACTIVITIES, WHEN THAT ACTIVITY OCCURS ON A UNIT OF LAND WHICH IS FORTY THOUSAND SQUARE FEET OR GREATER:

1. SUBDIVISION;
2. GRADING;
3. AN ACTIVITY THAT REQUIRES A SEDIMENT CONTROL PERMIT;
4. PROJECT PLAN; OR
5. A PLANNED DEVELOPMENT OR A SPECIAL EXCEPTION.

"RETENTION" MEANS THE DELIBERATE HOLDING AND PROTECTION OF EXISTING TREES, SHRUBS, OR PLANTS ON THE SITE ACCORDING TO ESTABLISHED STANDARDS AS PROVIDED IN THE FOREST CONSERVATION TECHNICAL MANUAL.

"SEDIMENT CONTROL PERMIT" MEANS THE AUTHORIZATION OF AN ACTIVITY REGULATED UNDER A SEDIMENT CONTROL PLAN AS PROVIDED IN ENVIRONMENT ARTICLE, TITLE 4, ANNOTATED CODE OF MARYLAND OR A GRADING PERMIT AS PROVIDED IN CHAPTERS 19.40 AND 19.50 OF THE ANNAPOLIS CITY CODE.

"SEEDLING" MEANS AN UNBRANCHED WOODY PLANT, LESS THAN TWENTY-FOUR INCHES IN HEIGHT AND HAVING A DIAMETER OF LESS THAN ONE-HALF-INCH MEASURED AT TWO INCHES ABOVE THE ROOT COLLAR.

"SELECTIVE CLEARING" MEANS THE CAREFUL AND PLANNED REMOVAL OF TREES, SHRUBS, AND PLANTS USING SPECIFIC STANDARDS AND PROTECTION MEASURES UNDER AN APPROVED FOREST CONSERVATION PLAN.

"SIGNIFICANT TREE" MEANS:

1. A CHAMPION TREE;
2. OR A TREE WHICH IS AT LEAST SEVENTY-FIVE PERCENT OF THE DIAMETER OF THE STATE CHAMPION TREE;
3. OR A TREE WHICH IS OF TWENTY-FOUR INCHES DBH OR MORE AND WHICH HAS BEEN DETERMINED BY THE DEPARTMENT DIRECTOR TO BE OF NOTABLE QUALITY AND OR HIGH VALUE BECAUSE OF ITS TYPE, SIZE, AGE, HISTORICAL SIGNIFICANCE, CANOPY BENEFITS, OR WHICH OTHERWISE WARRANTS SPECIAL CONSIDERATION FOR PRESERVATION.

"STEEP SLOPE" MEANS A SLOPE OF FIFTEEN PERCENT OR GREATER.

"STEEP SLOPE BUFFER" MEANS A PROTECTIVE SETBACK FROM THE STEEP SLOPE ITSELF, REQUIRED BY THE ANNE ARUNDEL COUNTY SOIL CONSERVATION DISTRICT, THAT IS PROVIDED TO MAINTAIN THE INTEGRITY OF THE STEEP SLOPE.

"STREAM BUFFER" MEANS ALL LANDS LYING UP TO ONE HUNDRED FEET AND NO LESS THAN FIFTY FEET, MEASURED FROM THE TOP OF EACH NORMAL BANK OF A PERENNIAL OR INTERMITTENT STREAM. THE WIDTH OF THE BUFFER IS TO BE DETERMINED BY THE DIRECTOR OR HIS/HER DESIGNEE TO PREVENT ACTIVITY FROM HAVING A DELETERIOUS EFFECT ON THE STREAM.

"STREAM RESTORATION PROJECT" MEANS AN ACTIVITY THAT:

1. IS DESIGNED TO STABILIZE STREAM BANKS OR ENHANCE STREAM FUNCTION OR HABITAT LOCATED WITHIN AN EXISTING STREAM, WATERWAY, OR FLOODPLAIN;
2. AVOIDS AND MINIMIZES IMPACTS TO FORESTS AND PROVIDES FOR REPLANTING ONSITE AN EQUIVALENT NUMBER OF TREES TO THE NUMBER REMOVED BY THE PROJECT;
3. MAYBE PERFORMED UNDER A MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT, A WATERSHED IMPLEMENTATION PLAN GROWTH OFFSET, OR ANOTHER PLAN ADMINISTERED BY THE STATE OR LOCAL GOVERNMENT TO ACHIEVE OR MAINTAIN WATER QUALITY STANDARDS; AND
4. IS NOT PERFORMED TO SATISFY STORMWATER MANAGEMENT, WETLANDS MITIGATION, OR ANY OTHER REGULATORY REQUIREMENT ASSOCIATED WITH PROPOSED DEVELOPMENT ACTIVITY.

"SUBDIVISION" MEANS A DIVISION OF A UNIT OF LAND INTO TWO OR MORE LOTS OF PARCELS FOR THE PURPOSE, WHETHER IMMEDIATE OR FUTURE, OF TRANSFER OF OWNERSHIP, SALE, LEASE, OR DEVELOPMENT.

"TAX PROPERTY ARTICLE" MEANS THE TAX PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND AS AMENDED FROM TIME TO TIME.

"TIMBER HARVESTING" MEANS:

1. A TREE-CUTTING OPERATION AFFECTING ONE OR MORE ACRES OF FOREST OR DEVELOPED WOODLAND WITHIN A ONE-YEAR INTERVAL THAT DISTURBS FIVE THOUSAND SQUARE FEET OR MORE OF FOREST FLOOR;
2. DOES NOT INCLUDE GRUBBING AND CLEARING OF ROOT MASS.

"TRACT" MEANS PROPERTY OR UNIT OF LAND SUBJECT TO AN APPLICATION FOR A GRADING OR SEDIMENT CONTROL PERMIT, SUBDIVISION APPROVAL, OR PROJECT PLAN APPROVAL.

"TRACT FOR A PLANNED UNIT DEVELOPMENT" MEANS THE ENTIRE PROPERTY SUBJECT TO A PLANNED UNIT DEVELOPMENT.

"TREE" MEANS A LARGE, BRANCHED WOODY PLANT HAVING ONE OR SEVERAL SELF-SUPPORTING STEMS OR TRUNKS THAT REACH A HEIGHT OF AT LEAST TWENTY FEET AT MATURITY.

"UNWARRANTED HARDSHIP" MEANS THE APPLICANT HAS DEMONSTRATED THAT WITHOUT A VARIANCE, THE APPLICANT WOULD BE DENIED REASONABLE AND SIGNIFICANT USE OF THE

ENTIRE PARCEL OR LOT FOR WHICH THE VARIANCE IS REQUESTED.  
VARIANCE.

1. "VARIANCE" MEANS AN EXEMPTION GRANTED TO AN APPLICANT FROM ONE OR MORE REQUIREMENTS OF THIS CHAPTER.
2. "VARIANCE" DOES NOT MEAN A ZONING VARIANCE.

"WATERSHED" MEANS ALL LAND LYING WITHIN AN AREA DESCRIBED AS A SUB-BASIN IN WATER QUALITY REGULATIONS ADOPTED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT UNDER COMAR 26.08.02.08.

"WHIP" MEANS AN UNBRANCHED WOODY PLANT GREATER THAN TWENTY-FOUR INCHES IN HEIGHT AND HAVING A DIAMETER OF LESS THAN ONE INCH MEASURED AT TWO INCHES ABOVE THE ROOT COLLAR.

### **19.30.030 - APPLICATION.**

A. THIS CHAPTER IS APPLICABLE TO:

1. A PERSON MAKING APPLICATIONS FOR A SUBDIVISION, PROJECT PLAN, GRADING, SEDIMENT CONTROL, PLANNED DEVELOPMENT, SPECIAL EXCEPTION OR SITE PLAN APPROVAL ON UNITS OF LAND FORTY THOUSAND SQUARE FEET OR GREATER;
2. A PUBLIC UTILITY NOT EXEMPT UNDER SUBSECTION B.5. AND 6. OF THIS SECTION;
3. A UNIT OF COUNTY OR MUNICIPAL GOVERNMENT, INCLUDING PUBLIC UTILITY OR PUBLIC WORKS PROJECT, MAKING APPLICATION FOR A SUBDIVISION, PROJECT PLAN, GRADING, OR SEDIMENT CONTROL APPROVAL ON AREAS FORTY THOUSAND SQUARE FEET OR GREATER.

B. THIS CHAPTER DOES NOT APPLY TO:

1. HIGHWAY CONSTRUCTION ACTIVITIES UNDER NATURAL RESOURCES ARTICLE, § 5-103, ANNOTATED CODE OF MARYLAND;
2. AREAS GOVERNED BY THE CHESAPEAKE BAY CRITICAL AREA PROTECTION LAW, NATURAL RESOURCES ARTICLE, §§ 8-1801--8-1817, ANNOTATED CODE OF MARYLAND, INCLUDING THOSE AREAS INTO WHICH CRITICAL AREA FOREST PROTECTION MEASURES HAVE BEEN EXTENDED UNDER NATURAL RESOURCES ARTICLE, § 5-1602 (C), ANNOTATED CODE OF MARYLAND;
3. COMMERCIAL LOGGING AND TIMBER HARVESTING OPERATIONS, INCLUDING HARVESTING CONDUCTED SUBJECT TO THE FOREST CONSERVATION AND MANAGEMENT PROGRAM UNDER TAX-PROPERTY ARTICLE, § 8-211, ANNOTATED CODE OF MARYLAND, THAT ARE COMPLETED:
  - I. BEFORE JULY 1, 1991; OR
  - II. AFTER JULY 1, 1991, ON PROPERTY WHICH:
    - A. HAS NOT BEEN THE SUBJECT OF APPLICATION FOR A GRADING PERMIT FOR DEVELOPMENT WITHIN FIVE YEARS AFTER THE LOGGING OR HARVESTING OPERATION, AND
    - B. IS THE SUBJECT OF A DECLARATION OF INTENT AS PROVIDED FOR IN SUBSECTION C. OF THIS SECTION, APPROVED BY THE DEPARTMENT;
4. AGRICULTURAL ACTIVITIES NOT RESULTING IN A CHANGE IN LAND USE CATEGORY, INCLUDING AGRICULTURAL SUPPORT BUILDING AND OTHER RELATED STRUCTURES BUILT USING ACCEPTED BEST MANAGEMENT PRACTICES, EXCEPT THAT A PERSON ENGAGING IN AN AGRICULTURAL ACTIVITY CLEARING FORTY THOUSAND SQUARE FEET OR GREATER OF FOREST WITHIN A ONE-YEAR PERIOD, MAY NOT RECEIVE AN AGRICULTURAL EXEMPTION, UNLESS THE PERSON FILES A DECLARATION OF INTENT AS PROVIDED FOR IN SUBSECTION C. OF THIS SECTION WHICH INCLUDES:
  - I. A STATEMENT THAT THE LANDOWNER OR LANDOWNER'S AGENT WILL PRACTICE

- AGRICULTURE ON THAT PORTION OF THE PROPERTY FOR FIVE YEARS FROM THE DATE OF THE DECLARATION; AND
- II. A SKETCH OF THE PROPERTY WHICH SHOWS THE AREAS TO BE CLEARED;
5. THE CUTTING OR CLEARING OF PUBLIC UTILITY RIGHTS-OF-WAY LICENSED UNDER PUBLIC UTILITIES ARTICLE, §§ 7-207 AND 7-208 OR 7-205, ANNOTATED CODE OF MARYLAND, OR LAND FOR ELECTRIC GENERATING STATIONS LICENSED UNDER PUBLIC UTILITIES ARTICLE, §§ 7-207 AND 7-208 OR 7-205, ANNOTATED CODE OF MARYLAND, IF:
- I. REQUIRED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY HAVE BEEN ISSUED IN ACCORDANCE WITH NATURAL RESOURCES ARTICLE, § 5-1603(F), ANNOTATED CODE OF MARYLAND; AND
- II. CUTTING OR CLEARING OF THE FOREST IS CONDUCTED TO MINIMIZE THE LOSS OF FOREST;
6. ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF PUBLIC UTILITY RIGHTS-OF-WAY LICENSED UNDER PUBLIC UTILITIES ARTICLE, §§ 7-207 AND 7-208 OR 7-205, ANNOTATED CODE OF MARYLAND;
7. EXCEPT FOR A PUBLIC UTILITY SUBJECT TO SUBSECTION B.5. OF THIS SECTION, ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF A PUBLIC UTILITY RIGHT-OF-WAY IF:
- I. THE RIGHT-OF-WAY EXISTED BEFORE THE EFFECTIVE DATE OF THIS SECTION; OR
- II. THE RIGHT-OF-WAY'S INITIAL CONSTRUCTION WAS APPROVED BEFORE THE EFFECTIVE DATE OF THIS SECTION;
8. A RESIDENTIAL CONSTRUCTION ACTIVITY CONDUCTED ON AN EXISTING SINGLE LOT OF RECORD OF ANY SIZE AT THE TIME OF APPLICATION, OR A LINEAR PROJECT NOT OTHERWISE EXEMPTED UNDER THIS SECTION, IF THE ACTIVITY:
- I. DOES NOT RESULT IN THE CUMULATIVE CUTTING, CLEARING, OR GRADING OF MORE THAN TWENTY THOUSAND SQUARE FEET OF FOREST;
- II. DOES NOT RESULT IN THE CUTTING, CLEARING, OR GRADING OF A FOREST THAT IS SUBJECT TO THE REQUIREMENTS OF A PREVIOUS FOREST CONSERVATION PLAN APPROVED UNDER THIS SECTION; AND
- III. IS THE SUBJECT OF A DECLARATION OF INTENT FILED WITH THE DEPARTMENT, AS PROVIDED IN SUBSECTION C. OF THIS SECTION, STATING THAT THE LOT WILL NOT BE THE SUBJECT OF A REGULATED ACTIVITY WITHIN FIVE YEARS OF THE CUTTING, CLEARING, OR GRADING OF FOREST;
9. STRIP OR DEEP MINING OF COAL REGULATED UNDER ENVIRONMENT ARTICLE, TITLE 15, SUBTITLE 5 OR 6, ANNOTATED CODE OF MARYLAND;
10. NONCOAL SURFACE MINING REGULATED UNDER ENVIRONMENT ARTICLE, TITLE 15, SUBTITLE 8, ANNOTATED CODE OF MARYLAND;
11. AN ACTIVITY REQUIRED FOR THE PURPOSE OF CONSTRUCTING A DWELLING HOUSE INTENDED FOR THE USE OF THE OWNER, OR A CHILD OF THE OWNER, IF THE ACTIVITY:
- I. DOES NOT RESULT IN CUTTING, CLEARING, OR GRADING OF MORE THAN TWENTY THOUSAND SQUARE FEET OF FOREST; AND
- II. IS THE SUBJECT OF A DECLARATION OF INTENT FILED WITH THE DEPARTMENT, AS PROVIDED FOR IN SUBSECTION C. OF THIS SECTION, WHICH STATES THAT A TRANSFER OF OWNERSHIP MAY RESULT IN A LOSS OF EXEMPTION;
12. A PLAN OF SUBDIVISION OR A GRADING OR SEDIMENT CONTROL PLAN ADMINISTRATIVELY APPROVED BEFORE THE EFFECTIVE DATE OF THIS CHAPTER AND THAT IS NOT SUBSEQUENTLY OVERTURNED ON APPEAL;

13. A PLANNED DEVELOPMENT, PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER, THAT HAS OBTAINED FINAL PLANNED DEVELOPMENT APPROVAL IN ACCORDANCE WITH SECTION 21.24.070 AND THAT IS NOT SUBSEQUENTLY OVERTURNED ON APPEAL;
  14. A REAL ESTATE TRANSFER TO PROVIDE A SECURITY, LEASEHOLD, OR OTHER LEGAL OR EQUITABLE INTEREST, INCLUDING A TRANSFER OF TITLE OF A PORTION OF A LOT OR PARCEL, IF:
    - I. THE TRANSFER DOES NOT INVOLVE A CHANGE IN LAND USE, OR NEW DEVELOPMENT OR REDEVELOPMENT, WITH ASSOCIATED LAND-DISTURBING ACTIVITIES; AND
    - II. BOTH THE GRANTOR AND GRANTEE FILE A DECLARATION OF INTENT, AS PROVIDED FOR IN SUBSECTION C. OF THIS SECTION;
  15. MAINTENANCE OR RETROFITTING OF A STORMWATER MANAGEMENT STRUCTURE THAT MAY INCLUDE CLEARING OF VEGETATION OR REMOVAL AND TRIMMING OF TREES, IF THE MAINTENANCE OR RETROFITTING IS WITHIN THE ORIGINAL LIMITS OF DISTURBANCE FOR CONSTRUCTION OF THE EXISTING STRUCTURE, OR WITHIN ANY MAINTENANCE EASEMENT FOR ACCESS TO THE STRUCTURE;
  16. A STREAM RESTORATION PROJECT, AS DEFINED IN SECTION 21.71.020 OF THIS CHAPTER, FOR WHICH THE APPLICANT FOR A GRADING OR SEDIMENT CONTROL PERMIT HAS EXECUTED A BINDING MAINTENANCE AGREEMENT OF AT LEAST FIVE YEARS WITH THE AFFECTED PROPERTY OWNER OR OWNERS;
  17. A SPECIAL EXCEPTION APPLICATION THAT IS ONLY A CHANGE OF USE THAT DOES NOT INVOLVE NEW DEVELOPMENT OR REDEVELOPMENT WITH ASSOCIATED LAND-DISTURBING ACTIVITIES.
- C. DECLARATION OF INTENT.
1. THE PURPOSE OF THE DECLARATION OF INTENT IS TO VERIFY THAT THE PROPOSED ACTIVITY IS EXEMPT UNDER NATURAL RESOURCES ARTICLE, §§ 5-103 AND 5-1601-5-1612, ANNOTATED CODE OF MARYLAND, AND THIS CHAPTER.
  2. A PERSON SEEKING AN EXEMPTION UNDER SUBSECTION B.3., 4., 8., 11., AND 14. OF THIS CHAPTER SHALL FILE A DECLARATION OF INTENT WITH THE DEPARTMENT.
  3. THE DECLARATION OF INTENT IS EFFECTIVE FOR FIVE YEARS.
  4. THE EXISTENCE OF A DECLARATION OF INTENT DOES NOT PRECLUDE ANOTHER EXEMPTED ACTIVITY ON THE PROPERTY SUBJECT TO A DECLARATION OF INTENT, IF THE ACTIVITY:
    - I. DOES NOT CONFLICT WITH THE PURPOSE OF ANY EXISTING DECLARATION OF INTENT; AND
    - II. COMPLIES WITH THE APPLICABLE REQUIREMENTS FOR AN EXEMPTED ACTIVITY.
  5. IF A REGULATED ACTIVITY ON THE AREA COVERED BY THE DECLARATION OF INTENT OCCURS WITHIN FIVE YEARS OF THE EFFECTIVE DATE OF THE DECLARATION OF INTENT:
    - I. THERE SHALL BE AN IMMEDIATE LOSS OF EXEMPTION; OR
    - II. THERE MAY BE A NONCOMPLIANCE ACTION TAKEN BY THE DEPARTMENT, AS APPROPRIATE, UNDER THIS CHAPTER.
  6. AN APPLICANT MAY APPLY FOR A REGULATED ACTIVITY ON THAT AREA OF THE PROPERTY NOT COVERED UNDER THE DECLARATION OF INTENT IF THE REQUIREMENTS OF THIS CHAPTER ARE SATISFIED.
  7. THE DEPARTMENT MAY REQUIRE A PERSON FAILING TO FILE A DECLARATION OF INTENT OR A PERSON FOUND IN NONCOMPLIANCE WITH A DECLARATION OF INTENT TO:
    - I. MEET THE RETENTION, AFFORESTATION, AND REFORESTATION REQUIREMENTS

- ESTABLISHED IN SECTION 7.21.030 THROUGH SECTION 7.21.160 OF THIS CHAPTER.
- II. PAY A NONCOMPLIANCE FEE OF TEN DOLLARS PER SQUARE FOOT OF FOREST CUT OR CLEARED UNDER THE DECLARATION OF INTENT OR AS SET BY RESOLUTION OF THE CITY COUNCIL, WHICHEVER IS GREATER;
  - III. BE SUBJECT TO OTHER ENFORCEMENT ACTIONS APPROPRIATE UNDER NATURAL RESOURCES ARTICLE, §§ 5-1601-5-1612, ANNOTATED CODE OF MARYLAND AND THIS CHAPTER; OR
  - IV. FILE A DECLARATION OF INTENT WITH THE DEPARTMENT.
8. IN ITS DETERMINATION OF APPROPRIATE ENFORCEMENT ACTION, THE DEPARTMENT MAY CONSIDER WHETHER FAILURE TO FILE A DECLARATION OF INTENT BY A PERSON REQUIRED TO FILE IS A KNOWING VIOLATION OF THIS CHAPTER.

**19.30.040 - TECHNICAL MANUAL.**

- A. THE TECHNICAL MANUAL SHALL BE POSTED TO THE DEPARTMENT'S WEBSITE. THE DEPARTMENT MAY AMEND THE MANUAL FROM TIME TO TIME. WHENEVER THE DEPARTMENT SEEKS TO AMEND THE MANUAL, PROPOSED CHANGES MUST BE POSTED ONLINE FOR A 30-DAY COMMENT PERIOD. THE ANNAPOLIS ENVIRONMENTAL COMMISSION, THE ENVIRONMENTAL MATTERS COMMITTEE, AND THE CITY'S PLANNING COMMISSION, SHALL ALSO BE NOTIFIED AT THE START OF THE 30-DAY COMMENT PERIOD. AFTER THE COMMENT PERIOD CLOSES, THE DEPARTMENT SHALL CONSIDER THE COMMENTS RECEIVED, AFTER WHICH THEIR PROPOSED CHANGES ARE DEEMED ADOPTED.
- B. THE FOREST CONSERVATION TECHNICAL MANUAL SHALL PROVIDE SPECIFICATIONS CONSISTENT WITH THIS CHAPTER INCLUDING BUT NOT LIMITED TO:
  1. ANY METHODS THE DEPARTMENT APPROVES TO PROTECT RETAINED FORESTS AND TREES DURING CONSTRUCTION;
  2. A REQUIREMENT THAT ENVIRONMENTAL FEATURES MAPS OR NATURAL RESOURCES INVENTORY SHALL INCLUDE TOPOGRAPHIC CONTOURS (AT TWO-FOOT INTERVALS OR LESS IF REQUIRED BY THE DEPARTMENT), STEEP SLOPES AND THEIR BUFFERS, SOIL CLASSIFICATIONS (INCLUDING HYDRIC PROPERTIES), SIGNIFICANT TREES, TREES MEASURING TWENTY-FOUR INCHES OR GREATER DBH, STREAMS (INTERMITTENT, PERENNIAL, EPHEMERAL), STREAM BUFFERS, CRITICAL HABITATS, NATURAL DRAINAGE COURSES, AND WETLANDS AND THEIR BUFFERS.

**19.30.045 - GENERAL REQUIREMENTS.**

- A. AFTER THE EFFECTIVE DATE OF THIS CHAPTER, A PERSON MAKING APPLICATIONS FOR A SUBDIVISION, PROJECT PLAN, GRADING, SEDIMENT CONTROL, PLANNED DEVELOPMENT, SPECIAL EXCEPTION OR SITE PLAN APPROVAL ON UNITS OF LAND FORTY THOUSAND SQUARE FEET OR GREATER, SHALL:
  1. SUBMIT TO THE DEPARTMENT A FOREST STAND DELINEATION AND A FOREST CONSERVATION PLAN FOR THE LOT OR TRACT ON WHICH THE DEVELOPMENT IS LOCATED; AND
  2. USE METHODS THE DEPARTMENT APPROVES, AS DETAILED IN THE FOREST CONSERVATION TECHNICAL MANUAL, TO PROTECT RETAINED FORESTS AND TREES DURING CONSTRUCTION.
- B. NOTICE REQUIREMENTS.

POSTING OF PROPERTY. UPON INITIAL APPLICATION FOR A FOREST CONSERVATION ACT REVIEW, THE FOLLOWING POSTING MUST BE DONE:

  1. NOTICE MUST BE POSTED ON THE PROPERTY THAT IS THE SUBJECT OF AN APPLICATION

- NO LESS THAN FIVE BUSINESS DAYS FOLLOWING AN APPLICATION FOR FOREST STAND DELINEATION REVIEW.
2. FAILURE TO POST WITHIN FIVE BUSINESS DAYS MAY RESULT IN THE APPLICANT'S APPLICATION BEING DETERMINED TO BE INVALID BY THE DEPARTMENT AND A NEW APPLICATION WILL NEED TO BE SUBMITTED BEFORE THE PROJECT WILL BE REVIEWED.
  3. IT IS THE RESPONSIBILITY OF AN APPLICANT TO POST ANY NOTICE REQUIRED UNDER THIS SECTION ON THE PROPERTY THAT IS THE SUBJECT OF AN APPLICATION, UNLESS THE APPLICANT IS NOT THE PROPERTY OWNER, IN WHICH CASE IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER.
  4. THE POSTED NOTICE MUST BE OBTAINED FROM THE DEPARTMENT AND INCLUDE LANGUAGE INDICATING THAT THE PROPERTY IS UNDER FOREST CONSERVATION ACT REVIEW AND WHERE INTERESTED PARTIES MAY FIND INFORMATION ABOUT THE APPLICATION AND A COPY OF THE PLANS UNDER REVIEW.
  5. THE PROPERTY MUST REMAIN POSTED UNTIL A FINAL ADMINISTRATIVE DECISION IS RENDERED ON THE FOREST CONSERVATION ACT APPLICATION.
  6. ANY SIGN POSTED ON A PROPERTY BY AN APPLICANT MUST BE REMOVED BY THE APPLICANT WITHIN SEVEN DAYS FOLLOWING THE APPROVAL OF THE FOREST CONSERVATION PLAN.

**19.30.050 - LOCAL AGENCY APPLICATION.**

IF A LOCAL AGENCY OR PERSON USING STATE FUNDS SUBMITS AN APPLICATION TO CONDUCT AN ACTIVITY REGULATED BY THIS CHAPTER, THE PROVISIONS OF COMAR 08.19.04.01(D) SHALL APPLY.

**19.30.060 - FOREST STAND DELINEATION.**

**A. CRITERIA.**

1. A FOREST STAND DELINEATION SHALL BE SUBMITTED TO THE DEPARTMENT AS THE FIRST STEP OF MAKING APPLICATION FOR THE PLANS OR PERMITS SPECIFIED IN SECTION 19.30.045.
2. THE DELINEATION SHALL BE PREPARED BY A LICENSED FORESTER, LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A.
3. THE DELINEATION SHALL BE USED DURING THE PRELIMINARY REVIEW PROCESS TO DETERMINE THE MOST SUITABLE AND PRACTICAL AREAS FOR FOREST CONSERVATION AND SHALL CONTAIN THE FOLLOWING COMPONENTS:
  - I. A TOPOGRAPHIC MAP DELINEATING INTERMITTENT AND PERENNIAL STREAMS, AND STEEP SLOPES;
  - II. A NATURAL RESOURCES INVENTORY;
  - III. A SOILS MAP DELINEATING SOILS WITH STRUCTURAL LIMITATIONS, HYDRIC SOILS, OR SOILS WITH A SOIL K VALUE GREATER THAN 0.35 ON SLOPES OF FIFTEEN PERCENT OR MORE;
  - IV. FOREST STAND MAPS INDICATING SPECIES, LOCATION, AND SIZE OF TREES AND SHOWING DOMINANT AND CO-DOMINANT FOREST TYPES;
  - V. LOCATION OF 100-YEAR FLOODPLAINS;
  - VI. THE LOCATION AND DELINEATION OF ALL TIDAL AND NON-TIDAL WETLANDS AND THEIR BUFFERS;
  - VII. INFORMATION REQUIRED BY THE FOREST CONSERVATION TECHNICAL MANUAL;  
AND

- VIII. OTHER INFORMATION THE DEPARTMENT DETERMINES IS NECESSARY TO IMPLEMENT THIS CHAPTER, INCLUDING A NONTIDAL WETLANDS PLAN UPON REQUEST.
4. THE DEPARTMENT SHALL POST THE FOREST STAND DELINEATION ON ITS WEBSITE WITHIN THREE BUSINESS DAYS OF RECEIPT FOR AT LEAST FIFTEEN CALENDAR DAYS AND PROVIDE DIRECTIONS AS TO HOW THE PUBLIC MAY SEND OR DELIVER WRITTEN COMMENTS, TESTIMONY, OR DOCUMENTATION PERTAINING TO THE FOREST STAND DELINEATION. THE WEBSITE POSTING REQUIREMENT SHALL APPLY TO ANY AMENDMENTS OR REVISIONS TO THE FOREST STAND DELINEATION. THE DEPARTMENT SHALL PROMPTLY POST ALL CORRESPONDENCE BETWEEN THE DEPARTMENT, AND THE APPLICANT. ALL DOCUMENTS SHALL BE RETAINED BY THE DEPARTMENT AS PART OF THE RECORD OF THE APPLICATION.
  5. IF APPROVED BY THE DEPARTMENT, A SIMPLIFIED FOREST STAND DELINEATION, A CONCEPT PLAN OR PLAT, PRELIMINARY PLAT OR PLAN, SEDIMENT CONTROL PLAN, OR OTHER APPROPRIATE DOCUMENT, VERIFIED BY A SITE VISIT, IF APPROPRIATE, MAY SUBSTITUTE FOR THE FOREST STAND DELINEATION IF:
    - I. NO FOREST COVER IS DISTURBED DURING A CONSTRUCTION ACTIVITY; AND
    - II. DESIGNATED TO BE UNDER A LONG TERM PROTECTIVE AGREEMENT.
  6. THE DEPARTMENT SHALL CONSIDER A SIMPLIFIED FOREST STAND DELINEATION, OR OTHER SUBSTITUTE PLAN DESCRIBED IN SUBSECTION A.5. OF THIS SECTION, COMPLETE IF IT INCLUDES:
    - I. ALL REQUIREMENTS UNDER SUBSECTION A.3.I., II., III., V., AND VIII. OF THIS SECTION;
    - II. A MAP SHOWING EXISTING FOREST COVER AS VERIFIED BY FIELD INSPECTION; AND
    - III. OTHER INFORMATION REQUIRED BY THIS CHAPTER.
  7. AN APPROVED FOREST STAND DELINEATION IS VALID FOR FIVE YEARS EXCEPT THAT THE DEPARTMENT MAY REQUIRE SUBMISSION OF A REVISED FOREST STAND DELINEATION IF SITE CONDITIONS CHANGE DURING THE FIVE-YEAR PERIOD.
  8. TIME FOR SUBMITTAL.
    - I. WITHIN THIRTY CALENDAR DAYS AFTER RECEIPT OF THE FSD, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING (BY EMAIL OR POSTAL LETTER) WHETHER THE FOREST STAND DELINEATION IS COMPLETE AND CORRECT. IN THE EVENT A FOREST STAND DELINEATION IS NOT COMPLETE AND CORRECT, THE DEPARTMENT SHALL TRANSMIT TO THE APPLICANT A DETAILED AND SPECIFIC LISTING OF DEFICIENCIES.
    - II. IF THE DEPARTMENT FAILS TO NOTIFY THE APPLICANT IN WRITING WITHIN THIRTY DAYS, THE DELINEATION SHALL BE TREATED AS COMPLETE AND CORRECT.
    - III. THE DEPARTMENT MAY REQUIRE IN WRITING FURTHER INFORMATION OR PROVIDE FOR AN ADDITIONAL FIFTEEN CALENDAR DAYS UNDER EXTENUATING CIRCUMSTANCES AS DETERMINED BY THE DEPARTMENT.
  9. IF THE APPLICANT SUBMITS TWO FOREST STAND DELINEATIONS WHICH ARE NOT FOUND TO BE COMPLETE AND CORRECT BY THE DEPARTMENT, THE DEPARTMENT SHALL, AT THE APPLICANT'S EXPENSE, ENGAGE A LICENSED FORESTER, LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A TO COMPLETE AND SUBMIT A FOREST STAND DELINEATION ON THE APPLICANT'S BEHALF.

### **19.30.070 - FOREST CONSERVATION PLAN.**

A. GENERAL PROVISIONS.

1. A PRELIMINARY FOREST CONSERVATION PLAN CANNOT BE APPEALED. A FINAL FOREST CONSERVATION PLAN IS APPEALABLE AS PART OF THE APPEAL OF A FINAL ADMINISTRATIVE DECISION, PLANNING COMMISSION DECISION OR BOARD OF APPEALS DECISION SPECIFIED IN CHAPTER 21.08. A STAY PENDING APPEAL SHALL BE IMPOSED DURING THE TIME ALLOWED TO FILE AN APPEAL, AND IF AN APPEAL HAS BEEN FILED, FOR SIXTY DAYS THEREAFTER.
2. WITH REGARD TO (1) A PLAN OF SUBDIVISION OR A GRADING OR SEDIMENT CONTROL PLAN THAT WAS ADMINISTRATIVELY APPROVED, OR (2) A PLANNED DEVELOPMENT THAT HAS OBTAINED FINAL PLANNED DEVELOPMENT APPROVAL, PRIOR TO SEPTEMBER 26, 2016, THE DISPOSITION OF WHICH REMAIN GOVERNED BY FORMER SECTION 19.20.025.B. OF THE CITY CODE, ANY PERSON AGGRIEVED BY A DECISION OF THE DIRECTOR TO APPROVE OR DISAPPROVE THE FOREST CONSERVATION PLAN ASSOCIATED WITH SUCH APPLICATIONS SHALL BE ENTITLED TO NOTE AN APPEAL TO THE BUILDING BOARD OF APPEALS. ANY PARTY TO THE PROCEEDING BEFORE THE BUILDING BOARD OF APPEALS AGGRIEVED OF THE DECISION OF THE BUILDING BOARD OF APPEALS SHALL BE ENTITLED TO FILE A PETITION FOR JUDICIAL REVIEW OF THE DECISION OF THE BUILDING BOARD OF APPEALS IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY.
3. THE CITY SHALL USE BEST EFFORTS TO PROVIDE WEEKLY ELECTRONIC MAIL UPDATES TO INTERESTED AND REGISTERED USERS, IF APPLICABLE, OF NEWLY FILED OR UPDATED FCA DOCUMENTS AND NOTICES THAT ARE REQUIRED UNDER THIS CHAPTER.
4. IN DEVELOPING A FOREST CONSERVATION PLAN, THE APPLICANT SHALL GIVE PRIORITY TO TECHNIQUES FOR RETAINING EXISTING FOREST ON THE SITE. THERE IS A REBUTTABLE PRESUMPTION THAT PRIORITY RETENTION AREAS SHALL BE RETAINED. THE PRESUMPTION CAN ONLY BE REBUTTED UNDER THE CRITERIA SPECIFIED IN SECTION 19.30.080.B. OF THIS ACT.
5. IF EXISTING FOREST ON THE SITE SUBJECT TO A FOREST CONSERVATION PLAN CANNOT BE RETAINED, THE APPLICANT SHALL DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT:
  - I. HOW TECHNIQUES FOR FOREST RETENTION HAVE BEEN EXHAUSTED;
  - II. WHY THE PRIORITY FORESTS AND PRIORITY AREAS SPECIFIED IN NATURAL RESOURCES ARTICLE, § 5-1607(C)(1), ANNOTATED CODE OF MARYLAND, CANNOT BE LEFT IN AN UNDISTURBED CONDITION:
    - A. IF PRIORITY FORESTS AND PRIORITY AREAS CANNOT BE LEFT UNDISTURBED, HOW THE SEQUENCE FOR AFFORESTATION OR REFORESTATION WILL BE FOLLOWED IN COMPLIANCE WITH NATURAL RESOURCES ARTICLE, § 5-1607, ANNOTATED CODE OF MARYLAND;
    - B. WHERE ON THE SITE IN PRIORITY AREAS AFFORESTATION OR REFORESTATION WILL OCCUR IN COMPLIANCE WITH NATURAL RESOURCES ARTICLE, § 5-1607, ANNOTATED CODE OF MARYLAND; AND
  - III. HOW THE DISTURBANCE TO THE PRIORITY FORESTS AND PRIORITY AREAS SPECIFIED IN NATURAL RESOURCES ARTICLE, § 5-1607(C)(2), ANNOTATED CODE OF MARYLAND, QUALIFIES FOR A VARIANCE.
6. THE APPLICANT SHALL DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT THAT THE REQUIREMENTS FOR AFFORESTATION OR REFORESTATION ONSITE OR OFFSITE CANNOT BE REASONABLY ACCOMPLISHED IF THE APPLICANT PROPOSES TO MAKE A PAYMENT INTO THE FOREST CONSERVATION FUND OR TO PURCHASE CREDITS

FROM A FOREST MITIGATION BANK.

7. NONTIDAL WETLANDS. A REGULATED ACTIVITY WITHIN THE NET TRACT AREA THAT OCCURS WHOLLY OR PARTLY IN AREAS REGULATED AS NONTIDAL WETLANDS UNDER ENVIRONMENT ARTICLE, TITLE 9, ANNOTATED CODE OF MARYLAND, IS SUBJECT TO BOTH THE NONTIDAL WETLANDS REGULATORY REQUIREMENTS AND THE REQUIREMENTS OF THIS CHAPTER, SUBJECT TO THE FOLLOWING:
  - I. ANY AREA OF FOREST IN THE NET TRACT AREA, INCLUDING FOREST IN NONTIDAL WETLANDS THAT IS RETAINED, SHALL BE COUNTED TOWARDS FOREST CONSERVATION REQUIREMENTS UNDER THIS CHAPTER;
  - II. FOR THE PURPOSE OF CALCULATING REFORESTATION MITIGATION UNDER THIS SECTION, A FORESTED NONTIDAL WETLAND PERMITTED TO BE CUT OR CLEARED AND REQUIRED TO BE MITIGATED UNDER ENVIRONMENT ARTICLE, TITLE 9, ANNOTATED CODE OF MARYLAND, SHALL BE SHOWN ON THE FOREST CONSERVATION PLAN AND SUBTRACTED ON AN ACRE-FOR-ACRE BASIS FROM THE TOTAL AMOUNT OF FOREST TO BE CUT OR CLEARED AS PART OF A REGULATED ACTIVITY;
  - III. NONTIDAL WETLANDS SHALL BE CONSIDERED TO BE PRIORITY AREAS FOR RETENTION AND REPLACEMENT;
  - IV. FORESTED NONTIDAL WETLAND IDENTIFICATION AND DELINEATION SHOULD BE INCLUDED AT THE EARLIEST STAGE OF PLANNING TO ASSIST THE APPLICANT IN AVOIDANCE AND REDUCTION OF IMPACTS TO THE NONTIDAL WETLANDS AND TO AVOID DELAY IN THE APPROVAL PROCESS.
8. AN APPROVED FOREST CONSERVATION PLAN IS VALID FOR FIVE YEARS.
  - B. PRELIMINARY FOREST CONSERVATION PLAN.
    1. A PRELIMINARY FOREST CONSERVATION PLAN SHALL BE PREPARED BY A LICENSED FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A.
    2. THE PRELIMINARY FOREST CONSERVATION PLAN SHALL:
      - I. BE SUBMITTED WITH THE PROPOSED DEVELOPMENT PLAN;
      - II. INCLUDE THE APPROVED FOREST STAND DELINEATION FOR THE SITE;
      - III. INCLUDE A TABLE THAT LISTS THE PROPOSED VALUES OF THE FOLLOWING, IN SQUARE FEET:
        - A. NET TRACT AREA,
        - B. AREA OF FOREST CONSERVATION REQUIRED, AND
        - C. AREA OF FOREST CONSERVATION THAT THE APPLICANT PROPOSES TO PROVIDE, INCLUDING BOTH ONSITE AND OFFSITE AREA;
      - IV. INCLUDE A CLEAR GRAPHIC INDICATION OF THE FOREST CONSERVATION PROVIDED ON THE SITE DRAWN TO THE SAME SCALE AS THE PROJECT PLAN SCALE, SHOWING AREAS WHERE RETENTION OF EXISTING FOREST OR AFFORESTATION OR REFORESTATION IS PROPOSED;
      - V. INCLUDE AN EXPLANATION OF HOW THE PROVISIONS OF SUBSECTION A. OF THIS SECTION HAVE BEEN MET;
      - VI. IN THE CASE OF AFFORESTATION OR REFORESTATION, INCLUDE A PROPOSED AFFORESTATION OR REFORESTATION PLAN;
      - VII. INCLUDE A PROPOSED CONSTRUCTION TIMETABLE SHOWING THE SEQUENCE OF FOREST CONSERVATION PROCEDURES;
      - VIII. SHOW THE PROPOSED LIMITS OF DISTURBANCE;
      - IX. SHOW PROPOSED STOCKPILE AREAS;
      - X. INCORPORATE A PROPOSED FIVE-YEAR MAINTENANCE AGREEMENT THAT SHOWS

HOW AREAS DESIGNATED FOR AFFORESTATION OR REFORESTATION WILL BE MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY ESTABLISHMENT; AND XI. OTHER INFORMATION THE DEPARTMENT DETERMINES IS NECESSARY TO IMPLEMENT THIS CHAPTER.

3. THE REVIEW OF THE PRELIMINARY FOREST CONSERVATION PLAN SHALL BE CONCURRENT WITH THE REVIEW OF THE PRELIMINARY SITE PLAN.
  4. THE DEPARTMENT SHALL POST THE PRELIMINARY FOREST CONSERVATION PLAN ON THEIR WEBSITE FOR AT LEAST FIFTEEN CALENDAR DAYS AND PROVIDE DIRECTIONS AS TO HOW THE PUBLIC MAY SEND OR DELIVER WRITTEN COMMENTS, TESTIMONY, OR DOCUMENTATION PERTAINING TO THE PRELIMINARY FOREST CONSERVATION PLAN.
  5. THE DEPARTMENT SHALL HOLD A PUBLIC MEETING AT WHICH THE DEPARTMENT SHALL DESCRIBE THE APPROVAL PROCESS AND THE APPLICANT SHALL MAKE A PRESENTATION INDICATING THE CONTENTS OF THE PROPOSED PRELIMINARY FOREST CONSERVATION PLAN AND THE PROPOSED SITE DESIGN PLAN. THE GENERAL PUBLIC MAY PARTICIPATE IN THE DISCUSSION OF THE APPLICATION. THE MEETING SHALL BE RECORDED AND THE RECORDING SHALL BE RETAINED UNTIL SUCH TIME AS THE APPELLATE PERIOD TOLLS AND MADE PUBLICLY AVAILABLE. IN THE EVENT THERE ARE SIGNIFICANT MODIFICATIONS TO THE PRELIMINARY FOREST CONSERVATION PLAN, THE DEPARTMENT MAY REQUIRE AN ADDITIONAL PUBLIC MEETING IF IT DETERMINES SUCH A MEETING WOULD SERVE THE PUBLIC INTEREST.
  6. DURING DIFFERENT STAGES OF THE REVIEW PROCESS, THE PRELIMINARY FOREST CONSERVATION PLAN MAY BE MODIFIED, PROVIDED THE DEPARTMENT APPROVES OF THE CHANGES. ALL SIGNIFICANT MODIFICATIONS MUST BE POSTED FOR PUBLIC REVIEW AND COMMENT.
  7. ALL CORRESPONDENCE MATERIAL TO AN APPLICATION SHALL BE POSTED ON THE DEPARTMENT WEBSITE. COMMENTS RECEIVED SHALL BE MADE PART OF THE APPLICATION RECORD.
- C. FINAL FOREST CONSERVATION PLAN.
1. A FINAL FOREST CONSERVATION PLAN SHALL BE PREPARED BY A LICENSED FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A.
  2. A FINAL FOREST CONSERVATION PLAN SHALL:
    - I. BE SUBMITTED BY THE APPLICANT CONSISTENT WITH REQUIREMENTS ESTABLISHED BY THE DEPARTMENT AND THE LAW WITH THE FOLLOWING:
      - A. A FINAL SUBDIVISION PLAN,
      - B. A FINAL PROJECT PLAN,
      - C. AN APPLICATION FOR A GRADING PERMIT, OR
      - D. AN APPLICATION FOR A SEDIMENT CONTROL PERMIT;
    - II. SHOW PROPOSED LOCATIONS AND TYPES OF PROTECTIVE DEVICES TO BE USED DURING CONSTRUCTION ACTIVITIES TO PROTECT TREES AND FORESTS DESIGNATED FOR CONSERVATION;
    - III. IN THE CASE OF AFFORESTATION OR REFORESTATION, INCLUDE AN AFFORESTATION OR REFORESTATION PLAN, WITH A TIMETABLE AND DESCRIPTION OF NEEDED SITE AND SOIL PREPARATION, SPECIES, SIZE, AND SPACING TO BE USED;
    - IV. INCORPORATE JUSTIFICATION FOR ANY PROPOSED DISTURBANCE OF PRIORITY RETENTION AREAS, INCLUDING REASONS WHY SUCH PRIORITY RETENTION AREAS CANNOT BE RETAINED AND HOW THE APPLICANT SHALL REPLACE

PROPOSED DISTURBED PRIORITY RETENTION AREAS THROUGH AFFORESTATION AND REFORESTATION, IN COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER.

- V. INCORPORATE A BINDING FIVE-YEAR MAINTENANCE AGREEMENT SPECIFIED IN COMAR 08.19.05.01 THAT DETAILS HOW THE AREAS DESIGNATED FOR AFFORESTATION OR REFORESTATION WILL BE MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY ESTABLISHMENT, INCLUDING:
  - A. WATERING, AND
  - B. A REINFORCEMENT PLANTING PROVISION IF SURVIVAL RATES FALL BELOW REQUIRED STANDARDS, AS PROVIDED IN THE FOREST CONSERVATION TECHNICAL MANUAL;
- VI. INCORPORATE A LONG-TERM BINDING PROTECTIVE AGREEMENT AS SPECIFIED IN COMAR 08.19.05.02 THAT:
  - A. PROVIDES PROTECTION FOR AREAS OF FOREST CONSERVATION, INCLUDING AREAS OF AFFORESTATION, REFORESTATION, AND RETENTION; AND
  - B. LIMITS USES IN AREAS OF FOREST CONSERVATION TO THOSE USES THAT ARE DESIGNATED AND CONSISTENT WITH FOREST CONSERVATION, INCLUDING RECREATIONAL ACTIVITIES AND FOREST MANAGEMENT PRACTICES THAT ARE USED TO PRESERVE FOREST;
- VII. INCLUDE A STATEMENT OF HOW THE PROJECT WILL IMPACT THE CITY'S TREE CANOPY GOALS;
- VIII. INCLUDE THE SUBSTANTIVE ELEMENTS REQUIRED UNDER SUBSECTION B.2.II.-V., VII.-IX., AND XI. OF THIS SECTION, AS FINALIZED ELEMENTS OF THE FOREST CONSERVATION PLAN; AND
- IX. INCLUDE OTHER INFORMATION THE DEPARTMENT DETERMINES IS NECESSARY TO IMPLEMENT THIS CHAPTER.

3. TIME FOR NOTIFICATION.

- I. WITHIN FORTY-FIVE CALENDAR DAYS AFTER INCORPORATION OF THE PROSPECTIVE FINAL FOREST CONSERVATION PLAN INTO A COMPLETE PLAN OR PERMIT APPLICATION ASSOCIATED WITH A REGULATED ACTIVITY, THE DECISION MAKING AUTHORITY FOR SUCH PLANS SHALL NOTIFY THE APPLICANT IN WRITING WHETHER THE FOREST CONSERVATION PLAN IS COMPLETE AND ACCEPTABLE.
  - II. IF THE DECISION MAKING AUTHORITY FAILS TO NOTIFY THE APPLICANT WITHIN FORTY-FIVE CALENDAR DAYS, THE PLAN SHALL BE TREATED AS COMPLETE AND APPROVED.
  - III. THE DECISION MAKING AUTHORITY MAY REQUIRE FURTHER INFORMATION OR EXTEND THE DEADLINE FOR AN ADDITIONAL FIFTEEN CALENDAR DAYS UNDER EXTENUATING CIRCUMSTANCES IN ITS OWN DISCRETION.
  - IV. AT THE REQUEST OF THE APPLICANT, THE DECISION MAKING AUTHORITY MAY EXTEND THE DEADLINE UNDER EXTENUATING CIRCUMSTANCES.
  - V. THE DEPARTMENT SHALL POST THE NOTIFICATIONS DESCRIBED IN THIS SECTION AND THE FINAL FOREST CONSERVATION PLAN ON THEIR WEBSITE.
4. THE DEPARTMENT'S REVIEW OF A FINAL FOREST CONSERVATION PLAN SHALL BE CONCURRENT WITH THE REVIEW OF THE FINAL SUBDIVISION OR PROJECT PLAN, GRADING PERMIT APPLICATION, OR SEDIMENT CONTROL APPLICATION ASSOCIATED WITH THE PROJECT.
  5. THE DEPARTMENT MAY REVOKE AN APPROVED FOREST CONSERVATION PLAN IF IT FINDS THAT:

- I. A PROVISION OF THE PLAN HAS BEEN VIOLATED;
  - II. APPROVAL OF THE PLAN WAS OBTAINED THROUGH FRAUD, MISREPRESENTATION, A FALSE OR MISLEADING STATEMENT, OMISSION OF A RELEVANT OR MATERIAL FACTOR;
  - III. CHANGES IN THE DEVELOPMENT OR IN THE CONDITION OF THE SITE NECESSITATE PREPARATION OF A NEW OR AMENDED PLAN; OR
  - IV. THE PROJECT PLAN APPROVAL IS TERMINATED DUE TO THE APPLICANT'S INACTION AS SPECIFIED IN TITLE 4719 OF THE CITY CODE.
6. THE DEPARTMENT MAY ISSUE A STOP WORK ORDER AGAINST A PERSON WHO VIOLATES A PROVISION OF THIS CHAPTER OR A REGULATION, ORDER, APPROVED FOREST CONSERVATION PLAN, OR MAINTENANCE AGREEMENT.
  7. BEFORE REVOKING APPROVAL OF A FOREST CONSERVATION PLAN, THE DEPARTMENT SHALL NOTIFY THE VIOLATOR IN WRITING AND PROVIDE AN OPPORTUNITY FOR A HEARING BEFORE THE DEPARTMENT DIRECTOR OR DESIGNEE.
  8. UPON APPROVAL OF THE FINAL FOREST CONSERVATION PLAN THE DEPARTMENT SHALL POST THE PLAN ON THE DEPARTMENT'S WEBSITE WITHIN THREE BUSINESS DAYS.

**19.30.080 - AFFORESTATION AND RETENTION.**

A. AFFORESTATION REQUIREMENT. A PERSON SUBMITTING AN APPLICATION AFTER THE EFFECTIVE DATE OF THIS CHAPTER FOR SUBDIVISION OR PROJECT PLAN APPROVAL, A GRADING PERMIT, OR A SEDIMENT CONTROL PERMIT FOR AN AREA OF LAND OF FORTY THOUSAND SQUARE FEET OR GREATER, SHALL:

1. CONDUCT AFFORESTATION ON THE LOT OR PARCEL IN ACCORDANCE WITH THE FOLLOWING:
  - I. A TRACT HAVING LESS THAN TWENTY PERCENT OF THE NET TRACT AREA IN FOREST COVER SHALL BE AFFORESTED UP TO AT LEAST TWENTY PERCENT OF THE NET TRACT AREA FOR THE FOLLOWING LAND USE CATEGORIES:
    - A. AGRICULTURE AND RESOURCE AREAS, AND
    - B. MEDIUM DENSITY RESIDENTIAL AREAS;
  - II. A TRACT WITH LESS THAN TWENTY PERCENT OF ITS NET TRACT AREA IN FOREST COVER SHALL BE AFFORESTED UP TO AT LEAST TWENTY PERCENT OF THE NET TRACT AREA FOR THE FOLLOWING LAND USE CATEGORIES:
    - A. INSTITUTIONAL DEVELOPMENT AREAS,
    - B. HIGH DENSITY RESIDENTIAL AREAS,
    - C. MIXED USE AND PLANNED UNIT DEVELOPMENT AREAS, AND
    - D. COMMERCIAL AND INDUSTRIAL USE AREAS;
2. COMPLY WITH THE FOLLOWING WHEN CUTTING INTO FOREST COVER THAT IS CURRENTLY BELOW THE AFFORESTATION PERCENTAGES DESCRIBED IN SUBSECTION A.1. OF THIS SECTION:
  - I. THE REQUIRED AFFORESTATION LEVEL SHALL BE DETERMINED BY THE AMOUNT OF FOREST EXISTING BEFORE CUTTING OR CLEARING BEGINS; AND
  - II. FOREST CUT OR CLEARED BELOW THE REQUIRED AFFORESTATION LEVEL SHALL BE REFORESTED OR AFFORESTED AT A TWO TO ONE RATIO AND ADDED TO THE AMOUNT OF AFFORESTATION NECESSARY TO REACH THE MINIMUM REQUIRED AFFORESTATION LEVEL, AS DETERMINED BY THE AMOUNT OF FOREST EXISTING BEFORE CUTTING OR CLEARING BEGAN.

B. RETENTION.

1. THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE CONSIDERED

PRIORITY FOR RETENTION AND PROTECTION AND SHALL BE LEFT IN AN UNDISTURBED CONDITION UNLESS THE APPLICANT HAS DEMONSTRATED, TO THE SATISFACTION OF THE DEPARTMENT, THAT REASONABLE EFFORTS HAVE BEEN MADE TO PROTECT THEM AND THE PLAN CANNOT REASONABLY BE ALTERED:

- I. TREES, SHRUBS, AND PLANTS LOCATED IN SENSITIVE AREAS INCLUDING THE 100-YEAR FLOODPLAIN, INTERMITTENT AND PERENNIAL STREAMS AND THEIR BUFFERS, COASTAL BAYS AND THEIR BUFFERS, STEEP SLOPES AND THEIR BUFFERS, NONTIDAL WETLANDS, AND CRITICAL HABITATS.
  - II. CONTIGUOUS FOREST THAT CONNECTS THE LARGEST UNDEVELOPED OR MOST VEGETATED TRACTS OF LAND WITHIN AND ADJACENT TO THE SITE.
2. THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE CONSIDERED PRIORITY FOR RETENTION AND PROTECTION AND SHALL BE LEFT IN AN UNDISTURBED CONDITION UNLESS THE APPLICANT HAS DEMONSTRATED, TO THE SATISFACTION OF THE DEPARTMENT, THAT THE APPLICANT QUALIFIES FOR A VARIANCE IN ACCORDANCE WITH SECTION 19.30.170 OF THIS CHAPTER:
- I. TREES, SHRUBS, OR PLANTS DETERMINED TO BE RARE, THREATENED, OR ENDANGERED UNDER:
    - A. THE FEDERAL ENDANGERED SPECIES ACT OF 1973 IN 16 U.S.C. §§ 1531-1544 AND IN 50 C.F.R. 17,
    - B. THE MARYLAND NONGAME AND ENDANGERED SPECIES CONSERVATION ACT, NATURAL RESOURCES ARTICLE, §§ 10-2A-01-10-2A-09, ANNOTATED CODE OF MARYLAND, AND
    - C. COMAR 08.03.08;
  - II. TREES THAT:
    - A. ARE PART OF A SITE DESIGNATED AS HISTORIC BY THE MARYLAND HISTORIC TRUST, THE NATIONAL PARK SERVICE, OR THE CITY OF ANNAPOLIS,
    - B. ARE ASSOCIATED WITH A STRUCTURE DESIGNATED AS HISTORIC BY THE MARYLAND HISTORIC TRUST, THE NATIONAL PARK SERVICE, OR THE CITY OF ANNAPOLIS, OR
    - C. HAVE BEEN DESIGNATED BY THE STATE, COUNTY, OR THE DEPARTMENT AS A NATIONAL, STATE, COUNTY OR MUNICIPALITY CHAMPION TREE; AND
  - III. ANY TREE:
    - A. HAVING A DBH OF THIRTY INCHES OR MORE, OR
    - B. WHICH HAS BEEN DESIGNATED AS A SIGNIFICANT TREE PURSUANT TO THIS CHAPTER.

**19.30.090 - REFORESTATION.**

- A. FOREST CONSERVATION THRESHOLD.
  1. THERE IS A FOREST CONSERVATION THRESHOLD ESTABLISHED FOR ALL LAND USE CATEGORIES, AS PROVIDED IN SUBSECTION A.2. OF THIS SECTION. THE FOREST CONSERVATION THRESHOLD MEANS THE PERCENTAGE OF THE NET TRACT AREA AT WHICH THE REFORESTATION REQUIREMENT CHANGES FROM A RATIO OF ONE ACRE PLANTED FOR EACH ACRE REMOVED ABOVE THE THRESHOLD TO A RATIO OF TWO ACRES PLANTED FOR EACH ACRE REMOVED BELOW THE THRESHOLD.
  2. AFTER REASONABLE EFFORTS TO MINIMIZE THE CUTTING OR CLEARING OF TREES AND OTHER WOODY PLANTS HAVE BEEN EXHAUSTED IN THE DEVELOPMENT OF A SUBDIVISION OR PROJECT PLAN, GRADING AND SEDIMENT CONTROL ACTIVITIES, AND IMPLEMENTATION OF THE FOREST CONSERVATION PLAN, THE FOREST CONSERVATION PLAN SHALL PROVIDE FOR REFORESTATION, PURCHASE OF CREDITS FROM A FOREST

MITIGATION BANK, OR PAYMENT INTO THE FOREST CONSERVATION FUND, ACCORDING TO THE FORMULA SET FORTH BELOW AND IN SUBSECTION A.3. OF THIS SECTION AND CONSISTENT WITH SECTION 19.30.070.A. OF THIS CHAPTER, AND 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

3. CALCULATIONS.

- I. FOR ALL EXISTING FOREST COVER MEASURED TO THE NEAREST ONE-TENTH ACRE CLEARED ON THE NET TRACT AREA ABOVE THE APPLICABLE FOREST CONSERVATION THRESHOLD, THE AREA OF THE FOREST REMOVED SHALL BE REFORESTED AT A RATIO OF ONE ACRE PLANTED FOR EACH ACRE REMOVED.
- II. FOR ALL EXISTING FOREST COVER MEASURED TO THE NEAREST ONE-TENTH ACRE CLEARED ON THE NET TRACT AREA BELOW THE APPLICABLE FOREST CONSERVATION THRESHOLD, THE AREA OF FOREST REMOVED SHALL BE REFORESTED AT A RATIO OF TWO ACRES PLANTED FOR EACH ACRE REMOVED BELOW THE THRESHOLD.

**19.30.100 - PRIORITIES AND TIME REQUIREMENTS FOR AFFORESTATION AND REFORESTATION.**

A. SEQUENCE FOR AFFORESTATION AND REFORESTATION.

- 1. AFTER TECHNIQUES FOR RETAINING EXISTING FOREST ON THE SITE HAVE BEEN EXHAUSTED, THE PREFERRED SEQUENCE FOR AFFORESTATION AND REFORESTATION, AS DETERMINED BY THE DEPARTMENT, IS AS FOLLOWS:
  - I. FOREST CREATION IN ACCORDANCE WITH A FOREST CONSERVATION PLAN USING ONE OR MORE OF THE FOLLOWING:
    - A. TRANSPLANTED OR NURSERY STOCK,
    - B. WHIP OR SEEDLING STOCK, OR
    - C. NATURAL REGENERATION WHERE IT CAN BE ADEQUATELY SHOWN TO MEET THE OBJECTIVE OF THE FOREST CONSERVATION TECHNICAL MANUAL;
  - II. IN A MUNICIPAL CORPORATION WITH A TREE MANAGEMENT PLAN AND IN AN EXISTING POPULATION CENTER DESIGNATED IN A COUNTY MASTER PLAN THAT HAS BEEN ADOPTED TO CONFORM WITH THE ECONOMIC GROWTH, RESOURCE PROTECTION, AND PLANNING ACT OF 1992, OR IN ANY OTHER DESIGNATED AREA APPROVED BY THE DEPARTMENT, THE USE OF:
    - A. STREET TREES AS A PERMISSIBLE STEP IN THE PRIORITY SEQUENCE FOR AFFORESTATION OR REFORESTATION AND WITH A MATURE CANOPY COVERAGE MAY BE GRANTED FULL CREDIT AS A MITIGATION TECHNIQUE, AND
    - B. ACQUISITION OF AN OFFSITE PROTECTION EASEMENT ON EXISTING FORESTED AREAS WITHIN THE CITY BOUNDARIES NOT CURRENTLY PROTECTED IN

PERPETUITY AS A MITIGATION TECHNIQUE, IN WHICH CASE THE AFFORESTATION OR REFORESTATION CREDIT GRANTED MAY NOT EXCEED FIFTY PERCENT OF THE AREA OF FOREST COVER PROTECTED;

- III. WHEN ALL OTHER OPTIONS, BOTH ONSITE AND OFFSITE, HAVE BEEN EXHAUSTED, LANDSCAPING AS A MITIGATION TECHNIQUE CONDUCTED UNDER AN APPROVED LANDSCAPING PLAN THAT ESTABLISHES A FOREST AT LEAST THIRTY-FIVE FEET WIDE AND COVERING AT LEAST TWO THOUSAND FIVE HUNDRED SQUARE FEET OF AREA.
2. A SEQUENCE OTHER THAN THE ONE DESCRIBED IN SUBSECTION A.1. OF THIS ARTICLE MAY BE USED FOR A SPECIFIC PROJECT, IF NECESSARY, TO ACHIEVE THE OBJECTIVES OF THE CITY LAND USE PLAN OR CITY LAND USE POLICIES, OR TO TAKE ADVANTAGE OF OPPORTUNITIES TO CONSOLIDATE FOREST CONSERVATION EFFORTS.
3. THE FOLLOWING ARE CONSIDERED A PRIORITY FOR AFFORESTATION AND REFORESTATION:
  - I. THOSE TECHNIQUES THAT ENHANCE EXISTING FOREST BY SELECTIVE CLEARING OR SUPPLEMENTAL PLANTING ONSITE;
  - II. ONSITE AFFORESTATION AND REFORESTATION WHERE THE RETENTION OPTIONS HAVE BEEN EXHAUSTED, USING METHODS SELECTED IN ACCORDANCE WITH SUBSECTION A.6. OF THIS SECTION, AND THE LOCATION BEING SELECTED IN ACCORDANCE WITH THIS SUBSECTION.
  - III. OFFSITE AFFORESTATION OR REFORESTATION IN THE SAME WATERSHED WITHIN THE CITY BOUNDARIES OR IN ACCORDANCE WITH AN APPROVED MASTER PLAN WHERE THE APPLICANT HAS DEMONSTRATED THAT NO REASONABLE ALTERNATIVE ONSITE EXISTS, OR WHERE:
    - A. ANY ONSITE PRIORITY AREAS FOR AFFORESTATION OR REFORESTATION HAVE BEEN PLANTED IN ACCORDANCE WITH THIS SUBSECTION; AND
    - B. THE APPLICANT HAS JUSTIFIED TO THE DEPARTMENT'S SATISFACTION THAT ENVIRONMENTAL BENEFITS ASSOCIATED WITH OFFSITE AFFORESTATION OR REFORESTATION EXCEED THOSE DERIVED FROM ONSITE PLANTING.
4. IN THE CASES CITED IN SUBSECTION A.3. OF THIS SECTION, THE METHOD SHALL BE SELECTED IN ACCORDANCE WITH SUBSECTION A.6. OF THIS SECTION AND THE LOCATION SHALL BE SELECTED IN ACCORDANCE WITH SUBSECTION A.3. OF THIS SECTION.
5. OFFSITE AFFORESTATION OR REFORESTATION MAY INCLUDE THE USE OF FOREST MITIGATION BANKS WITHIN THE CITY BOUNDARIES WHICH HAVE BEEN SO DESIGNATED IN ADVANCE BY THE DEPARTMENT.
6. STANDARDS FOR MEETING AFFORESTATION OR REFORESTATION REQUIREMENTS SHALL BE ESTABLISHED USING ONE OR MORE OF THE FOLLOWING METHODS:
  - I. ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO INTERMITTENT AND PERENNIAL STREAMS, AND COASTAL BAYS AND THEIR BUFFERS, TO WIDTHS OF AT LEAST FIFTY TO ONE HUNDRED FEET TO PREVENT ACTIVITY CAUSING A DETRIMENTAL EFFECT TO THE WATERWAY AS DETERMINED BY THE DIRECTOR;
  - II. ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS TO CONNECT EXISTING FORESTS WITHIN OR ADJACENT TO THE SITE AND, WHERE PRACTICAL, FORESTED CORRIDORS SHOULD BE A MINIMUM OF THREE HUNDRED FEET IN WIDTH TO FACILITATE WILDLIFE MOVEMENT;
  - III. ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO CRITICAL HABITATS WHERE APPROPRIATE;

- IV. ESTABLISH OR ENHANCE FORESTED AREAS IN THE 100-YEAR FLOODPLAINS;
  - V. ESTABLISH PLANTINGS TO STABILIZE SLOPES OF TWENTY-FIVE PERCENT OR GREATER AND SLOPES OF FIFTEEN PERCENT OR GREATER WITH A SOIL K VALUE GREATER THAN 0.35 INCLUDING THE SLOPES OF RAVINES OR OTHER NATURAL DEPRESSIONS;
  - VI. ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING LAND USE WHEN APPROPRIATE, OR ADJACENT TO HIGHWAYS OR UTILITY RIGHTS-OF-WAY;
  - VII. ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS TO INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST COVER, WHEN APPROPRIATE; AND
  - VIII. USE NATIVE PLANT MATERIALS FOR AFFORESTATION OR REFORESTATION, WHEN APPROPRIATE.
7. A PERSON REQUIRED TO CONDUCT AFFORESTATION OR REFORESTATION UNDER THIS CHAPTER SHALL ACCOMPLISH IT WITHIN ONE YEAR OR TWO GROWING SEASONS, WHICHEVER IS A GREATER TIME PERIOD, FOLLOWING DEVELOPMENT PROJECT COMPLETION.

**19.30.110 - PAYMENT INSTEAD OF AFFORESTATION AND REFORESTATION.**

A. FOREST CONSERVATION FUND.

1. THERE IS ESTABLISHED A FOREST CONSERVATION FUND.

2. IF A PERSON SUBJECT TO THIS CHAPTER DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT REQUIREMENTS FOR AFFORESTATION OR REFORESTATION ONSITE OR OFFSITE CANNOT BE REASONABLY ACCOMPLISHED, THE PERSON SHALL CONTRIBUTE MONEY INTO THE CITY FOREST CONSERVATION FUND:

I. FOR A PROJECT INSIDE A PRIORITY FUNDING AREA, AS DEFINED IN NATURAL RESOURCES ARTICLE, § 5-1610, ANNOTATED CODE OF MARYLAND, AT A RATE PER SQUARE FOOT OF THE AREA OF REQUIRED PLANTING TO BE SET BY RESOLUTION OF THE CITY COUNCIL SUFFICIENT TO PROVIDE FOR SITE IDENTIFICATION, ACQUISITION, PREPARATION, ONGOING MAINTENANCE COSTS AND OVERHEAD, AND

II. FOR A PROJECT OUTSIDE A PRIORITY FUNDING AREA, AT A RATE TWENTY PERCENT HIGHER THAN THE RATE ESTABLISHED FOR A PROJECT INSIDE A PRIORITY FUNDING AREA.

3. MONEY CONTRIBUTED INSTEAD OF AFFORESTATION OR REFORESTATION UNDER THIS CHAPTER SHALL BE PAID PRIOR TO THE ISSUANCE OF A GRADING PERMIT.

4. THE CITY SHALL ACCOMPLISH THE AFFORESTATION OR REFORESTATION FOR WHICH THE MONEY IS DEPOSITED WITHIN TWO YEARS OR THREE GROWING SEASONS, WHICHEVER IS A GREATER TIME PERIOD, AFTER RECEIPT OF THE MONEY.

5. MONEY DEPOSITED IN THE CITY FOREST CONSERVATION FUND:

I. MAY BE SPENT ON THE COSTS DIRECTLY RELATED TO AFFORESTATION AND REFORESTATION, INCLUDING SITE IDENTIFICATION, ACQUISITION, PREPARATION, MAINTENANCE OF EXISTING FORESTS, AND ACHIEVING URBAN CANOPY GOALS;

II. SHALL BE DEPOSITED IN A SEPARATE FOREST CONSERVATION FUND; AND

III. MAY NOT REVERT TO THE GENERAL FUND.

6. SITES FOR AFFORESTATION OR REFORESTATION USING FUND MONEY:

I. EXCEPT AS PROVIDED IN SUBSECTION A.6.II. OF THIS SECTION, THE AFFORESTATION OR REFORESTATION REQUIREMENT UNDER THIS CHAPTER SHALL OCCUR IN THE WATERSHED IN WHICH THE PROJECT IS LOCATED WITH PRIORITY THAT THE REQUIREMENT BE MET ON LAND IN THE CITY BEFORE CONSIDERATION OF LAND OUTSIDE THE CITY.

- II. IF THE AFFORESTATION OR REFORESTATION CANNOT BE REASONABLY ACCOMPLISHED IN THE CITY OR WATERSHED IN WHICH THE PROJECT IS LOCATED, THEN THE AFFORESTATION OR REFORESTATION SHALL OCCUR IN A WATERSHED IN ANNE ARUNDEL COUNTY.

**19.30.120 - PAYMENT BY CREDITS FROM A FOREST MITIGATION BANK.**

- A. IF A PERSON SUBJECT TO THIS CHAPTER DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT REQUIREMENTS FOR AFFORESTATION OR REFORESTATION ONSITE OR OFFSITE CANNOT BE REASONABLY ACCOMPLISHED, THE PERSON MAY CONTRIBUTE CREDITS FROM A FOREST MITIGATION BANK. A CREDIT IS REQUIRED FOR EACH TENTH OF AN ACRE OF AN AREA OF REQUIRED PLANTING.
- B. THE CREDITS SHALL BE DEBITED FROM AN APPROVED FOREST MITIGATION BANK WITHIN NINETY CALENDAR DAYS AFTER THE DEVELOPMENT PROJECT COMPLETION.

**19.30.130 - ESTABLISHING FOREST MITIGATION BANKS.**

- A. UPON APPROVAL BY THE DEPARTMENT, A PERSON MAY CREATE A FOREST MITIGATION BANK FROM WHICH APPLICANTS MAY PURCHASE CREDITS TO MEET THE AFFORESTATION AND REFORESTATION REQUIREMENTS OF THIS CHAPTER.
- B. THE FOREST MITIGATION BANK SHALL:
1. AFFOREST OR REFOREST AN AREA OF LAND IN ACCORDANCE WITH A FOREST MITIGATION BANK AGREEMENT;
  2. BE PROTECTED BY AN EASEMENT, DEED RESTRICTIONS, OR COVENANTS WHICH REQUIRE THE LAND IN THE BANK TO REMAIN FORESTED IN PERPETUITY AND ARE ENFORCEABLE BY THE DEPARTMENT AND THE DEPARTMENT OF NATURAL RESOURCES;
  3. LIMIT THE USE OF THE LAND IN THE BANK TO THOSE ACTIVITIES WHICH ARE NOT INCONSISTENT WITH FOREST CONSERVATION SUCH AS RECREATIONAL ACTIVITIES, FOREST MANAGEMENT UNDER A FOREST CONSERVATION AND MANAGEMENT PROGRAM UNDER TAX-PROPERTY ARTICLE, § 8-211, ANNOTATED CODE OF MARYLAND, OR ACTIVITIES SPECIFIED IN A FOREST MANAGEMENT PLAN PREPARED BY A LICENSED FORESTER AND APPROVED BY THE DEPARTMENT;
  4. USE NATIVE PLANT MATERIALS FOR AFFORESTATION OR REFORESTATION UNLESS INAPPROPRIATE; AND
  5. CAUSE TREES TO BE PLANTED WHICH:
    - I. ESTABLISH OR ENHANCE FORESTED BUFFERS ADJACENT TO INTERMITTENT AND PERENNIAL STREAMS AND COASTAL BAYS TO WIDTHS OF AT LEAST FIFTY FEET;
    - II. ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS, WHICH, WHERE PRACTICAL, SHOULD BE A MINIMUM OF THREE HUNDRED FEET IN WIDTH TO FACILITATE WILDLIFE MOVEMENT, TO CONNECT EXISTING FORESTS WITHIN OR ADJACENT TO THE SITE;
    - III. ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO CRITICAL HABITATS WHERE APPROPRIATE;
    - IV. ESTABLISH OR ENHANCE FORESTED AREAS IN 100-YEAR FLOODPLAINS;
    - V. STABILIZE SLOPES OF TWENTY-FIVE PERCENT OR GREATER;
    - VI. STABILIZE SLOPES OF FIFTEEN PERCENT OR GREATER WITH A SOIL K VALUE GREATER THAN 0.35 INCLUDING THE SLOPES OF RAVINES OR OTHER NATURAL DEPRESSIONS;
    - VII. ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING LAND USE WHERE APPROPRIATE, OR ADJACENT TO HIGHWAYS OR UTILITY RIGHTS-OF-WAY; OR

VIII. ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS TO INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST COVER, WHEN APPROPRIATE.

C. A PERSON PROPOSING TO CREATE A FOREST MITIGATION BANK SHALL SUBMIT TO THE DEPARTMENT A:

1. COMPLETED APPLICATION ON A FORM APPROVED BY THE DEPARTMENT WHICH HAS BEEN SIGNED BY AN AUTHORIZED INDIVIDUAL IN CONFORMANCE WITH SECTION 19.30.030 OF THIS CHAPTER;
2. FOREST MITIGATION BANK PLAN WHICH CONTAINS A:
  - I. VICINITY MAP OF THE PROPOSED MITIGATION BANK SITE;
  - II. SIMPLIFIED FOREST STAND DELINEATION WHICH MEETS THE CRITERIA IN SECTION 19.30.060.A.6 OF THIS CHAPTER;
  - III. DETAILED AFFORESTATION OR REFORESTATION PLAN, WHICH SHALL INCLUDE A TIMETABLE AND DESCRIPTION OF THE SITE AND SOIL PREPARATION NEEDED, SPECIES, SIZE, AND SPACING TO BE UTILIZED, PREPARED BY A LICENSED MARYLAND FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A; AND
  - IV. PROPOSED FIVE-YEAR MAINTENANCE AGREEMENT THAT:
    - A. SETS FORTH HOW THE AREAS AFFORESTED OR REFORESTED WILL BE MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY ESTABLISHMENT,
    - B. COMPLIES WITH SECTION 19.30.070.C.1 OF THIS CHAPTER, AND
    - C. INCLUDES WATERING AND REINFORCEMENT PLANTING PROVISIONS IF SURVIVAL FALLS BELOW REQUIRED STANDARDS;
3. COPY OF THE DEED TO THE PROPERTY;
4. SURVEY OR OTHER LEGALLY SUFFICIENT DESCRIPTION OF THE BANK SITE FOR INCLUSION IN THE DEEDS OF EASEMENT, DEED RESTRICTIONS, OR COVENANTS;
5. TITLE REPORT OR OTHER ASSURANCE THAT:
  - I. THE PROPERTY IS NOT ENCUMBERED BY ANY COVENANTS OR OTHER TYPES OF RESTRICTIONS WHICH WOULD IMPAIR THE PROPERTY'S USE AS A FOREST MITIGATION BANK; AND
  - II. THERE IS LEGALLY SUFFICIENT ACCESS TO THE FOREST MITIGATION BANK SITE WHICH CAN BE USED BY THE DEPARTMENT AND ITS ASSIGNEES TO INSPECT THE FOREST MITIGATION BANK; AND
6. DESCRIPTION OF THE SYSTEM TO BE USED BY THE PERSON OWNING AND OPERATING THE FOREST MITIGATION BANK TO IDENTIFY AND KEEP TRACK OF WHICH PORTIONS OF THE BANK HAVE BEEN DEBITED TO MEET AN APPLICANT'S OFFSITE AFFORESTATION OR REFORESTATION REQUIREMENTS.
  - D. THE OWNER OF AN APPROVED FOREST MITIGATION BANK SHALL ENTER INTO AN AGREEMENT WITH THE DEPARTMENT WHICH CONTAINS:
    1. THE APPROVED AFFORESTATION OR REFORESTATION PLAN;
    2. THE APPROVED SYSTEM FOR MARKETING AND TRACKING WHICH PORTIONS OF THE BANK HAVE BEEN DEBITED; AND
3. AN ACKNOWLEDGEMENT THAT THE BANK MAY NOT DEBIT ANY PORTION OF THE AFFORESTED OR REFORESTED LAND UNTIL FIVE YEARS OF SUCCESSFUL GROWTH HAS BEEN ACHIEVED UNLESS THE BANKER HAS POSTED A BOND OR ALTERNATE FORM OF SECURITY.

**19.30.140 - RECOMMENDED TREE SPECIES.**

- A. TREE SPECIES USED FOR AFFORESTATION OR REFORESTATION SHALL BE NATIVE TO THE CITY, WHEN APPROPRIATE, AND SELECTED FROM A LIST OF APPROVED SPECIES

ESTABLISHED BY THE DEPARTMENT.

B. THE DEPARTMENT SHALL ADOPT A LIST OF TREE SPECIES TO BE USED FOR ANY REQUIRED AFFORESTATION OR REFORESTATION AND INCORPORATE IT INTO THE FOREST CONSERVATION TECHNICAL MANUAL.

**19.30.150 - FINANCIAL SECURITY FOR AFFORESTATION AND REFORESTATION.**

A. A PERSON REQUIRED TO CONDUCT AFFORESTATION OR REFORESTATION UNDER THIS CHAPTER SHALL FURNISH FINANCIAL SECURITY IN THE FORM OF A BOND, AN IRREVOCABLE LETTER OF CREDIT, OR OTHER SECURITY APPROVED BY THE DEPARTMENT. THE SURETY SHALL:

1. ASSURE THAT THE AFFORESTATION, REFORESTATION, AND THE ASSOCIATED MAINTENANCE AGREEMENT ARE CONDUCTED AND MAINTAINED IN ACCORDANCE WITH THE APPROVED FOREST CONSERVATION PLAN;
2. BE IN AN AMOUNT EQUAL TO THE ESTIMATED COST, AS DETERMINED BY THE DEPARTMENT, OF AFFORESTATION AND REFORESTATION; AND
3. BE IN A FORM AND OF A CONTENT APPROVED BY THE DEPARTMENT.

B. AFTER THREE GROWING SEASONS, THE PERSON REQUIRED TO FILE A BOND MAY REQUEST REDUCTION OF THE AMOUNT OF THE BOND OR OTHER FINANCIAL SECURITY BY SUBMITTING A WRITTEN REQUEST TO THE DEPARTMENT WITH A JUSTIFICATION FOR REDUCING THE BOND OR OTHER FINANCIAL SECURITY AMOUNT, INCLUDING ESTIMATED OR ACTUAL COSTS TO ENSURE AFFORESTATION OR REFORESTATION REQUIREMENTS ARE MET.

C. THE DEPARTMENT SHALL DETERMINE WHETHER A LESSER AMOUNT IS SUFFICIENT TO COVER THE COST OF AFFORESTATION OR REFORESTATION, TAKING IN ACCOUNT THE FOLLOWING:

1. THE NUMBER OF ACRES;
2. THE PROPOSED METHOD OF AFFORESTATION OR REFORESTATION;
3. THE COST OF PLANTING MATERIALS OR REPLACEMENT MATERIALS;
4. THE COST OF MAINTENANCE OF THE AFFORESTATION OR REFORESTATION PROJECT;  
AND
5. OTHER RELEVANT FACTORS.

D. IF, AFTER FIVE GROWING SEASONS, THE PLANTINGS ASSOCIATED WITH THE AFFORESTATION OR REFORESTATION MEET OR EXCEED THE STANDARDS OF THE FOREST CONSERVATION TECHNICAL MANUAL, THE AMOUNT OF THE CASH BOND, LETTER OF CREDIT, SURETY BOND, OR OTHER SECURITY SHALL BE RETURNED OR RELEASED.

E. A LOCAL FOREST CONSERVATION PROGRAM MAY INCORPORATE THE FINANCIAL SECURITY SET FORTH IN SUBSECTIONS A.-D. OF THIS SECTION OR IN COMAR 08.19.05.01B.

**19.30.160 - STANDARDS FOR PROTECTING TREES FROM CONSTRUCTION ACTIVITIES.**

A. THE CITY SHALL ADOPT STANDARDS FOR THE PROTECTION OF TREES FROM CONSTRUCTION ACTIVITY.

B. BEFORE CUTTING, CLEARING, GRADING, OR CONSTRUCTION BEGINS ON A SITE FOR WHICH A FOREST CONSERVATION PLAN IS REQUIRED BY THIS CHAPTER, THE APPLICANT SHALL DEMONSTRATE TO THE DEPARTMENT THAT PROTECTIVE DEVICES HAVE BEEN ESTABLISHED.

**19.30.170 - VARIANCES.**

A. AN APPLICANT MAY REQUEST A VARIANCE FROM THIS CHAPTER OR THE REQUIREMENTS OF NATURAL RESOURCES ARTICLE, §§ 5-1601-5-1612, ANNOTATED CODE

OF MARYLAND, IF THE APPLICANT DEMONSTRATES THAT ENFORCEMENT WOULD RESULT IN UNWARRANTED HARDSHIP TO THE APPLICANT.

B. AN APPLICANT FOR A VARIANCE SHALL:

1. DESCRIBE THE SPECIAL CONDITIONS PECULIAR TO THE PROPERTY WHICH WOULD CAUSE THE UNWARRANTED HARDSHIP;
2. DESCRIBE HOW ENFORCEMENT OF THESE RULES WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHERS IN SIMILAR AREAS;
3. VERIFY THAT THE GRANTING OF THE VARIANCE WILL NOT CONFER ON THE APPLICANT A SPECIAL PRIVILEGE THAT WOULD BE DENIED TO OTHER APPLICANTS;
4. VERIFY THAT THE VARIANCE REQUEST IS NOT BASED ON CONDITIONS OR CIRCUMSTANCES WHICH ARE THE RESULT OF ACTIONS BY THE APPLICANT OR BY ANY PREVIOUS OWNER OF THE PROPERTY;
5. VERIFY THAT THE REQUEST DOES NOT ARISE FROM A CONDITION RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR NONCONFORMING, ON A NEIGHBORING PROPERTY; AND
6. VERIFY THAT THE GRANTING OF A VARIANCE WILL NOT ADVERSELY AFFECT WATER QUALITY.

C. THE DEPARTMENT SHALL MAKE WRITTEN FINDINGS THAT THE APPLICANT HAS MET THE REQUIREMENTS IN SUBSECTIONS A. AND B. OF THIS SECTION BEFORE THE DEPARTMENT MAY GRANT A VARIANCE.

D. NOTICE OF A REQUEST FOR A VARIANCE SHALL BE GIVEN TO THE DEPARTMENT OF NATURAL RESOURCES WITHIN FIFTEEN DAYS OF RECEIPT OF A REQUEST FOR A VARIANCE.

E. THERE IS ESTABLISHED BY THIS CHAPTER THE RIGHT AND AUTHORITY OF THE DEPARTMENT OF NATURAL RESOURCES TO INITIATE OR INTERVENE IN AN ADMINISTRATIVE, JUDICIAL, OR OTHER ORIGINAL PROCEEDING OR APPEAL IN THE STATE CONCERNING AN APPROVAL OF A VARIANCE UNDER NATURAL RESOURCES ARTICLE, §§ 5-1601-5-1612, ANNOTATED CODE OF MARYLAND, OR THIS CHAPTER.

F. ANY VARIANCE MUST BE SUBMITTED TO THE PLANNING COMMISSION OR THE ZONING BOARD OF APPEALS, WHICHEVER THE CASE MAY BE, WITH THE PROJECT OR DEVELOPMENT PLAN APPLICATION FOR FINAL DETERMINATION. IF THE VARIANCE IS SOUGHT IN CONNECTION WITH A SITE DESIGN PLAN APPLICATION NOT REQUIRING PLANNING COMMISSION OR ZONING BOARD OF APPEALS APPROVAL, THE DEPARTMENT SHALL ISSUE A FINAL DETERMINATION ON THE VARIANCE APPLICATION.

G. VARIANCE CAN ONLY BE APPEALED AS PART OF THE FINAL ADMINISTRATIVE DECISION OR APPROVAL OF THE APPLICATION.

### **19.30.180 - ENFORCEMENT.**

A. NONCOMPLIANCE FEES.

1. A PERSON FOUND TO BE IN NONCOMPLIANCE WITH THIS CHAPTER, REGULATIONS ADOPTED UNDER THIS CHAPTER, THE FOREST CONSERVATION PLAN, OR THE ASSOCIATED FIVE-YEAR MAINTENANCE AGREEMENT, SHALL PAY A MINIMUM NONCOMPLIANCE FEE OF TEN DOLLARS PER SQUARE FOOT OF THE AREA FOUND TO BE IN NONCOMPLIANCE WITH THE REQUIRED FOREST CONSERVATION. THE CITY COUNCIL MAY SET A GREATER NONCOMPLIANCE FEE BY RESOLUTION.
2. IN SETTING THE NONCOMPLIANCE FEE, THE CITY COUNCIL SHALL CONSIDER LAND ACQUISITION COSTS, PLANTING COSTS, ONGOING MAINTENANCE COSTS AND OVERHEAD REQUIRED TO MITIGATE THE NONCOMPLIANCE.
3. MONEY COLLECTED UNDER SUBSECTION A.1. OF THIS SECTION SHALL BE DEPOSITED

IN THE FOREST CONSERVATION FUND AUTHORIZED BY SECTION 19.30.130 OF THIS CHAPTER, AND MAY BE USED BY THE DEPARTMENT FOR PURPOSES RELATED TO IMPLEMENTING THIS CHAPTER.

B. VIOLATION.

1. A VIOLATION OF ANY PROVISION OF THIS CHAPTER SHALL CONSTITUTE A MUNICIPAL INFRACTION AND FOR EACH VIOLATION THE PERSON OR ENTITY IN VIOLATION IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.
2. EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION FOR WHICH A SEPARATE CITATION MAY BE SERVED.

C. THE DEPARTMENT MAY SEEK AN INJUNCTION OR OTHER EQUITABLE RELIEF REQUIRING A PERSON TO CEASE VIOLATION OF THIS CHAPTER AND TAKE CORRECTIVE ACTION TO RESTORE OR REFOREST AN AREA.

D. THE LOCAL PROGRAM MAY ADOPT THE ENFORCEMENT PROVISIONS UNDER COMAR 08.19.06.03.

E. THE LOCAL PROGRAM SHALL PROVIDE TO THE DEPARTMENT OF NATURAL RESOURCES NOTICE OF AN ENFORCEMENT ACTION WITHIN FIFTEEN DAYS AFTER THE COMMENCEMENT OF ENFORCEMENT BY THE LOCAL PROGRAM.

**19.30.190 - ANNUAL REPORT.**

ON OR BEFORE MARCH 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT TO THE DEPARTMENT OF NATURAL RESOURCES A REPORT WHICH CONTAINS THE:

- A. NUMBER, LOCATION, AND TYPE OF PROJECTS SUBJECT TO THE PROVISIONS OF THIS CHAPTER;
- B. AMOUNT AND LOCATION OF ACRES CLEARED, CONSERVED, AND PLANTED, INCLUDING ANY AREAS LOCATED IN THE 100-YEAR FLOODPLAIN IN CONNECTION WITH A DEVELOPMENT PROJECT;
- C. AMOUNT OF AFFORESTATION AND REFORESTATION FEES AND NONCOMPLIANCE PENALTIES COLLECTED AND EXPENDED;
- D. COSTS OF IMPLEMENTING THE FOREST CONSERVATION PROGRAM;
- E. LOCATION AND SIZE OF ALL FOREST MITIGATION BANKS APPROVED DURING THE PAST YEAR WITH A DESCRIPTION OF THE PRIORITY AREAS AFFORESTED OR REFORESTED BY THE BANK;
- F. NUMBER OF ACRES DEBITED FROM EACH FOREST MITIGATION BANK SINCE THE LAST ANNUAL REPORT;
- G. FOREST MITIGATION BANKS INSPECTED SINCE THE LAST ANNUAL REPORT;
- H. NUMBER, LOCATION, AND TYPES OF VIOLATIONS AND TYPES OF ENFORCEMENT ACTIVITIES CONDUCTED; AND
- I. THE SIZE AND LOCATION OF ALL CONSERVED AND PLANTED FOREST AREAS SHALL BE SUBMITTED IN AN ELECTRONIC GEOGRAPHIC INFORMATION SYSTEM OR COMPUTER AIDED DESIGN FORMAT IF POSSIBLE. IF NOT POSSIBLE, THE LOCATION SHALL BE GIVEN BY MARYLAND STATE PLANE GRID COORDINATES AND EIGHT-DIGIT SUBWATERSHED.

**19.30.200 - BIENNIAL REVIEW BY THE DEPARTMENT OF NATURAL RESOURCES.**

THE DEPARTMENT SHALL SUBMIT THE NECESSARY DOCUMENTATION TO COMPLY WITH COMAR 08.19.02.04.

**CHAPTER 19.40 - GRADING, EROSION AND SEDIMENT CONTROL**

**19.40.010 - PURPOSE.**

A. THE PURPOSE OF THIS CHAPTER IS TO PROTECT, MAINTAIN, AND ENHANCE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE BY ESTABLISHING MINIMUM REQUIREMENTS AND PROCEDURES TO CONTROL THE ADVERSE IMPACTS ASSOCIATED WITH LAND DISTURBANCES. THE GOAL IS TO MINIMIZE SOIL EROSION AND PREVENT OFF-SITE SEDIMENTATION BY USING SOIL EROSION AND SEDIMENT CONTROL PRACTICES DESIGNED IN ACCORDANCE WITH THE CODE OF MARYLAND REGULATIONS (COMAR) 26.17.01, THE 2011 MARYLAND STANDARDS AND SPECIFICATIONS (STANDARDS AND SPECIFICATIONS) AND THE STORMWATER MANAGEMENT ACT OF 2007 (ACT) OR ITS SUCCESSORS. THIS CHAPTER WILL HELP REDUCE THE NEGATIVE IMPACTS OF LAND DEVELOPMENT ON WATER RESOURCES, MAINTAIN THE CHEMICAL, PHYSICAL, AND BIOLOGICAL INTEGRITY OF STREAMS, AND MINIMIZE DAMAGE TO PUBLIC AND PRIVATE PROPERTY.

B. THE PROVISIONS OF THIS CHAPTER ARE MINIMUM REQUIREMENTS. THEY SHALL BE CONFORMED TO IN ADDITION TO, RATHER THAN IN LIEU OF, ALL OTHER LEGAL REQUIREMENTS, AND SHALL BE CONSTRUED LIBERALLY TO ACCOMPLISH THE PURPOSES SET FORTH. NO PERSON SHALL ALLOW AND NO LANDOWNER SHALL PERMIT ANY WORK TO BE PERFORMED WHICH VIOLATES THIS CHAPTER.

C. THE PROVISIONS OF THIS CHAPTER ARE ADOPTED PURSUANT TO ANNOTATED CODE OF MARYLAND, ENVIRONMENT ARTICLE, TITLE 4, SUBTITLE 1 (OR ITS SUCCESSORS), AS WELL AS THE AUTHORITY OF THE CITY CHARTER AND THE CITY CODE AND SHALL APPLY TO ALL GRADING OCCURRING WITHIN THE CITY.

**19.40.020 - LIABILITY FOR DAMAGES.**

THE ISSUANCE OF A PERMIT UNDER THE PROVISIONS OF THIS CHAPTER OR COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER DOES NOT RELIEVE A PERSON FROM RESPONSIBILITY FOR DAMAGE TO PERSONS OR PROPERTY OTHERWISE IMPOSED BY LAW, OR IMPOSE LIABILITY ON THE CITY FOR DAMAGES.

**19.40.030 - GRADING PERMIT-REQUIRED APPLICATION.**

EXCEPT AS SET FORTH IN SECTION 19.40.040, NO PERSON SHALL DO AND NO OWNER ALLOW, ANY GRADING OF LAND WITHOUT FIRST HAVING OBTAINED A GRADING PERMIT FROM THE DIRECTOR. EACH PERMIT SHALL AUTHORIZE ONLY THE IMPROVEMENTS SET FORTH IN THE APPLICATION AND ACCOMPANYING DRAWINGS, BUT EACH PERMIT MAY COVER ANY NUMBER OF CONTIGUOUS LOTS.

B. THE APPLICATION SHALL BE FILED WITH THE DIRECTOR OR DESIGNEE. BOTH THE OWNER OF THE PROPERTY AND THE CONTRACTOR ENGAGED TO DO THE WORK ARE RESPONSIBLE EQUALLY FOR OBTAINING THE REQUIRED GRADING PERMIT.

C. EACH APPLICATION FOR A GRADING PERMIT SHALL BE SUPPORTED BY THE FOLLOWING:

1. PLANS AND SPECIFICATIONS IN ACCORDANCE WITH SECTION 19.40.060;
2. THE REQUIRED FEES IN ACCORDANCE WITH SECTION 19.40.080;
3. THE WRITTEN APPROVAL OF APPROPRIATE STATE AND FEDERAL AGENCIES, WHERE APPLICABLE;
4. A RIGHT-OF-ENTRY TO THE CITY FOR PERIODIC INSPECTION FOR COMPLIANCE WITH THIS TITLE;
5. A BOND IN ACCORDANCE WITH SECTION 19.40.092;
6. PAYMENT TO THE CITY FINANCE DIRECTOR OF ALL APPLICABLE SCHOOL IMPACT FEES

ASSESSED BY ANNE ARUNDEL COUNTY, OR PROOF THAT THE PROJECT IS NOT SUBJECT TO THE COUNTY'S SCHOOL IMPACT FEES.

**19.40.040 - GRADING PERMIT-EXEMPTIONS.**

NO PERSON SHALL DISTURB LAND WITHOUT IMPLEMENTING SOIL EROSION AND SEDIMENT CONTROLS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS CHAPTER AND THE STANDARDS AND SPECIFICATIONS EXCEPT AS PROVIDED WITHIN THIS SECTION.

- A. A GRADING PERMIT IS NOT REQUIRED FOR THE FOLLOWING LIMITATIONS AS SET FORTH BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT'S MOST RECENT STANDARD SEDIMENT AND EROSION CONTROL PLAN LIMITATIONS, PROVIDED THAT THE OTHER PROVISIONS OF THIS CHAPTER AND OF APPLICABLE STATE LAW ARE SATISFIED:

LAND ON WHICH THE FOLLOWING EXIST:

1. AGRICULTURAL LAND MANAGEMENT PRACTICES AND AGRICULTURAL BMPS.
2. THE LOT WHERE THE WORK IS TO BE PERFORMED IS ON A PAVED, GRAVELED OR PUBLICLY MAINTAINED STREET WHERE STORM DRAINS ARE IN OPERATION AND ROADSIDE DITCHES ARE STABILIZED.
3. NOT MORE THAN FIVE THOUSAND SQUARE FEET OF GROUND SHALL BE DISTURBED; NO MORE THAN TWO THOUSAND SQUARE FEET FOR WATERFRONT LOTS.
4. CUTS AND FILLS SHALL NOT EXCEED TEN FEET IN DEPTH OR HEIGHT AND SHALL NOT EXCEED ONE HUNDRED CUBIC YARDS IN VOLUME.
5. SLOPES WITH A GRADE OF FIFTEEN PERCENT OR GREATER SHALL NOT BE DISTURBED AND SLOPES STEEPER THAN 3:1 MAY NOT BE CREATED.
6. HIGHLY ERODIBLE SOILS SHALL NOT BE DISTURBED.
7. NO EARTH DISTURBANCE SHALL OCCUR WITHIN THE FOLLOWING WITH THE EXCEPTION OF SHORELINE STABILIZATION PROJECTS AND RETAINING WALL REPLACEMENTS IN KIND:
  - A. THE LIMITS OF THE ONE HUNDRED-YEAR FLOODPLAIN OF ANY STREAM;
  - B. ONE HUNDRED FEET OF ANY PERENNIAL STREAM OR WATER BODY;
  - C. ONE HUNDRED FEET LANDWARD OF THE MEAN HIGH WATER LINE OF ANY WATER BODY AFFECTED BY TIDAL ACTION (SUBJECT TO VARIANCE PROCEDURES IN TITLE 21 OF THE CITY CODE);
  - D. ONE HUNDRED FEET FROM ANY TIDAL WETLAND OR BOG; OR
  - E. TWENTY-FIVE FEET OF ANY NON-TIDAL WETLAND EXCEPT FOR AN APPROVED BUFFER MANAGEMENT PLAN APPROVED BY THE CITY FOR CLEARING LESS THAN FIVE THOUSAND SQUARE FEET OF VEGETATION.
8. THE OWNER, BUILDER OR DEVELOPER IS NOT THE SAME OWNER, BUILDER OR DEVELOPER OF ANY CONTIGUOUS LOTS UNDERGOING DEVELOPMENT.
9. THE PROPOSED CONSTRUCTION IS NOT A SINGLE FAMILY DWELLING OR AN ADDITION OR MODIFICATION THAT IS CLASSIFIED AS A SUBSTANTIAL IMPROVEMENT TO AN EXISTING SINGLE FAMILY DWELLING AS DETERMINED IN ACCORDANCE WITH CITY OF ANNAPOLIS CODE.
10. ANY PROPOSED GRADING WILL NOT IMPAIR EXISTING SURFACE DRAINAGE, CONSTITUTE A POTENTIAL EROSION HAZARD OR ACT AS A SOURCE OF SEDIMENTATION TO ADJACENT LAND OR WATER RESOURCE OR IMPACT AN EROSION AND SEDIMENT CONTROL PLAN PREVIOUSLY APPROVED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT OR THE CITY OF ANNAPOLIS.
11. THE SITE CONDITIONS MUST BE SUCH THAT IT IS POSSIBLE TO SATISFY THE

REQUIRED EROSION AND SEDIMENT CONTROL REQUIREMENTS BY THE USE OF REINFORCED SILT FENCE, A STABILIZED CONSTRUCTION ENTRANCE AND VEGETATIVE STABILIZATION.

12. THE APPLICANT HAS SUBMITTED A SITE PLAN ADEQUATELY SHOWING THE PROPERTY LINES, SITE CONDITIONS, AND THE PROPOSED WORK WHICH IS ATTACHED HERETO AND MADE A PART THEREOF.
  13. FOR WORK IN THE CRITICAL AREA, THE APPLICANT HAS SUBMITTED A CRITICAL AREA WORKSHEET DETAILING EXISTING, AND PROPOSED LOT COVERAGE AND IMPERVIOUS COVER.
  14. THE PROPOSED WORK DOES NOT REQUIRE A STATE WATERWAY OR WETLAND PERMIT EXCEPT WHERE THE PROJECT IS A SHORELINE STABILIZATION PROJECT.
- B. LAND-DISTURBING ACTIVITIES THAT ARE SUBJECT EXCLUSIVELY TO STATE APPROVAL AND ENFORCEMENT UNDER STATE LAW AND REGULATIONS.
- C. IF A GRADING PERMIT IS NOT REQUIRED UNDER SUBSECTION A., A STANDARD SEDIMENT AND EROSION CONTROL PLAN SHALL BE ISSUED.
- D. NOTWITHSTANDING THE PROVISIONS OF SUBSECTION A. AND SUBSECTION C., A GRADING PERMIT SHALL BE REQUIRED FOR REMOVAL OF MULTIPLE TREES HAVING A COMBINED DIAMETER AT BREAST HEIGHT (DBH) OF SIXTY INCHES OR GREATER ON LOTS OF FORTY THOUSAND SQUARE FEET OR GREATER.

**19.40.050 - VARIANCES-EROSION AND SEDIMENT CONTROL PLAN.**

- A. THE DIRECTOR, BASED ON WRITTEN RECOMMENDATIONS FROM THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT, MAY GRANT A VARIANCE FROM THE REQUIREMENTS OF THE STANDARDS AND SPECIFICATIONS, IF STRICT ADHERENCE TO THE SPECIFICATIONS WILL RESULT IN EXCEPTIONAL HARDSHIP AND NOT FULFILL THE INTENT OF THIS CHAPTER. THE DEVELOPER SHALL SUBMIT A WRITTEN REQUEST FOR A VARIANCE TO THE DIRECTOR AND THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT. THE REQUEST SHALL STATE THE SPECIFIC VARIANCES SOUGHT AND REASONS FOR REQUESTING THE VARIANCE. THE DIRECTOR SHALL NOT GRANT A VARIANCE UNLESS AND UNTIL SUFFICIENT SPECIFIC REASONS JUSTIFYING THE VARIANCE ARE PROVIDED BY THE OWNER/DEVELOPER TO THE SATISFACTION OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT AND THE DIRECTOR.
- B. THE GRANTING OF A VARIANCE AS NOTED IN THIS SECTION DOES NOT IN ANY WAY EXEMPT THE APPLICANT FROM COMPLIANCE WITH THE OTHER REQUIREMENTS OF THIS CHAPTER.

**19.40.060 - PERMIT-PLANS AND SPECIFICATIONS.**

- A. AN APPLICANT IS RESPONSIBLE FOR SUBMITTING EROSION AND SEDIMENT CONTROL PLANS THAT MEET THE REQUIREMENTS OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT, THIS CHAPTER OF THE CITY CODE, CHAPTER 19.50 OF THE CITY CODE, THE STANDARDS AND SPECIFICATIONS, AND THE ACT. THE PLANS SHALL INCLUDE SUFFICIENT INFORMATION TO EVALUATE THE ENVIRONMENTAL CHARACTERISTICS OF THE AFFECTED AREAS, THE POTENTIAL IMPACTS OF THE PROPOSED GRADING ON WATER RESOURCES, AND THE EFFECTIVENESS AND ACCEPTABILITY OF MEASURES PROPOSED TO MINIMIZE SOIL EROSION AND OFF-SITE SEDIMENTATION.
- B. AT A MINIMUM, AN APPLICANT SHALL SUBMIT THE FOLLOWING INFORMATION:
1. A LETTER OF TRANSMITTAL AND/OR APPLICATION;
  2. NAME, ADDRESS, AND TELEPHONE NUMBER OF:
    - A. THE OWNER OF THE PROPERTY WHERE THE GRADING IS PROPOSED;

- B. THE DEVELOPER; AND
- C. THE APPLICANT;
- 3. A VICINITY MAP INDICATING NORTH ARROW, SCALE, SITE LOCATION, AND OTHER INFORMATION NECESSARY TO EASILY LOCATE THE PROPERTY;
- 4. DRAINAGE AREA MAP(S) AT A 1" = 200' MINIMUM SCALE SHOWING EXISTING, INTERIM, AND PROPOSED TOPOGRAPHY, PROPOSED IMPROVEMENTS, STANDARD SYMBOLS FOR PROPOSED SEDIMENT CONTROL FEATURES, AND PERTINENT DRAINAGE INFORMATION INCLUDING PROVISIONS TO PROTECT DOWNSTREAM AREAS FROM EROSION FOR A MINIMUM OF TWO HUNDRED FEET DOWNSTREAM OR TO THE NEXT CONVEYANCE SYSTEM;
- 5. THE LOCATION OF NATURAL RESOURCES, WETLANDS, FLOODPLAINS, HIGHLY ERODIBLE SOILS, SLOPES FIFTEEN PERCENT AND STEEPER, AND ANY OTHER SENSITIVE AREAS;
- 6. A GENERAL DESCRIPTION OF THE PREDOMINANT SOIL TYPES ON THE SITE, AS DESCRIBED BY THE APPROPRIATE SOIL SURVEY INFORMATION AVAILABLE THROUGH THE LOCAL SOIL CONSERVATION DISTRICT OR THE USDA NATURAL RESOURCES SOIL CONSERVATION SERVICE;
- 7. PROPOSED STORMWATER MANAGEMENT PRACTICES;
- 8. EROSION AND SEDIMENT CONTROL PLANS INCLUDING:
  - A. THE EXISTING TOPOGRAPHY AND IMPROVEMENTS AS WELL AS PROPOSED TOPOGRAPHY AND IMPROVEMENTS AT A SCALE BETWEEN 1" = 10' AND 1" = 50' WITH TWO-FOOT CONTOURS OR OTHER APPROVED CONTOUR INTERVAL. FOR PROJECTS WITH MORE THAN MINOR GRADING, INTERIM CONTOURS MAY ALSO BE REQUIRED;
  - B. SCALE, PROJECT AND SHEET TITLE, AND NORTH ARROW ON EACH PLAN SHEET;
  - C. THE LIMIT OF DISTURBANCE (LOD) INCLUDING:
    - I. LIMIT OF GRADING (GRADING UNITS, IF APPLICABLE); AND
    - II. INITIAL, INTERIM, AND FINAL PHASES;
  - D. THE PROPOSED GRADING AND EARTH DISTURBANCE INCLUDING:
    - I. TOTAL DISTURBED AREA;
    - II. VOLUME OF CUT AND FILL QUANTITIES; AND
    - III. VOLUME OF BORROW AND SPOIL QUANTITIES;
  - E. STORM DRAINAGE FEATURES, INCLUDING:
    - I. EXISTING AND PROPOSED BRIDGES, STORM DRAINS, CULVERTS, OUTFALLS, ETC.;
    - II. VELOCITIES AND PEAK FLOW RATES AT OUTFALLS FOR THE TWO-YEAR AND TEN-YEAR FREQUENCY STORM EVENTS; AND
    - III. SITE CONDITIONS AROUND POINTS OF ALL SURFACE WATER DISCHARGE FROM THE SITE;
    - IV. DRAINAGE AREA MAP AND, WHERE APPLICABLE, SUBDRAINAGE AREA BOUNDARIES, ON A SCALE OF NOT LESS THAN ONE INCH TO TWO HUNDRED FEET;
    - V. HYDROLOGIC AND HYDRAULIC STUDIES, AS REQUIRED BY THE DEPARTMENT; AND
    - VI. REQUIREMENTS AS STATED IN CHAPTER 19.50, STORMWATER MANAGEMENT, OF THE CITY CODE;
  - F. EROSION AND SEDIMENT CONTROL PRACTICES TO MINIMIZE ON-SITE EROSION AND PREVENT OFF-SITE SEDIMENTATION INCLUDING:
    - I. THE SALVAGE AND REUSE OF TOPSOIL;

- II. PHASED CONSTRUCTION AND IMPLEMENTATION OF GRADING UNIT(S) TO MINIMIZE DISTURBANCES, BOTH IN EXTENT AND DURATION;
- III. LOCATION AND TYPE OF ALL PROPOSED SEDIMENT CONTROL PRACTICES;
- IV. DESIGN DETAILS AND DATA FOR ALL EROSION AND SEDIMENT CONTROL PRACTICES; AND
- V. SPECIFICATIONS FOR TEMPORARY AND PERMANENT STABILIZATION MEASURES INCLUDING, AT A MINIMUM:
  - (A) THE "STANDARD STABILIZATION NOTE" ON THE PLAN STATING: "FOLLOWING INITIAL SOIL DISTURBANCE OR RE-DISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION MUST BE COMPLETED WITHIN:
    - (I) THREE CALENDAR DAYS AS TO THE SURFACE OF ALL PERIMETER DIKES, SWALES, DITCHES, PERIMETER SLOPES, AND ALL SLOPES STEEPER THAN 3 HORIZONTAL TO 1 VERTICAL (3:1); AND
    - (II) SEVEN CALENDAR DAYS AS TO ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE NOT UNDER ACTIVE GRADING."
  - (B) DETAILS FOR AREAS REQUIRING ACCELERATED STABILIZATION; AND
  - (C) MAINTENANCE REQUIREMENTS AS DEFINED IN THE STANDARDS AND SPECIFICATIONS;
  - (D) THE "VERTICAL STABILIZATION NOTE" ON THE PLAN STATING: "BUILDING CONSTRUCTION MAY NOT PROCEED PAST THE GROUND FLOOR UNTIL THE FOUNDATION HAS BEEN BACKFILLED AND ALL REMAINING DISTURBED AREAS HAVE BEEN PERMANENTLY OR TEMPORARILY STABILIZED. ONCE THE SITE IS STABILIZED, WITH THE DEPARTMENT'S APPROVAL, FRAMING MAY COMMENCE ABOVE THE GROUND FLOOR. DURING BUILDING CONSTRUCTION BEYOND THE GROUND FLOOR, ALL DISTURBED AREAS MUST BE STABILIZED AT THE END OF EACH BUSINESS DAY;"
- G. A SEQUENCE OF CONSTRUCTION DESCRIBING THE RELATIONSHIP BETWEEN THE IMPLEMENTATION AND MAINTENANCE OF CONTROLS, INCLUDING PERMANENT AND TEMPORARY STABILIZATION, AND THE VARIOUS STAGES OR PHASES OF EARTH DISTURBANCE AND CONSTRUCTION. ANY CHANGES OR REVISIONS TO THE SEQUENCE OF CONSTRUCTION MUST BE APPROVED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT OR THE DEPARTMENT PRIOR TO PROCEEDING WITH CONSTRUCTION. THE SEQUENCE OF CONSTRUCTION, AT A MINIMUM, MUST INCLUDE THE FOLLOWING:
  - I. REQUEST FOR A PRE-CONSTRUCTION MEETING WITH THE APPROPRIATE ENFORCEMENT AUTHORITY;
  - II. CLEARING AND GRUBBING AS NECESSARY FOR THE INSTALLATION OF PERIMETER CONTROLS;
  - III. CONSTRUCTION AND STABILIZATION OF PERIMETER CONTROLS;
  - IV. REMAINING CLEARING AND GRUBBING WITHIN INSTALLED PERIMETER CONTROLS;
  - V. ROAD GRADING;
  - VI. GRADING FOR THE REMAINDER OF THE SITE;
  - VII. UTILITY INSTALLATION AND CONNECTION TO EXISTING STRUCTURES;
  - VIII. CONSTRUCTION OF BUILDINGS, ROADS, AND OTHER CONSTRUCTION;
  - IV. FINAL GRADING, LANDSCAPING, AND STABILIZATION;
  - X. INSTALLATION OF STORMWATER MANAGEMENT MEASURES;
  - XI. APPROVAL OF THE SEDIMENT CONTROL INSPECTOR PRIOR TO REMOVAL OF

- SEDIMENT CONTROLS; AND
- XII. REMOVAL OF CONTROLS AND STABILIZATION OF AREAS THAT ARE DISTURBED BY REMOVAL OF SEDIMENT CONTROLS;
- H. A STATEMENT REQUIRING THE OWNER/DEVELOPER OR REPRESENTATIVE TO CONTACT THE DEPARTMENT AT THE FOLLOWING STAGES OF THE PROJECT OR IN ACCORDANCE WITH THE APPROVED EROSION AND SEDIMENT CONTROL PLAN, GRADING PERMIT, OR BUILDING PERMIT:
- I. FORTY-EIGHT HOURS PRIOR TO THE START OF EARTH DISTURBANCE;
- II. UPON COMPLETION OF THE INSTALLATION OF PERIMETER EROSION AND SEDIMENT CONTROLS, BUT BEFORE PROCEEDING WITH ANY OTHER EARTH DISTURBANCE OR GRADING;
- III. PRIOR TO THE START OF ANOTHER PHASE OF CONSTRUCTION OR OPENING OF ANOTHER GRADING UNIT; AND
- IV. PRIOR TO THE REMOVAL OF SEDIMENT CONTROL PRACTICES;
- I. REQUIREMENTS AS STATED IN CHAPTER 19.60, FLOODPLAIN MANAGEMENT, OF THE CITY CODE;
- J. REQUIREMENTS AS STATED IN CHAPTER 19.20, TREES IN DEVELOPMENT AREAS, OF THE CITY CODE;
- K. AN ENGINEER'S CERTIFICATION WHERE DETERMINED TO BE NECESSARY BY THE DEPARTMENT;
- L. SUPPLEMENTAL REPORTS, DATA OR ADDITIONAL INFORMATION AS THE DEPARTMENT MAY REQUIRE TO THE ADEQUACY OF THE PROPOSED PLAN. THIS INFORMATION MAY INCLUDE, BUT IS NOT LIMITED TO:
- I. A RECORD OF FIELD OBSERVATIONS;
- II. FIELD OR LABORATORY TEST DATA;
- III. AN OUTFALL SURVEY THAT DOCUMENTS THE PRE-CONSTRUCTION AND POST-CONSTRUCTION CONDITIONS OF THE DEVELOPMENT SITE'S DRAINAGE AREA OUTFALL, AND WHICH MAY INCLUDE A TOPOGRAPHICAL OR BATHYMETRIC SURVEY, VEGETATION DESCRIPTION, PHOTOGRAPHIC OR VIDEO DOCUMENTATION, AND SOIL SURVEY. MONITORING DEVICES MAY BE REQUIRED;
- M. THE DEPARTMENT MAY WAIVE THE FILING OF PARTICULAR INFORMATION WHEREVER IN ITS JUDGMENT THE INFORMATION WILL SERVE NO USEFUL PURPOSE FOR THE PARTICULAR PROJECT AND THE WAIVER DOES NOT CONTRAVENE THE PURPOSES OF THIS TITLE;
- N. CERTIFICATION BY THE OWNER/DEVELOPER THAT ANY CLEARING, GRADING, CONSTRUCTION, OR DEVELOPMENT WILL BE DONE PURSUANT TO THE APPROVED EROSION AND SEDIMENT CONTROL PLAN. THE CERTIFICATION MUST ALSO REQUIRE THAT THE RESPONSIBLE PERSONNEL INVOLVED IN THE CONSTRUCTION PROJECT HAVE A CERTIFICATE OF TRAINING AT A MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) APPROVED TRAINING PROGRAM FOR THE CONTROL OF EROSION AND SEDIMENT PRIOR TO BEGINNING THE PROJECT. THE CERTIFICATE OF TRAINING FOR RESPONSIBLE PERSONNEL MAY BE WAIVED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT ON ANY PROJECT INVOLVING FOUR OR FEWER RESIDENTIAL LOTS. ADDITIONALLY, THE OWNER/DEVELOPER SHALL ALLOW RIGHT OF ENTRY FOR PERIODIC ON-SITE EVALUATION BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT, THE DEPARTMENT, AND/OR MDE;
- O. CERTIFICATION BY A PROFESSIONAL ENGINEER, LAND SURVEYOR, LANDSCAPE ARCHITECT, ARCHITECT, OR FORESTER (FOR FOREST HARVEST OPERATIONS

ONLY) REGISTERED IN THE STATE THAT THE PLANS HAVE BEEN DESIGNED IN ACCORDANCE WITH EROSION AND SEDIMENT CONTROL LAWS, REGULATIONS, AND STANDARDS, IF REQUIRED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT, THE DEPARTMENT, OR THE MARYLAND DEPARTMENT OF THE ENVIRONMENT;

- P. ANY ADDITIONAL INFORMATION OR DATA DEEMED APPROPRIATE BY THE DEPARTMENT.

**19.40.065 - REVIEW AND APPROVAL OF EROSION AND SEDIMENT CONTROL PLANS.**

A. A PERSON MAY NOT GRADE LAND WITHOUT AN EROSION AND SEDIMENT CONTROL PLAN APPROVED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT AND THE DEPARTMENT.

B. THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT AND THE DEPARTMENT SHALL REVIEW EROSION AND SEDIMENT CONTROL PLANS TO DETERMINE COMPLIANCE WITH THIS CHAPTER AND THE STANDARDS AND SPECIFICATIONS PRIOR TO APPROVAL. IN APPROVING THE PLAN, THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT AND THE DEPARTMENT MAY IMPOSE SUCH CONDITIONS THAT MAY BE DEEMED NECESSARY TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER, COMAR 26.17.01, THE STANDARDS AND SPECIFICATIONS, AND THE PRESERVATION OF PUBLIC HEALTH AND SAFETY.

C. THE REVIEW AND APPROVAL PROCESS SHALL BE IN ACCORDANCE WITH THE COMPREHENSIVE AND INTEGRATED PLAN APPROVAL PROCESS DESCRIBED IN THE STANDARDS AND SPECIFICATIONS, CHAPTER 19.50 OF THE CITY CODE.

D. AT A MINIMUM, A CONCEPT PLAN MUST INCLUDE THE MAPPING OF NATURAL RESOURCES AND SENSITIVE AREAS INCLUDING HIGHLY ERODIBLE SOILS AND SLOPES GREATER THAN FIFTEEN PERCENT, WATER RESOURCES, AS WELL AS INFORMATION REQUIRED UNDER CHAPTER 19.50 OF THE CITY CODE, OR ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT. THESE AREAS ARE TO REMAIN UNDISTURBED OR AN EXPLANATION MUST BE INCLUDED WITH EITHER THE CONCEPT OR SITE DEVELOPMENT PLAN DESCRIBING ENHANCED PROTECTION STRATEGIES FOR THESE AREAS DURING CONSTRUCTION.

E. A SITE DEVELOPMENT PLAN SUBMITTAL MUST INCLUDE ALL CONCEPT PLAN INFORMATION AND INDICATE HOW PROPOSED EROSION AND SEDIMENT CONTROL PRACTICES WILL BE INTEGRATED WITH PROPOSED STORMWATER MANAGEMENT PRACTICES. THE LATTER IS TO BE DONE THROUGH A NARRATIVE AND AN OVERLAY PLAN SHOWING BOTH ESD AND EROSION AND SEDIMENT CONTROL PRACTICES. AN INITIAL SEQUENCE OF CONSTRUCTION AND PROPOSED PROJECT PHASING TO ACHIEVE THE GRADING UNIT RESTRICTION SHALL BE SUBMITTED AT THIS TIME.

F. AN APPLICANT SHALL SUBMIT A FINAL EROSION AND SEDIMENT CONTROL PLAN TO THE DEPARTMENT FOR REVIEW AND APPROVAL. THE PLAN MUST INCLUDE ALL OF THE INFORMATION REQUIRED BY THE CONCEPT AND SITE DEVELOPMENT PLANS AS WELL AS ANY INFORMATION IN SECTION 19.40.060 OF THE CITY CODE NOT ALREADY SUBMITTED, AND ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

G. A FINAL EROSION AND SEDIMENT CONTROL PLAN SHALL NOT BE CONSIDERED APPROVED WITHOUT THE INCLUSION OF THE SIGNATURE AND DATE OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT ON THE PLAN.

H. APPROVED PLANS REMAIN VALID FOR TWO YEARS FROM THE DATE OF APPROVAL UNLESS EXTENDED OR RENEWED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT AND THE DEPARTMENT.

I. GRANDFATHERING OF APPROVED SEDIMENT AND EROSION CONTROL PLANS:

1. ANY PLANS THAT RECEIVE FINAL APPROVAL AFTER JANUARY 9, 2013 MUST BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS ORDINANCE AND THE STANDARDS AND SPECIFICATIONS.
2. A PLAN THAT RECEIVES FINAL APPROVAL BY JANUARY 9, 2013 MAY BE REAPPROVED UNDER ITS EXISTING CONDITIONS IF GRADING ACTIVITIES HAVE BEGUN ON THE SITE BY JANUARY 9, 2015, WITH THE EXCEPTION OF STABILIZATION REQUIREMENTS.
3. STABILIZATION PRACTICES ON ALL SITES MUST BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER AND THE STANDARDS AND SPECIFICATIONS BY JANUARY 9, 2013 REGARDLESS OF WHEN AN APPROVED EROSION AND SEDIMENT CONTROL PLAN WAS APPROVED.

**19.40.070 - PERMIT-APPROVALS.**

NO GRADING PERMIT SHALL BE ISSUED UNLESS:

- A. THE DEPARTMENT HAS REVIEWED AND APPROVED ALL SITE PLANS AND SPECIFICATIONS, AND VERIFIED THE ESTIMATED COSTS; AND
- B. AN EROSION AND SEDIMENT CONTROL PLAN HAS BEEN APPROVED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT. THE APPROVED PLAN SHALL INCLUDE THE SIGNATURE AND DATE OF APPROVAL BY THE APPROVAL AGENCY; AND
- C. ALL PLANS HAVE RECEIVED WRITTEN APPROVAL BY THE APPROPRIATE STATE AND FEDERAL AGENCIES, WHERE APPLICABLE; AND
- D. SPECIAL EXCEPTION OR SUBDIVISION APPROVAL, AS APPROPRIATE, HAS BEEN OBTAINED FOR LAND DEVELOPMENT PROJECTS; AND
- E. FOR A USE WHICH IS DESIGNATED UNDER TITLE 21 AS A PERMITTED USE SUBJECT TO STANDARDS, THE PROJECT FIRST HAS BEEN APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING IN ACCORDANCE WITH CHAPTER 21.64 OF THE CODE; AND
- F. ALL OTHER PROVISIONS WITHIN THE CODE HAVE BEEN SATISFIED, AS REQUIRED. THE DEPARTMENT MAY IMPOSE SUCH CONDITIONS AS MAY BE DETERMINED TO BE NECESSARY TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS TITLE, THE STATE SEDIMENT CONTROL REGULATIONS, COMAR 26.17.01, THE STANDARDS AND SPECIFICATIONS, OR FOR THE PRESERVATION OF PUBLIC HEALTH AND SAFETY.

**19.40.080 - GRADING PERMIT-FEES-REINSPECTION.**

A. THE FEE FOR A GRADING PERMIT SHALL BE BASED UPON THE ESTIMATED COST OF SITE WORK PROPOSED, AND INCLUDES THE COST OF MATERIALS AND LABOR FOR INSTALLATION AND CONSTRUCTION OF SUCH ITEMS AS EARTHMOVING, SEDIMENT CONTROL MEASURES, STORM DRAINAGE SYSTEMS AND STORMWATER MANAGEMENT FACILITIES, AND ROADWAYS. ESTIMATED COSTS AND QUANTITIES SHALL BE SUBMITTED TO THE DEPARTMENT. THE FEE SHALL BE ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

1. THE APPLICATION FEE WILL NOT BE REFUNDABLE FOR ANY REASON EXCEPT IF THE PERMIT APPLICATION HAS BEEN DENIED. THE APPLICATION FEE WILL BE APPLIED TO THE FINAL COST OF THE GRADING PERMIT AT THE TIME OF ISSUANCE PER THE PROCEDURES AS ESTABLISHED BY THE DEPARTMENT.

B. REINSPECTION FEE. A FEE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL MUST BE PAID BEFORE ANOTHER INSPECTION IS MADE IF, FOR THE ORIGINAL INSPECTION, ONE OR MORE OF THE FOLLOWING OCCURRED:

1. REQUESTING PARTY CALLED FOR INSPECTION, BUT WORK WAS NOT READY;
2. REQUESTING PARTY WAS NOT ON SITE;

3. BUILDING WAS LOCKED;
4. SAFETY FEATURES NOT ON SITE;
5. APPROVED DRAWINGS NOT ON SITE;
6. PERMIT NOT POSTED ON SITE.

**19.40.090 - BONDING-PURPOSE.**

THE PURPOSE OF THE BOND IS TO GUARANTEE AND INSURE, IN THE EVENT OF FAILURE, THAT ALL WORK AUTHORIZED BY THE PERMIT WILL BE COMPLETED SATISFACTORILY, AND THAT THE SITE WILL BE RESTORED TO A CONDITION MEETING THE MINIMUM REQUIREMENTS OF THIS CHAPTER.

**19.40.092 - BONDING-REQUIRED.**

A. A PERFORMANCE BOND SHALL BE A PREREQUISITE TO OBTAINING A GRADING PERMIT WHEN:

1. GREATER THAN FIVE THOUSAND SQUARE FEET IS DISTURBED; OR
2. MORE THAN ONE HUNDRED CUBIC YARDS ARE GRADED; OR
3. ANY PUBLIC FACILITY OR STORMWATER MANAGEMENT FACILITY IS PROPOSED.

B. THE BOND AMOUNT SHALL BE BASED UPON THE TOTAL ESTIMATED COST OF LABOR AND MATERIALS FOR CONSTRUCTION AND INSTALLATION OF:

1. EARTHMOVING;
2. EROSION AND SEDIMENT CONTROL MEASURES;
3. VEGETATIVE STABILIZATION;
4. STORMWATER MANAGEMENT SYSTEMS AND FACILITIES;
5. PUBLIC SANITARY SEWERS AND WATER MAINS;
6. ROADWAYS AND ROADWAY IMPROVEMENTS; AND
7. ANY OTHER PUBLIC IMPROVEMENTS.

C. A MAINTENANCE BOND SHALL BE REQUIRED UPON SATISFACTORY COMPLETION OF ALL REQUIREMENTS SET FORTH IN THE GRADING PERMIT. THE MAINTENANCE BOND SHALL REPRESENT A MINIMUM OF TEN PERCENT OF THE PERFORMANCE BOND AND IS IN EFFECT FOR A MINIMUM OF ONE YEAR. THE DIRECTOR OR HIS OR HER DESIGNEE MAY MAKE ADJUSTMENTS BASED ON CURRENT ESTIMATES OR SITE CONDITIONS.

D. BONDING ESTIMATES SHALL BE CERTIFIED BY A REGISTERED ENGINEER OR LAND SURVEYOR.

E. BEFORE ACCEPTANCE, ALL BONDS SHALL BE APPROVED BY THE DIRECTOR OR HIS OR HER DESIGNEE AND THE CITY ATTORNEY.

F. IN LIEU OF A BOND, A CASH DEPOSIT, CERTIFIED CHECK OR AN IRREVOCABLE LETTER OF CREDIT FROM A LOCAL BANK OR OTHER ACCREDITED INSTITUTION IN LIKE AMOUNT, MAY BE FILED WITH THE DEPARTMENT SUBJECT TO THE SAME TERMS AND CONDITIONS AS APPLICABLE TO A PERFORMANCE BOND. ALL BONDS AND LETTERS OF CREDIT SHALL BE SUBMITTED IN CITY FORMAT.

G. IF A CORPORATION BOND IS OFFERED, IT SHALL BE EXECUTED BY A SURETY OR GUARANTY COMPANY QUALIFIED TO TRANSACT BUSINESS IN THE STATE, AND IF A CASH BOND IS OFFERED, IT IS TO BE DEPOSITED WITH THE DIRECTOR OF FINANCE, WHO SHALL GIVE AN OFFICIAL RECEIPT STIPULATING THAT THE CASH HAS BEEN DEPOSITED IN COMPLIANCE WITH, AND SUBJECT TO, THE PROVISIONS OF THIS SECTION.

H. IF ALL WORK OF THE PERMIT IS NOT COMPLETED WITHIN THE TIME SPECIFIED IN SECTION 19.40.140, OR IF ANY PORTION OF THE WORK VIOLATES ANY OTHER TERMS OR CONDITIONS, THE CASH DEPOSIT SHALL BE FORFEITED, OR IF A BOND OR LETTER OF CREDIT HAS BEEN POSTED, PAYMENT IN FULL TO THE CITY WILL BE ORDERED. THE FUNDS SO RECEIVED SHALL

BE USED BY THE CITY FOR DEFRAYING THE COST OF CONTRACTING, INCLUDING ENGINEERING AND ADMINISTRATION, FOR THE RESTORATION OF THE SITE TO MEET THE MINIMUM REQUIREMENTS OF THIS CHAPTER, WITH PARTICULAR EMPHASIS ON STABILIZATION, SAFETY, DRAINAGE AND EROSION CONTROL. IF THOSE COSTS EXCEED THAT AMOUNT OF DEPOSIT OR BOND OR LETTER OF CREDIT, THE EXCESS CONSTITUTES A LIEN ON THE PROPERTY, AND THE PERMITTEE CONTINUES TO BE BOUND FIRMLY UNDER A CONTINUING OBLIGATION FOR PAYMENT OF ANY AND ALL COSTS AND EXPENSES OF ANY NATURE INCURRED BY THE CITY. ANY UNUSED PORTION OF MONEYS FORFEITED SHALL BE RETURNED. NO MONEY SHALL BE RETURNED TO ANY SURETY OR GUARANTY COMPANY IF SUCH FUNDS WERE ACQUIRED, OBTAINED OR PAID PURSUANT TO A COURT ORDER OR JUDGMENT.

**19.40.100 - PERMIT-BOND PROVISIONS.**

THE BOND OR LETTER OF CREDIT SHALL INCLUDE THE FOLLOWING PROVISIONS:

- A. THE APPLICANT SHALL COMPLY WITH SECTION 19.20.092, THIS SECTION AND ALL OTHER APPLICABLE LAWS AND ORDINANCES.
- B. THE APPLICANT SHALL COMPLY WITH ALL OF THE TERMS AND CONDITIONS OF THE GRADING PERMIT.
- C. ANY EXTENSION OF COMPLETION TIME PURSUANT TO THE PROVISIONS OF SECTION 19.40.140 SHALL NOT RELEASE THE APPLICANT.
- D. UPON DEFAULT, THE APPLICANT SHALL CONTINUE TO BE BOUND FIRMLY UNDER A CONTINUING OBLIGATION FOR PAYMENT OF ONE OF THE FOLLOWING, AT THE ELECTION OF THE SURETY:
  - 1. ALL COSTS AND EXPENSES NECESSARY TO COMPLETE THE WORK IN ACCORDANCE WITH THE APPROVED PLANS AND SPECIFICATIONS OR ANY APPROVED MODIFICATION TO THE APPROVED PLANS OR SPECIFICATIONS; OR
  - 2. ALL NECESSARY COSTS AND EXPENSES OR LIABILITIES WHICH MAY BE INCURRED TO STABILIZE IN ACCORDANCE WITH THE STABILIZATION PLAN FOR EROSION CONTROL PRESENTED BY THE APPLICANT TO AND APPROVED BY THE CITY; OR
  - 3. PAYMENT TO THE CITY IN CASH OR BY CERTIFIED CHECK IN A SUFFICIENT AMOUNT TO EQUAL THE COST OF PERFORMING THE NECESSARY WORK. IF THE COST FOR RESTORATION OF A SITE TO MEET THE MINIMUM REQUIREMENTS OF THIS SECTION (WITH PARTICULAR EMPHASIS ON STABILITY, SAFETY, DRAINAGE AND EROSION CONTROL) EXCEEDS THE AMOUNT OF THE CASH OR CERTIFIED CHECK, THE PERMITTEE SHALL CONTINUE TO BE BOUND UNDER A CONTINUING OBLIGATION FOR PAYMENT OF ALL EXCESS COSTS AND EXPENSES INCURRED BY THE CITY.
- E. THE SECURITY SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL A CERTIFICATE OF COMPLETION HAS BEEN ISSUED BY THE DEPARTMENT CERTIFYING THAT THE WORK HAS BEEN PERFORMED IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS, OR CERTIFYING THAT THE PERMIT HAS BEEN UNUSED; PROVIDED, HOWEVER, THAT THE DIRECTOR MAY INCREASE OR REDUCE SECURITY BASED ON CURRENT ESTIMATES OR SITE CONDITIONS. UPON ISSUANCE OF THIS CERTIFICATE, ANY UNUSED PORTION OF ANY CASH OR CERTIFIED CHECK SHALL BE RETURNED TO THE APPLICANT, AND THE APPLICANT AND HIS/HER SURETY SHALL BE RELEASED FROM ALL FURTHER OBLIGATIONS UNDER THIS SECTION (PROVIDED DEFAULT HAS NOT OCCURRED). THE CERTIFICATE OF COMPLETION SHALL BE ISSUED WITHIN SIXTY-DAYS FROM THE DATE THE DEPARTMENT RECEIVES WRITTEN NOTICE OF COMPLETION, PROVIDED THAT DURING THE SIXTY-DAY PERIOD, THE DEPARTMENT INSPECTS THE WORK PERFORMED

AND IS SATISFIED THAT THE PERMITTEE HAS COMPLIED WITH THE PROVISIONS OF THIS SECTION.

**19.40.110 - PERMIT-DENIAL.**

A. NO PERMIT AUTHORIZING GRADING SHALL BE ISSUED BY THE DIRECTOR IF IT IS FOUND THAT THE WORK PROPOSED BY THE APPLICANT IS LIKELY TO ENDANGER ANY PROPERTY OR PUBLIC WAY, TO POLLUTE ANY WATER, OR TO DAMAGE WETLANDS OR MARINE HABITAT. FACTORS TO BE CONSIDERED BY THE DIRECTOR INCLUDE, BUT ARE NOT LIMITED TO, POSSIBLE SATURATION BY RAINS, EARTH MOVEMENT, SURFACE WATER RUNOFF, SOIL EROSION, SEDIMENTATION, SILTATION AND SUBSURFACE CONDITIONS SUCH AS THE STRATIFICATION AND FAULTING OF ROCK, AND THE NATURE AND TYPE OF SOIL AND ROCK.

B. FAILURE OF THE DIRECTOR OR HIS OR HER DESIGNEE TO OBSERVE OR RECOGNIZE HAZARDOUS CONDITIONS OR FAILURE TO DENY THE GRADING PERMIT SHALL NOT RELIEVE THE OWNER OR THE OWNER'S AGENT FROM RESPONSIBILITY FOR THE CONDITIONS OR DAMAGES RESULTING FROM THE FAILURES, AND SHALL NOT RESULT IN THE CITY OR ITS OFFICERS OR AGENTS BEING RESPONSIBLE FOR THE DAMAGES RESULTING FROM THE FAILURES.

C. NO PERMITS SHALL BE ISSUED TO ANY APPLICANT WHO HAS OUTSTANDING PERMIT OR CODE VIOLATIONS ON OTHER PROJECTS AND ACTIVITIES WITHIN THE CITY UNTIL THOSE VIOLATIONS HAVE BEEN RESOLVED SATISFACTORILY AS DETERMINED BY THE DIRECTOR OR HIS OR HER DESIGNEE.

**19.40.120 - PERMIT-SUSPENSION OR REVOCATION.**

THE DIRECTOR MAY SUSPEND OR REVOKE ANY GRADING OR BUILDING PERMITS AFTER PROVIDING WRITTEN NOTIFICATION TO THE PERMITTEE BASED ON ANY OF THE FOLLOWING REASONS:

- A. ANY VIOLATION(S) OF THE TERMS OR CONDITIONS OF THE APPROVED EROSION AND SEDIMENT CONTROL PLAN OR PERMITS;
- B. NONCOMPLIANCE WITH VIOLATION NOTICE(S) OR STOP WORK ORDER(S);
- C. CHANGES IN SITE CHARACTERISTICS UPON WHICH PLAN APPROVAL AND PERMIT ISSUANCE WERE BASED; OR
- D. ANY VIOLATION(S) OF THIS CHAPTER OR ANY RULES AND REGULATIONS ADOPTED UNDER IT.
- E. ANY VIOLATION(S) OF THE PROCEDURES SET FORTH IN THE STANDARDS AND SPECIFICATIONS.

**19.40.130 - PLAN MODIFICATION.**

A. THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT MAY REVISE APPROVED PLANS AS NECESSARY. MODIFICATIONS MAY BE REQUESTED BY THE OWNER/DEVELOPER OR DEPARTMENT IN ACCORDANCE WITH THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT'S "MAJOR/MINOR CHANGE LIST FOR APPROVED SEDIMENT AND EROSION CONTROL PLANS." THE DEPARTMENT MAY MAKE MINOR CHANGES TO APPROVED SEDIMENT AND EROSION CONTROL PLANS AS LISTED ON THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT RESOLUTION TITLED, "MAJOR/MINOR CHANGE LIST FOR APPROVED SEDIMENT AND EROSION CONTROL PLANS." MAJOR CHANGES MUST BE APPROVED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT.

**19.40.140 - EXPIRATION, RENEWAL, DEADLINE EXTENSION AND NONTRANSFERABILITY.**

- A. THE APPLICANT HAS THIRTY CALENDAR DAYS AFTER THE DEPARTMENT'S VERBAL OR WRITTEN NOTIFICATION OF PERMIT APPROVAL TO CLAIM THE APPROVED GRADING PERMIT FOR ISSUANCE, OTHERWISE THE PERMIT WILL BE CONSIDERED VOID.
- B. A GRADING PERMIT EXPIRES IF NO WORK IS COMMENCED WITHIN NINETY DAYS AFTER ISSUANCE. A ONE-TIME RENEWAL IS PERMITTED WITHIN A PERIOD OF SIX MONTHS AFTER THE DATE OF EXPIRATION IF THE CONDITIONS UNDER WHICH THE PERMIT WAS ISSUED ORIGINALLY HAVE REMAINED UNCHANGED, EXCEPT THAT THE CONSTRUCTION PHASE TIME SCHEDULE MUST BE REVISED. AN APPLICATION FOR PERMIT RENEWAL SHALL BE MADE AT LEAST TWO MONTHS PRIOR TO THE PERMIT EXPIRATION DATE, AND MUST BE RENEWED BY THE DEPARTMENT AND ANNE ARUNDEL SOIL CONSERVATION DISTRICT. A PERMIT MAY NOT BE RENEWED MORE THAN ONCE.
- C. A GRADING PERMIT AND THE APPROVED EROSION AND SEDIMENT CONTROL PLAN SHALL BE VALID FOR TWO YEARS FROM THE DATE OF ISSUANCE, UNLESS A SHORTER TIME PERIOD IS DESIGNATED BY THE DIRECTOR OR DESIGNEE.
- D. IF THE APPLICANT IS UNABLE TO COMPLETE THE WORK WITHIN THE TIME SPECIFIED IN THE APPROVED APPLICATION, THE APPLICANT SHALL PRESENT A WRITTEN REQUEST FOR EXTENSION TO THE DIRECTOR OR DESIGNEE WITHIN THIRTY DAYS BEFORE THE EXPIRATION OF THE PERMIT. THE EXTENSION REQUEST SHALL SET FORTH THE REASONS FOR THE EXTENSION. WHERE, IN THE SOLE DISCRETION OF THE DIRECTOR OR DESIGNEE, THE EXTENSION IS WARRANTED, THE DIRECTOR MAY ALLOW ADDITIONAL TIME AS MAY BE NECESSARY TO COMPLETE THE APPROVED WORK.
- E. NO PERMIT ISSUED UNDER THIS TITLE IS TRANSFERABLE WITHOUT THE CONCURRENCE OF THE DIRECTOR OR DESIGNEE. A WRITTEN REQUEST FOR THE TRANSFER SHALL BE SUBMITTED BY THE ORIGINAL APPLICANT AND THE TRANSFEREE SHALL ACKNOWLEDGE ACCEPTANCE OF THE CONDITIONS UNDER WHICH THE ORIGINAL PERMIT WAS ISSUED.

**19.40.150 - FLOODPLAIN.**

GRADING WITHIN THE NONTIDAL ONE HUNDRED-YEAR FLOODPLAIN WITHIN OPEN DRAINAGE WAYS SHALL NOT BE PERMITTED, EXCEPT AT THE DISCRETION OF THE DIRECTOR AND ONLY AFTER APPROVAL BY THE APPROPRIATE STATE AND FEDERAL AGENCIES. GRADING WITHIN THE TIDAL ONE HUNDRED-YEAR FLOODPLAIN SHALL COMPLY WITH ALL PROVISIONS OF THIS CHAPTER AND CHAPTER 19.60, FLOODPLAIN MANAGEMENT.

**19.40.160 - EROSION AND SEDIMENT CONTROL-GENERAL REQUIREMENTS.**

- A. EFFECTIVE CONTROL OF SOIL TO PREVENT EROSION SHALL INCLUDE THE FOLLOWING:
  - 1. DEVELOPMENT SHALL BE FITTED TO THE TOPOGRAPHY AND SOILS TO CREATE THE LEAST EROSION POTENTIAL.
  - 2. NATURAL VEGETATION SHALL BE RETAINED WHEREVER POSSIBLE.
  - 3. THE SMALLEST PRACTICAL AREA OF LAND SHALL BE EXPOSED AT ANY ONE PERIOD DURING DEVELOPMENT FOR THE SHORTEST PRACTICAL PERIOD OF TIME IN ORDER TO REDUCE THE AMOUNT OF LAND AREA AND THE DURATION OF SOIL EXPOSURE.
  - 4. TEMPORARY VEGETATION OR MULCHING SHALL BE USED TO PROTECT SOILS EXPOSED DURING THE TIME OF DEVELOPMENT.
  - 5. EROSION-CONTROL PRACTICES CONSISTENT WITH STANDARDS AND SPECIFICATIONS SHALL BE INSTALLED TO MINIMIZE SOIL AND WATER LOSSES.
  - 6. DURING AND AFTER DEVELOPMENT, PROVISIONS SHALL BE MADE TO ACCOMMODATE IN AN EFFECTIVE MANNER THE INCREASED WATER RUNOFF CAUSED BY CHANGES IN

- SOIL AND SURFACE CONDITIONS AND TO AVOID SILTATION OF RECEIVING STREAMS.
7. SATISFACTORY COVER SHALL BE MAINTAINED DURING THE LIFE OF THE PROJECT AND IS SUBJECT TO INSPECTION.
  8. ROADS AND STREETS SHALL BE PLACED AS CLOSE TO THE PRE-EXISTING CONTOUR AS POSSIBLE IN ORDER TO MINIMIZE CUTTING OR FILLING.
  9. ALL GRADED SURFACES, EROSION-CONTROL MEASURES, VEGETATIVE COVERS AND OTHER PROTECTIVE MEASURES DISTURBED OR DESTROYED DURING THE COURSE OF OPERATIONS SHALL BE REPAIRED, RESTORED AND MAINTAINED PROMPTLY IN ACCORDANCE WITH THE APPROVED PLANS AND SPECIFICATIONS UNTIL PERMANENT MEASURES ARE ACCEPTED BY THE DEPARTMENT.
  10. THE OWNER MUST PROVIDE CONTACT INFORMATION FOR A PERSON(S) WHOM IS RESPONSIBLE FOR THE MAINTENANCE OF THE SEDIMENT AND EROSION CONTROL MEASURES, WHOM IS AVAILABLE TWENTY-FOUR HOURS A DAY AND SEVEN DAYS A WEEK, AND WHOM CAN RESPOND IMMEDIATELY TO RESOLVE ANY EMERGENCY OR NECESSARY FIELD CORRECTION. IF SAID PERSON(S) IS UNREACHABLE VIA THE SUBMITTED CONTACT INFORMATION DURING AN EMERGENCY, OR UNABLE TO PERFORM REQUIRED CORRECTIVE ACTIONS, THE OWNER AND/OR CONTRACTOR MAY BE ISSUED A CITATION.
- B. THE DEPARTMENT SHALL INVESTIGATE COMPLAINTS OR ACCEPT COMPLAINTS FROM ANY INTERESTED PARTY AND APPLY THEIR ENFORCEMENT PROCEDURE WHEN VIOLATIONS ARE CONFIRMED. ANY EROSION AND SEDIMENT CONTROL COMPLAINT RECEIVED SHALL BE ACTED UPON, ROUTINELY WITH THREE WORKING DAYS, AND THE COMPLAINANT SHALL BE NOTIFIED OF ANY ACTION OR PROPOSED ACTION ROUTINELY WITHIN SEVEN WORKING DAYS AFTER RECEIPT OF THE COMPLAINT.

#### **19.40.180 - PROHIBITED DISCHARGES AND PROHIBITED USE OF COAL TAR PAVEMENT PRODUCTS.**

- A. NO DEBRIS, SEDIMENT, WASTEWATER, LANDSCAPING/YARD WASTE, REFUSE, OR OTHER POLLUTANT SHALL BE DEPOSITED IN FLOODPLAINS, WATER RESOURCES, PUBLIC STREETS, HIGHWAYS, SIDEWALKS, STORM DRAINS, OR OTHER PUBLIC THOROUGHFARES PER THIS CHAPTER OF THE CITY CODE, MARYLAND ENVIRONMENT TITLE 4 AS MAY BE AMENDED FROM TIME TO TIME, COMAR 26.08.04, UNLESS OTHERWISE PERMITTED BY THE CITY OF ANNAPOLIS OR THE MARYLAND DEPARTMENT OF THE ENVIRONMENT. SUCH MATERIALS SHALL BE STORED PROPERLY TO MINIMIZE ANY THREAT OF DISCHARGE.
- B. THE FOLLOWING APPLIES TO ALL PUBLIC AND PRIVATE USES OF COAL TAR:
  1. A PERSON MAY NOT SELL, OFFER FOR SALE, USE, OR PERMIT THE USE OF A COAL TAR PAVEMENT PRODUCT IN THE CITY. A PROPERTY OWNER WHO KNOWINGLY PERMITS THE APPLICATION OF A PRODUCT CONTAINING COAL TAR PAVEMENT PRODUCT ON THEIR PROPERTY SHALL BE IN VIOLATION OF THIS SECTION AND MAY BE CITED, IN ADDITION TO THE APPLICATOR OF THE PRODUCT, PURSUANT TO SUBSECTION (B)(3).
  2. THE DIRECTOR SHALL PUBLISH, UPDATE AS NEEDED, AND MAINTAIN ON ITS WEBSITE, A LIST OF ALTERNATIVE PRODUCTS FOR USE ON ASPHALT AND CONCRETE THAT DO NOT CONTAIN A COAL TAR PAVEMENT PRODUCT.
  3. VIOLATORS OF THIS SECTION SHALL BE REQUIRED TO REMEDIATE THE SURFACE OF THE COAL TAR PAVEMENT PRODUCT. A VIOLATION OF THIS SECTION SHALL BE A MUNICIPAL INFRACTION AND SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. EACH DAY THAT A VIOLATION OCCURS SHALL BE CONSIDERED A SEPARATE OFFENSE. THE PENALTIES SET FORTH IN THIS SECTION ARE IN ADDITION TO ANY OTHER REMEDIES AND PENALTIES PROVIDED UNDER FEDERAL,

STATE, COUNTY, OR LOCAL LAW.

**19.40.200 - STATE AND FEDERAL STANDARDS FOR EROSION AND SEDIMENT CONTROL.**

THE STANDARDS AND SPECIFICATIONS ESTABLISHED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT AND ANY OTHER STANDARDS AND PROCEDURES ESTABLISHED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT SUPPLEMENT THIS CHAPTER AND ESTABLISH MINIMUM STANDARDS FOR THE CONTROL OF SOIL EROSION AND SEDIMENT. FAILURE TO COMPLY WITH THESE STANDARDS IS CONSIDERED A VIOLATION OF THIS CHAPTER AND MAY LEAD TO REVOCATION OF A GRADING PERMIT IN ACCORDANCE WITH SECTION 19.40.110 OF THE CITY CODE.

**19.40.210 - DRAINAGE.**

- A. SURFACE WATER RUNOFF SHALL BE DISPOSED OF OR CONVEYED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.
- B. DRAINAGE FACILITIES SHALL BE DESIGNED TO PREVENT EROSION, UNCONTROLLED OVERFLOW, AND PONDING WHEN PONDING IS NOT AN INTEGRAL PART OF THE DESIGN AND FUNCTION OF THE DRAINAGE FACILITY. THE WATER SHALL BE CONVEYED TO AN ACCEPTABLE OUTLET IN ACCORDANCE WITH THE DESIGN CRITERIA, STANDARDS AND PROCEDURES REQUIRED BY THE DEPARTMENT. THE PONDING OF WATER IS NOT PERMITTED ABOVE A CUT OR FILL SLOPE. ADEQUATE DRAINAGE FACILITIES SHALL BE PROVIDED TO PREVENT PONDING ABOVE A CUT OR FILL SLOPE.
- C. SURFACE WATER OR GROUNDWATER MAY NOT DAMAGE THE FACE OF A CUT OR FILL. EACH SLOPE SHALL BE PROTECTED FROM SURFACE WATER RUNOFF BY A BERM OR SWALE. SUITABLE UNDERDRAINS SHALL BE INSTALLED TO INTERCEPT AND CARRY GROUND WATER SEEPAGE TO AN ACCEPTABLE OUTLET.
- D. EACH AREA SHALL BE GRADED TO PROVIDE FOR POSITIVE DRAINAGE AWAY FROM THE BUILDING AND TOWARD THE APPROVED DISPOSAL AREA.
- E. THE CONSTRUCTION OF ALL STRUCTURES SHALL BE PRECEDED BY THE INSTALLATION OF STORM DRAINAGE SYSTEMS AND STABILIZATION MEASURES.
- F. STORMWATER MANAGEMENT DESIGNS SHALL COMPLY WITH CHAPTER 19.50, STORMWATER MANAGEMENT, AND CHAPTER 19.60, FLOODPLAIN MANAGEMENT.

**19.40.220 - INSPECTIONS.**

- A. THE PERMITTEE SHALL BE RESPONSIBLE FOR MAINTAINING A COPY OF THE APPROVED EROSION AND SEDIMENT CONTROL PLANS, AND OTHER APPROVED SITE PLANS ON SITE.
- B. THE DIRECTOR OR DESIGNEE MAY MAKE ADDITIONAL INSPECTIONS AS HE OR SHE DETERMINES TO BE APPROPRIATE. NO WORK APPROVED IN ACCORDANCE WITH THIS CHAPTER SHALL PROCEED BEYOND ANY ONE STAGE UNTIL THE DIRECTOR INSPECTS THE SITE AND APPROVES THE WORK PREVIOUSLY COMPLETED. UPON NOTIFICATION FROM THE PERMITTEE THE INSPECTOR SHALL INSPECT THE SITE AND NOTIFY THE PERMITTEE OF APPROVAL OR REJECTION WITHIN FORTY-EIGHT HOURS (EXCLUSIVE OF SATURDAYS, SUNDAYS AND LEGAL HOLIDAYS). IF THE INSPECTOR DOES NOT MAKE AN INSPECTION WITHIN THE SPECIFIED TIME PERIOD, WORK MAY PROCEED. HOWEVER, IT WILL BE WITHOUT PRESUMPTION OF APPROVAL AND AT THE SOLE RISK OF THE PERMITTEE.
- C. EVERY ACTIVE SITE HAVING AN APPROVED EROSION AND SEDIMENT CONTROL PLAN SHOULD BE INSPECTED FOR COMPLIANCE WITH THE PLAN ON THE AVERAGE OF ONCE EVERY TWO WEEKS.
- D. A WRITTEN REPORT SHALL BE PREPARED BY THE DEPARTMENT AFTER EVERY

INSPECTION. THE REPORT SHALL DESCRIBE:

1. THE DATE AND LOCATION OF THE SITE INSPECTION;
  2. WHETHER THE APPROVED PLAN HAS BEEN PROPERLY IMPLEMENTED AND MAINTAINED;
  3. PRACTICE DEFICIENCIES OR EROSION AND SEDIMENT CONTROL PLAN DEFICIENCIES;
  4. IF A VIOLATION EXISTS, THE TYPE OF ENFORCEMENT ACTION TAKEN; AND
  5. IF APPLICABLE, A DESCRIPTION OF ANY MODIFICATIONS TO THE PLAN.
- E. THE DIRECTOR SHALL NOTIFY THE ON-SITE PERSONNEL, AND THE OWNER/DEVELOPER IN WRITING, WHEN VIOLATIONS ARE OBSERVED, DESCRIBING:
1. THE NATURE OF THE VIOLATION;
  2. THE REQUIRED CORRECTIVE ACTION; AND
  3. THE TIME PERIOD IN WHICH TO HAVE THE VIOLATION CORRECTED.
- F. DEPARTMENT INSPECTION NOTIFICATION IS THE RESPONSIBILITY OF THE PERMITTEE PRIOR TO THE INSTALLATION OF ANY PUBLIC IMPROVEMENTS OR STORMWATER MANAGEMENT FACILITIES.
- G. IT IS A CONDITION OF EACH GRADING PERMIT THAT THE CITY, ITS AUTHORIZED AGENTS HAVE THE RIGHT OF ENTRY TO THE SITE IN ORDER TO INSPECT PERIODICALLY FOR COMPLIANCE WITH THE APPROVED PLAN AND THIS TITLE.
- H. IN THE EVENT OF A VALID COMPLAINT CONCERNING EROSION AND SEDIMENT CONTROL, AN INVESTIGATIVE INSPECTION SHALL BE MADE BY THE DEPARTMENT WITHIN THREE DAYS OF THE COMPLAINT. A RESPONSE TO THE COMPLAINT SHALL BE MADE WITHIN SEVEN DAYS OF THE COMPLAINT.

**19.40.230 - SUPPLEMENTAL TESTING AND INSPECTIONS.**

- A. WHEN REQUIRED BY THE DIRECTOR OR HIS OR HER DESIGNEE, INSPECTIONS AND TESTING SHALL BE PERFORMED UNDER THE DIRECTION OF A PROFESSIONAL ENGINEER WHO SHALL CERTIFY ALL INSPECTION REPORTS AND TEST RESULTS. THE REPORTS SHALL INCLUDE CERTIFICATION BY AN ENGINEER OF THE ADEQUACY OF:
1. CLEARED AREAS AND BENCHED OR KEYED SURFACES PREPARED TO RECEIVE FILLS; AND
  2. REMOVAL OF UNSUITABLE MATERIALS; AND
  3. CONSTRUCTION OF EROSION-CONTROL OR DRAINAGE DEVICES, BUTTRESS FILLS, UNDERDRAINS, RETAINING WALLS, AND OTHER GRADING APPURTENANCES; AND
  4. THE DEGREE OF COMPACTION WHERE TESTS ARE PERFORMED.
- B. ALL CERTIFIED INSPECTION REPORTS AND CERTIFIED TEST RESULTS SHALL BE SUBMITTED PERIODICALLY TO THE DIRECTOR DURING THE PERFORMANCE OF THE WORK.

**19.40.240 - EXISTING HAZARDS.**

WHENEVER THE DIRECTOR OR HIS OR HER DESIGNEE DETERMINES THAT ANY EXISTING GRADE, EXCAVATION, EMBANKMENT OR FILL ENDANGERS OR ADVERSELY AFFECTS THE SAFETY, USE OR STABILITY OF ANY PUBLIC OR PRIVATE PROPERTY, OR WATER RESOURCE, THE OWNER OF THE PROPERTY UPON WHICH THE CONDITION EXISTS, OR OTHER PERSON OR AGENT IN CONTROL OF THE PROPERTY, UPON RECEIPT OF NOTICE IN WRITING FROM THE DIRECTOR OR HIS OR HER DESIGNEE, WITHIN THE PERIOD SPECIFIED IN THE NOTICE, SHALL REPAIR OR ELIMINATE THE CONDITIONS IN ORDER TO ERADICATE THE HAZARD.

**19.40.250 - APPEALS.**

- A. A PERSON AGGRIEVED BY AN ORDER FROM THE DIRECTOR OR THE DIRECTOR'S

DESIGNEE MADE PURSUANT TO THIS CHAPTER, OTHER THAN THE ISSUANCE OF A MUNICIPAL CITATION OR THE CHARGING OF A MISDEMEANOR, MAY APPEAL TO THE BUILDING BOARD OF APPEALS WITHIN FIFTEEN CALENDAR DAYS OF THE DATE OF THE ORDER. THE PETITION FOR APPEAL SHALL BE IN WRITING STATING THE GROUNDS FOR APPEAL AND SHALL BE FILED WITH THE DEPARTMENT ALONG WITH A NONREFUNDABLE FEE IN AN AMOUNT ESTABLISHED BY THE CITY COUNCIL. ANY RIGHT TO APPEAL SHALL BE WAIVED IF NOT TIMELY FILED.

- B. THE BUILDING BOARD OF APPEALS SHALL CONSIDER THE APPEAL BASED UPON THE INFORMATION PROVIDED TO THE DEPARTMENT AT THE TIME OF THE ORDER FROM WHICH THE APPEAL IS TAKING. IF THE BOARD FINDS THAT THE ORDER WAS IN ERROR OR CONTRARY TO THE PROVISIONS OF THIS CODE OR OTHER APPLICABLE LAW, THE BOARD MAY REVERSE OR MODIFY THE ORDER. THE DECISION OF THE BOARD ON ALL APPEALS SHALL BE IN WRITING AND SHALL CONTAIN THE FACTUAL FINDINGS OF THE BOARD AND THE REASONS FOR THE DECISION.
- C. A PERSON AGGRIEVED BY A DECISION OF THE BUILDING BOARD OF APPEALS MADE PURSUANT TO THIS SECTION MAY APPEAL THAT DECISION TO THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY PURSUANT TO MARYLAND RULE TITLE 7, CHAPTER 200 OR ITS SUCCESSOR. FOR PURPOSES OF THIS SUBSECTION, A PERSON SHALL NOT BE CONSIDERED AGGRIEVED BY A DECISION OF THE BOARD UNLESS THE PERSON HAS APPEARED AS A PARTY AT THE HEARING BEFORE THE BOARD. AN APPEAL UNDER THIS SECTION SHALL BE TAKEN WITHIN THIRTY DAYS OF THE DATE OF THE DECISION APPEALED AND SHALL BE THE EXCLUSIVE REMEDY OF THE AGGRIEVED PARTY FROM THAT DECISION.

**19.40.260 - ENFORCEMENT AND NONCOMPLIANCE.**

- A. WHENEVER A VIOLATION OF THIS TITLE IS FOUND ON ANY SITE, WHETHER OR NOT A PERMIT HAS BEEN ISSUED, THE DEPARTMENT, OR ITS AUTHORIZED AGENT, SHALL NOTIFY THE ON-SITE PERSONNEL AND THE PERMITTEE OF THE VIOLATION, AND DESCRIBE THE REQUIRED CORRECTIVE ACTION AND THE TIME PERIOD IN WHICH TO HAVE THE VIOLATION CORRECTED.
- B. IF THE VIOLATION PERSISTS AFTER THE DATE SPECIFIED BY THE DEPARTMENT FOR CORRECTIVE ACTION, THEN THE DEPARTMENT SHALL ISSUE A STOP WORK ORDER TO ON-SITE PERSONNEL AND PLACE A STOP WORK ORDER ON THE PROPERTY.
- C. WITHIN SEVEN CALENDAR DAYS AFTER THE STOP WORK ORDER IS ISSUED OR PLACED ON SITE AS DESCRIBED IN THIS SECTION, A COPY OF THE ORDER SHALL BE SENT BY CERTIFIED MAIL TO THE PERMITTEE AND THE OWNER. THE DEPARTMENT SHALL DETERMINE THE EXTENT TO WHICH WORK IS STOPPED, WHICH MAY INCLUDE ALL WORK ON THE SITE EXCEPT THAT WORK NECESSARY TO CORRECT A VIOLATION.
- D. IF, IN THE JUDGMENT OF THE DEPARTMENT, REMEDIAL ACTION HAS NOT TAKEN PLACE WITHIN THE REQUIRED TIME SPECIFIED IN THE CERTIFIED NOTIFICATION DESCRIBED IN THIS SECTION, THE PERMITTEE AND THE OWNER SHALL BE GUILTY OF A MUNICIPAL INFRACTION AND SHALL BE SUBJECT TO A FINE AS SET BY RESOLUTION OF THE CITY COUNCIL. EACH DAY AFTER THE DEADLINE STATED IN THE CERTIFIED NOTIFICATION SHALL CONSTITUTE A SEPARATE OFFENSE.
- E. THE CITY SHALL PURSUE VIOLATIONS THAT AFFECT SECURED WORK AS FOLLOWS:
  - 1. WHENEVER SECURED WORK DOES NOT COMPLY WITH OR CONFORM TO A PERMIT OR APPROVED PLANS AND SPECIFICATIONS AND IF THE CITY DESIRES TO OBTAIN THE SECURITY POSTED, A WRITTEN NOTICE OF NONCOMPLIANCE SHALL BE SENT BY CERTIFIED MAIL TO THE PERMITTEE AND THE SURETY.

2. THE NOTICE SHALL SET FORTH THE NATURE OF THE CORRECTIONS REQUIRED AND THE TIME WITHIN WHICH THE CORRECTIONS SHALL BE MADE. IF THE PERMITTEE DOES NOT ACT ON THE NOTICE WITHIN THE TIME SET FORTH, A STOP-WORK NOTICE SHALL BE POSTED ON THE SITE AND EXCEPT AS PERMITTED BY THE DIRECTOR, NO FURTHER WORK IS PERMITTED ON THE SITE.
3. IF THE CORRECTIONS ARE NOT COMMENCED AND PURSUED IN A DILIGENT MANNER WITHIN THE TIME SPECIFIED IN THE NOTICE, THE PERMITTEE IS CONSIDERED TO BE IN DEFAULT OF THE OBLIGATIONS IMPOSED BY THIS TITLE, AND THE CITY MAY TAKE IMMEDIATE ACTION TO OBTAIN THE SECURITY POSTED.
- F. THE DEPARTMENT MAY SEEK AN INJUNCTION AGAINST ANY PERSON WHO VIOLATES OR THREATENS TO VIOLATE ANY PROVISION OF THIS CHAPTER.
- G. IN ADDITION TO ANY OTHER SANCTION UNDER THIS CHAPTER, A PERSON WHO FAILS TO INSTALL OR TO MAINTAIN EROSION AND SEDIMENT CONTROLS IN ACCORDANCE WITH AN APPROVED EROSION AND SEDIMENT CONTROL PLAN IS, UNDER SECTION 4-116 OF THE ENVIRONMENT ARTICLE, ANNOTATED CODE OF MARYLAND, GUILTY OF A MISDEMEANOR, AND UPON CONVICTION IN A COURT OF COMPETENT JURISDICTION IS SUBJECT TO A FINE NOT EXCEEDING TEN THOUSAND DOLLARS OR IMPRISONMENT NOT EXCEEDING ONE YEAR OR BOTH FOR EACH VIOLATION WITH COSTS IMPOSED IN THE DISCRETION OF THE COURT. FURTHER, THE CITY MAY BRING A CIVIL ACTION AGAINST A PERSON FOR A VIOLATION OF THIS CHAPTER, IN AN AMOUNT EQUAL TO DOUBLE THE COST OF INSTALLING OR MAINTAINING THE CONTROLS OR OF ANY RESTORATION OF DAMAGE CAUSED TO THE ENVIRONMENT.
- H. ANY GOVERNING AUTHORITY THAT RECOVERS DAMAGES IN ACCORDANCE WITH THIS SUBSECTION SHALL DEPOSIT THEM IN A SPECIAL FUND, TO BE USED SOLELY FOR:
  1. CORRECTING, TO THE EXTENT POSSIBLE, THE FAILURE TO IMPLEMENT OR MAINTAIN EROSION AND SEDIMENT CONTROLS, AND
  2. ADMINISTRATION OF THE SEDIMENT CONTROL PROGRAM.
- I. FAILURE TO OBTAIN A PERMIT AS REQUIRED IN THIS CHAPTER SHALL RESULT IN A STOP WORK ORDER UNTIL THE APPROPRIATE PERMITS HAVE BEEN APPROVED. ALL WORK, EXCEPT FOR THE INSTALLATION OF EROSION AND SEDIMENT CONTROL MEASURES NECESSARY TO CONTAIN AND STABILIZE THE SITE, SHALL CEASE IN COMPLIANCE WITH THE STOP WORK ORDER.
- J. IT SHALL BE THE RESPONSIBILITY OF THE OWNER, CONTRACTOR OR AUTHORIZED AGENT TO MAINTAIN EROSION AND SEDIMENT CONTROLS AT ALL TIMES DURING DEMOLITION, GRADING, CONSTRUCTION AND VACANT LAND AFTER HOURS, WEEKENDS AND HOLIDAYS.
- K. ANY STEP IN THE ENFORCEMENT PROCESS CAN BE TAKEN AT ANY TIME, DEPENDING ON THE SEVERITY OF THE VIOLATION.
- L. A PERSON WHO FAILS TO COMPLY WITH ANY OR ALL OF THE REQUIREMENTS OR PROVISIONS OF THIS CHAPTER OR ANY ORDER OR REQUIREMENT OF THE DIRECTOR OR ANY OTHER AUTHORIZED EMPLOYEE OF THE CITY IS GUILTY OF A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL FOR EACH REPEAT OR CONTINUING VIOLATION. EACH DAY AFTER THE EXPIRATION OF THE ALLOWED REMEDIAL WORK PERIOD SHALL CONSTITUTE A SEPARATE OFFENSE. IN ADDITION, NO OTHER INSPECTIONS SHALL BE MADE BY THE DEPARTMENT FOR THE PROJECT IN QUESTION UNTIL REMEDIAL ACTION HAS BEEN SATISFACTORILY COMPLETED AND THE SUBJECT FINE HAS BEEN PAID IN FULL.

#### **19.40.270 - EMERGENCIES.**

- A. WHENEVER, IN THE JUDGMENT OF THE DIRECTOR OR HIS OR HER DESIGNEE, AN EMERGENCY EXISTS WHICH REQUIRES IMMEDIATE ACTION TO PROTECT THE PUBLIC HEALTH, SAFETY, PROPERTY OR GENERAL WELFARE, AN ORDER MAY BE ISSUED WITHOUT NOTICE, CONFERENCE OR HEARING, DIRECTING THE OWNER, OCCUPANT, OPERATOR OR AGENT TO TAKE THAT ACTION APPROPRIATE OR NECESSARY TO CORRECT OR ABATE THE EMERGENCY. IF CIRCUMSTANCES WARRANT, THE DIRECTOR OR HIS OR HER DESIGNEE MAY ACT TO CORRECT OR ABATE THE EMERGENCY.
- B. THE OWNER, OCCUPANT, OPERATOR OR AGENT SHALL BE GRANTED A CONFERENCE ON THE MATTER UPON HIS OR HER REQUEST AS SOON AS PRACTICABLE, BUT THE CONFERENCE SHALL NOT STAY THE ABATEMENT OR CORRECTION OF THE EMERGENCY.

**19.40.280 - RECORDS AND AS-BUILT DRAWINGS.**

UPON COMPLETION OF WORK FOR WHICH A GRADING PERMIT WAS ISSUED, THE DEPARTMENT SHALL REQUIRE THE FOLLOWING:

- A. AS-BUILT DRAWINGS;
- B. CERTIFICATION BY THE OWNER OR THE PERMITTEE, OR, UPON REQUEST BY THE DIRECTOR, BY A REGISTERED PROFESSIONAL, ON THE AS-BUILT DRAWINGS THAT GRADING, DRAINAGE STRUCTURES, UTILITIES, ROADWAYS, SYSTEMS AND EROSION AND SEDIMENT CONTROL PRACTICES, INCLUDING FACILITIES AND VEGETATIVE MEASURES, HAVE BEEN COMPLETED IN CONFORMANCE WITH THE APPROVED PLANS AND SPECIFICATIONS; AND
- C. UPON REQUEST OF THE DIRECTOR OR HIS OR HER DESIGNEE, A REPORT SUMMARIZING THE INSPECTION REPORTS, FIELD AND LABORATORY TESTS, AND LOCATIONS OF TEST AND FIELD OBSERVATIONS.
- D. SURETY WILL NOT BE RELEASED UNTIL THE AS-BUILT DRAWINGS HAVE BEEN REVIEWED AND APPROVED BY THE CITY.

**19.40.290 - SEVERABILITY.**

IF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE OR PHRASE OF THIS TITLE IS HELD INVALID OR UNCONSTITUTIONAL FOR ANY REASON BY ANY COURT OF COMPETENT JURISDICTION, THAT PORTION SHALL BE CONSIDERED TO BE A SEPARATE, DISTINCT AND INDEPENDENT PROVISION AND THE HOLDING SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTION OF THIS TITLE, IT BEING THE INTENT OF THE CITY THAT THIS TITLE SHALL STAND, NOTWITHSTANDING THE INVALIDITY OF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE OR PHRASE.

**19.40.295 - GRADING, EROSION, SEDIMENT CONTROL.**

UNLESS NOTED OTHERWISE, ANY PERSON WHO VIOLATES ANY SECTION OF THIS CHAPTER SHALL BE GUILTY OF A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. ALL FINES MUST BE PAID IN FULL PRIOR TO ANY CONTINUATION OF WORK OR PRIOR TO ANY FURTHER INSPECTIONS. IF A PERSON OR ENTITY IS FOUND TO HAVE VIOLATED THIS SECTION AT ONE OR MORE DISCRETE SITES WITHIN THE CITY TWO OR MORE TIMES IN ANY TWO-YEAR PERIOD, SUCH VIOLATION SHALL CONSTITUTE A REPEAT VIOLATION.

**CHAPTER 19.50 - STORMWATER MANAGEMENT**

**19.50.010 - PURPOSE, APPLICATION AND AUTHORITY.**

- A. THE PURPOSE OF THIS CHAPTER IS TO PROTECT AND PROMOTE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE THROUGH THE MANAGEMENT OF STORMWATER, TO

PROTECT PUBLIC AND PRIVATE PROPERTY FROM DAMAGE, TO REDUCE THE EFFECTS OF LAND USE CHANGES ON STREAM CHANNEL EROSION, TO MAINTAIN AND ASSIST IN THE IMPROVEMENT OF WATER QUALITY, AND TO PRESERVE AND ENHANCE THE ENVIRONMENTAL QUALITY OF STREAMS AND STREAM VALLEYS. IT IS THE EXPRESSED INTENT OF THIS CHAPTER TO REQUIRE THAT STORMWATER MANAGEMENT, AS IT ADDRESSES WATER QUALITY, BE PROVIDED FOR ALL DEVELOPED LAND WITHIN THE CITY. THE PROVISIONS OF THIS CHAPTER ARE ADOPTED PURSUANT TO ANNOTATED CODE OF MARYLAND, ENVIRONMENT ARTICLE, TITLE 4, SUBTITLE 2, (OR ITS SUCCESSORS) AND THE CHARTER OF THE CITY OF ANNAPOLIS AND SHALL APPLY TO ALL DEVELOPMENT OCCURRING WITHIN THE CORPORATE LIMITS OF THE CITY OF ANNAPOLIS.

B. THE APPLICATION OF THIS CHAPTER AND THE REQUIREMENTS SET FORTH HEREIN SHALL BE THE MINIMUM STORMWATER MANAGEMENT REQUIREMENTS APPLICABLE IN THE CITY AND SHALL NOT BE DEEMED A LIMITATION OR REPEAL OF ANY OTHER POWERS GRANTED BY STATE STATUTE.

C. THE CITY OF ANNAPOLIS, DEPARTMENT OF THE ENVIRONMENT SHALL BE RESPONSIBLE FOR THE ADMINISTRATION AND ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER.

D. THIS CHAPTER APPLIES TO ALL NEW AND REDEVELOPMENT PROJECTS THAT HAVE NOT RECEIVED FINAL APPROVAL FOR EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT PLANS BY MAY 4, 2010.

#### **19.50.030 - DIRECTOR OF THE DEPARTMENT OF THE ENVIRONMENT -AUTHORITY.**

IN ADDITION TO SUCH OTHER AUTHORITY AS MAY BE ASSIGNED TO THE DIRECTOR OF THE DEPARTMENT OF THE ENVIRONMENT, PURSUANT TO THIS CHAPTER, ALL STORMWATER MANAGEMENT PLANS REQUIRED BY THIS CHAPTER ARE SUBJECT TO THE APPROVAL OF THE DIRECTOR. THE DIRECTOR OR HIS/HER DESIGNEE MAY INCLUDE IN THE APPROVAL OF SUCH PLANS, ANY RECOMMENDATION OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT THAT THE DIRECTOR DETERMINES TO BE APPROPRIATE.

#### **19.50.040 - GUIDE FOR STORMWATER MANAGEMENT.**

THE 2000 MARYLAND STORMWATER DESIGN MANUAL, VOLUMES I & II (MARYLAND DEPARTMENT OF THE ENVIRONMENT, APRIL 2000) AND ALL SUBSEQUENT REVISIONS, AND THE USDA NATURAL RESOURCES CONSERVATION SERVICE MARYLAND CONSERVATION PRACTICE STANDARD POND CODE 378 (JANUARY 2000) SHALL SERVE AS THE GUIDE FOR STORMWATER MANAGEMENT PRINCIPLES, METHODS, AND PRACTICES IN THE CITY OF ANNAPOLIS.

#### **19.50.050 - DEFINITIONS.**

FOR THE PURPOSE OF THIS CHAPTER, THE FOLLOWING TERMS SHALL HAVE THE DEFINITIONS INDICATED:

- A. "ADMINISTRATION" MEANS THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) WATER MANAGEMENT ADMINISTRATION (WMA).
- B. "ADVERSE IMPACT" MEANS ANY DELETERIOUS EFFECT ON WATERS OR WETLANDS, INCLUDING THEIR QUALITY, QUANTITY, SURFACE AREA, SPECIES COMPOSITION, AESTHETICS OR USEFULNESS FOR HUMAN OR NATURAL USES WHICH ARE OR MAY POTENTIALLY BE HARMFUL OR INJURIOUS TO HUMAN HEALTH, WELFARE, SAFETY OR PROPERTY, TO BIOLOGICAL PRODUCTIVITY, DIVERSITY, OR STABILITY OR WHICH UNREASONABLY INTERFERE WITH THE ENJOYMENT OF LIFE OR PROPERTY, INCLUDING OUTDOOR RECREATION.

- C. "AGRICULTURAL LAND MANAGEMENT PRACTICES" MEANS THOSE METHODS AND PROCEDURES USED IN THE CULTIVATION OF LAND IN ORDER TO FURTHER CROP AND LIVESTOCK PRODUCTION AND CONSERVATION OF RELATED SOIL AND WATER RESOURCES.
- D. "APPLICANT" MEANS ANY PERSON, FIRM, OR GOVERNMENTAL AGENCY THAT EXECUTES THE NECESSARY FORMS TO PROCURE OFFICIAL APPROVAL OF A PROJECT OR OF A PERMIT TO CARRY OUT CONSTRUCTION OF A PROJECT.
- E. "APPROVING AGENCY" MEANS THE ENTITY RESPONSIBLE FOR THE REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS.
- F. "AQUIFER" MEANS A POROUS WATER BEARING GEOLOGIC FORMATION GENERALLY RESTRICTED TO MATERIALS CAPABLE OF YIELDING AN APPRECIABLE SUPPLY OF WATER.
- G. "BEST MANAGEMENT PRACTICES" (BMP) MEANS A STRUCTURAL OR NONSTRUCTURAL PRACTICE DESIGNED TO TEMPORARILY STORE OR TREAT STORMWATER RUNOFF IN ORDER TO MITIGATE FLOODING, REDUCE POLLUTION, AND PROVIDE OTHER AMENITIES.
- H. "CHANNEL PROTECTION STORAGE VOLUME (CPV)" MEANS THE VOLUME USED TO DESIGN STRUCTURAL MANAGEMENT PRACTICES TO CONTROL STREAM CHANNEL EROSION. METHODS FOR CALCULATING THE CHANNEL PROTECTION STORAGE VOLUME ARE SPECIFIED IN THE 2000 MARYLAND STORMWATER DESIGN MANUAL, VOLUMES I & II.
- I. "CLEARING" MEANS THE REMOVAL OF TREES AND BRUSH FROM THE LAND BUT SHALL NOT INCLUDE THE ORDINARY MOWING OF GRASS.
- J. "DESIGN MANUAL" MEANS THE 2000 MARYLAND STORMWATER DESIGN MANUAL VOLUMES I & II (MARYLAND DEPARTMENT OF THE ENVIRONMENT, APRIL 2000), AND ALL SUBSEQUENT REVISIONS, THAT SERVES AS THE OFFICIAL GUIDE FOR STORMWATER MANAGEMENT PRINCIPLES, METHODS, AND PRACTICES.
- K. "DETENTION STRUCTURE" MEANS A PERMANENT STRUCTURE FOR THE TEMPORARY STORAGE OF RUNOFF, WHICH IS DESIGNED SO AS NOT TO CREATE A PERMANENT POOL OF WATER.
- L. "DEVELOP LAND" MEANS TO CHANGE THE RUNOFF CHARACTERISTICS OF A PARCEL OF LAND IN CONJUNCTION WITH RESIDENTIAL, COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL CONSTRUCTION OR ALTERATION.
- M. "DIRECT DISCHARGE" MEANS THE CONCENTRATED RELEASE OF STORMWATER TO TIDAL WATERS OR VEGETATED TIDAL WETLANDS FROM NEW DEVELOPMENT OR REDEVELOPMENT PROJECTS IN THE CRITICAL AREA.
- N. "DRAINAGE AREA" MEANS THAT AREA CONTRIBUTING RUNOFF TO A SINGLE POINT MEASURED IN A HORIZONTAL PLANE, WHICH IS ENCLOSED BY A RIDGELINE.
- O. "EASEMENT" MEANS A GRANT OR RESERVATION BY THE OWNER OF LAND FOR THE USE OF SUCH LAND BY OTHERS FOR A SPECIFIC PURPOSE OR PURPOSES, AND WHICH MUST BE INCLUDED IN THE CONVEYANCE OF LAND AFFECTED BY SUCH EASEMENT.
- P. "ENVIRONMENTAL SITE DESIGN (ESD)" MEANS USING SMALL-SCALE STORMWATER MANAGEMENT PRACTICES, NONSTRUCTURAL TECHNIQUES, AND BETTER SITE PLANNING TO MIMIC NATURAL HYDROLOGIC RUNOFF CHARACTERISTICS AND MINIMIZE THE IMPACT OF LAND DEVELOPMENT ON WATER RESOURCES. METHODS FOR DESIGNING ESD PRACTICES ARE SPECIFIED IN THE DESIGN MANUAL.
- Q. "EXEMPTION" MEANS THOSE LAND DEVELOPMENT ACTIVITIES THAT ARE NOT SUBJECT TO THE STORMWATER MANAGEMENT REQUIREMENTS CONTAINED IN THIS CHAPTER.

- R. "EXTENDED DETENTION" MEANS A STORMWATER DESIGN FEATURE THAT PROVIDES GRADUAL RELEASE OF A VOLUME OF WATER IN ORDER TO INCREASE SETTLING OF POLLUTANTS AND PROTECT DOWNSTREAM CHANNELS FROM FREQUENT STORM EVENTS. METHODS FOR DESIGNING EXTENDED DETENTION BMP'S ARE SPECIFIED IN THE DESIGN MANUAL.
- S. "EXTREME FLOOD VOLUME (QF)" MEANS THE STORAGE VOLUME REQUIRED CONTROLLING THOSE INFREQUENT BUT LARGE STORM EVENTS IN WHICH OVERBANK FLOWS REACH OR EXCEED THE BOUNDARIES OF THE ONE HUNDRED-YEAR FLOODPLAIN.
- T. "FINAL STORMWATER MANAGEMENT PLAN" MEANS THE LAST OF THREE REQUIRED PLAN APPROVALS THAT INCLUDES ALL REQUIRED INFORMATION TO ALLOW ALL APPROVALS AND PERMITS TO BE ISSUED BY THE APPROVING AGENCY.
- U. "FLOW ATTENUATION" MEANS PROLONGING THE FLOW TIME OF RUNOFF TO REDUCE THE PEAK DISCHARGE.
- V. "GRADING," MEANS ANY ACT BY WHICH SOIL IS CLEARED, STRIPPED, STOCKPILED, EXCAVATED, SCARIFIED, FILLED OR ANY COMBINATION THEREOF.
- W. "IMPERVIOUS AREA" MEANS ANY SURFACE THAT DOES NOT ALLOW STORMWATER TO INFILTRATE INTO THE GROUND.
- X. "INFILTRATION" MEANS THE PASSAGE OR MOVEMENT OF WATER INTO THE SOIL SURFACE.
- Y. "MAXIMUM EXTENT PRACTICABLE (MEP)" MEANS DESIGNING STORMWATER MANAGEMENT SYSTEMS SO THAT ALL REASONABLE OPPORTUNITIES FOR USING ESD PLANNING TECHNIQUES AND TREATMENT PRACTICES ARE EXHAUSTED AND ONLY WHERE ABSOLUTELY NECESSARY, A STRUCTURAL BMP IS IMPLEMENTED.
- Z. "MODIFICATION" MEANS THE CHANGE TO THE MINIMUM STORMWATER MANAGEMENT REQUIREMENTS FOR SPECIFIC CIRCUMSTANCES GRANTED BY THE DIRECTOR BASED UPON A SHOWING BY THE APPLICANT THAT STRICT ADHERENCE TO THE REQUIREMENTS WOULD RESULT IN AN UNREASONABLE NECESSARY HARDSHIP AND NOT FULFILL THE INTENT OF THIS CHAPTER.
- AA. "NEW DEVELOPMENT" MEANS ANY CONSTRUCTION, ALTERATION, OR IMPROVEMENT EXCEEDING FIVE THOUSAND SQUARE FEET OF LAND DISTURBANCE PERFORMED ON SITES WHERE EXISTING LAND USE IS RURAL, AGRICULTURAL OR SINGLE FAMILY RESIDENTIAL OR ANY SITE WITH IMPERVIOUS COVERAGE OF LESS THAN FORTY PERCENT IMPERVIOUSNESS.
- BB. "OFF-SITE STORMWATER MANAGEMENT" MEANS THE DESIGN AND CONSTRUCTION OF A STORMWATER MANAGEMENT FACILITY NECESSARY TO CONTROL STORMWATER FROM MORE THAN ONE DEVELOPMENT.
- CC. "ON-SITE STORMWATER WATER MANAGEMENT" MEANS THE DESIGN AND CONSTRUCTION OF FACILITIES NECESSARY TO CONTROL STORMWATER WITHIN A SITE.
- DD. "OVERBANK FLOOD PROTECTION VOLUME (QP)" MEANS THE VOLUME CONTROLLED BY STRUCTURAL PRACTICES TO PREVENT AN INCREASE IN THE FREQUENCY OF OUT OF BANK FLOODING GENERATED BY DEVELOPMENT. METHODS FOR CALCULATING THE OVERBANK FLOOD PROTECTION VOLUME ARE SPECIFIED IN THE DESIGN MANUAL.
- EE. "PERSON" MEANS THE FEDERAL GOVERNMENT, THE STATE, ANY COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE STATE, OR ANY OF THEIR UNITS, OR AN INDIVIDUAL RECEIVER, TRUSTEE, GUARDIAN, EXECUTOR, ADMINISTRATOR, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND, OR ANY

PARTNERSHIP, FIRM, ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, OR ANY OTHER ENTITY.

- FF. "PLANNING TECHNIQUES" MEANS A COMBINATION OF STRATEGIES EMPLOYED EARLY IN PROJECT DESIGN TO REDUCE THE IMPACT FROM DEVELOPMENT AND TO INCORPORATE NATURE FEATURES INTO A STORMWATER MANAGEMENT PLAN.
- GG. "RECHARGE VOLUME (REV)" MEANS THAT PORTION OF THE WATER QUALITY VOLUME USED TO MAINTAIN GROUNDWATER RECHARGE RATES AT DEVELOPMENT SITES. METHODS FOR CALCULATING THE RECHARGE VOLUME ARE SPECIFIED IN THE DESIGN MANUAL.
- HH. "REDEVELOPMENT" MEANS ANY CONSTRUCTION, ALTERATION, OR IMPROVEMENT EXCEEDING FIVE THOUSAND SQUARE FEET OF LAND DISTURBANCE PERFORMED ON SITES WHERE EXISTING LAND USE IS COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, MULTIFAMILY RESIDENTIAL AND EXISTING SITE IMPERVIOUS AREA EXCEEDS FORTY PERCENT.
- II. "REGIONAL STORMWATER MANAGEMENT FACILITY" MEANS A STORMWATER MANAGEMENT FACILITY INTENDED TO CONTROL STORMWATER RUNOFF FROM SEVERAL SEPARATELY OWNED PARCELS OR DEVELOPMENTS WITHIN A WATERSHED. "REGIONAL STORMWATER MANAGEMENT FACILITY" DOES NOT INCLUDE MULTI-LOT STORMWATER MANAGEMENT FACILITIES, SUBDIVISION FACILITIES OR OTHER STORMWATER MANAGEMENT FACILITIES CONSTRUCTED IN CONNECTION WITH DEVELOPMENT OR REDEVELOPMENT, WHETHER CONCURRENTLY OR IN PHASES, OF A SITE, OR CONTIGUOUS SITES, BY A SINGLE OWNER OR A SINGLE OWNER'S SUCCESSOR IN TITLE.
- JJ. "RETENTION STRUCTURE" MEANS A PERMANENT STRUCTURE THAT PROVIDES FOR THE STORAGE OF RUNOFF BY MEANS OF A PERMANENT POOL OF WATER.
- KK. "RETROFITTING" MEANS THE IMPLEMENTATION OF ESD PRACTICES, THE CONSTRUCTION OF A STRUCTURAL BMP IN A PREVIOUSLY DEVELOPED AREA, THE MODIFICATION OF AN EXISTING STRUCTURAL BMP, OR THE IMPLEMENTATION OF A NONSTRUCTURAL PRACTICE TO IMPROVE WATER QUALITY OVER CURRENT CONDITIONS.
- LL. "SEDIMENT" MEANS SOILS OR OTHER SURFICIAL MATERIALS TRANSPORTED OR DEPOSITED BY THE ACTION OF WIND, WATER, ICE, OR GRAVITY AS A PRODUCT OF EROSION.
- MM. "SITE" MEANS ANY TRACT, LOT, OR PARCEL OF LAND, OR COMBINATION OF TRACTS, LOTS, PARCELS OF LAND THAT ARE IN ONE OWNERSHIP, OR ARE CONTIGUOUS AND IN DIVERSE OWNERSHIP, WHERE DEVELOPMENT IS TO BE PERFORMED AS PART OF A UNITY, SUBDIVISION, OR PROJECT.
- NN. "SITE DEVELOPMENT PLAN" MEANS THE SECOND OF THREE REQUIRED PLAN APPROVALS THAT INCLUDES THE INFORMATION NECESSARY TO ALLOW A DETAILED EVALUATION OF A PROPOSED PROJECT.
- OO. "STABILIZATION" MEANS THE PREVENTION OF SOIL MOVEMENT BY ANY OF VARIOUS VEGETATIVE AND/OR STRUCTURAL MEANS.
- PP. "STORMWATER" MEANS WATER THAT ORIGINATES FROM A PRECIPITATION EVENT.
- QQ. "STORMWATER MANAGEMENT SYSTEM" MEANS NATURAL AREAS, ESD PRACTICES, STORMWATER MANAGEMENT MEASURES, AND ANY OTHER STRUCTURE THROUGH WHICH STORMWATER FLOWS, INFILTRATES, OR DISCHARGES FROM A SITE.
- RR. "STRIPPING" MEANS ANY ACTIVITY THAT REMOVES THE VEGETATIVE SURFACE COVER INCLUDING TREE REMOVAL, CLEARING, GRUBBING AND STORAGE OR REMOVAL OF TOPSOIL.

- SS. "WAIVER" MEANS THE RELINQUISHMENT FROM STORMWATER MANAGEMENT REQUIREMENTS BY THE DIRECTOR FOR A SPECIFIC DEVELOPMENT ON A CASE-BY-CASE REVIEW BASIS.
1. "QUALITATIVE STORMWATER MANAGEMENT WAIVER" MEANS A REDUCTION OF WATER QUALITY VOLUME AND RECHARGE VOLUME PARAMETERS.
  2. "QUANTITATIVE STORMWATER MANAGEMENT WAIVER" MEANS A REDUCTION OF CHANNEL PROTECTION STORAGE VOLUME, OVBANK FLOOD PROTECTION VOLUME, AND EXTREME FLOOD VOLUME DESIGN PARAMETER.
- TT. "WATERCOURSE" MEANS ANY NATURAL OR ARTIFICIAL STREAM, RIVER, CREEK, DITCH, CHANNEL, CANAL, CONDUIT, CULVERT, DRAIN, WATERWAY, GULLY, RAVINE OR WASH, IN AND INCLUDING ANY ADJACENT AREA THAT IS SUBJECT TO INUNDATION FROM OVERFLOW OR FLOOD WATER.
- UU. "WATERSHED" MEANS THE TOTAL DRAINAGE AREA CONTRIBUTING RUNOFF TO A SINGLE POINT.
- VV. "WATER QUALITY VOLUME (WQV)" MEANS THE VOLUME NEEDED TO CAPTURE AND TREAT THE RUNOFF FROM NINETY PERCENT OF THE AVERAGE ANNUAL RAINFALL AT A DEVELOPMENT SITE. METHODS FOR CALCULATING THE WATER QUALITY VOLUME ARE SPECIFIED IN THE DESIGN MANUAL.

**19.50.060 - APPLICATION.**

A. SCOPE. NO PERSON SHALL DEVELOP ANY LAND FOR RESIDENTIAL, COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL USES WITHOUT HAVING PROVIDED STORMWATER MANAGEMENT MEASURES THAT CONTROL OR MANAGE RUNOFF FROM SUCH DEVELOPMENT, EXCEPT AS PROVIDED WITHIN THIS CHAPTER. THE STORMWATER MANAGEMENT MEASURES SHALL BE DESIGNED CONSISTENT WITH THE DESIGN MANUAL AND SHALL BE CONSTRUCTED ACCORDING TO: (I) FOR NEW DEVELOPMENT, THE POLICIES STATED IN SECTION 19.50.080(A), OR (II) FOR REDEVELOPMENT, THE POLICIES STATED IN SECTION 19.50.080(B).

B. APPLICATION-REQUIRED.

1. PRELIMINARY APPROVAL MAY NOT BE GRANTED FOR ANY SUBDIVISION PLAT UNLESS AN APPLICANT INCLUDES PRELIMINARY STORMWATER MANAGEMENT PLANS AND DESIGNS AS REQUIRED BY THE DEPARTMENT FOR THE PROPOSED ON-SITE DEVELOPMENT AND FOR RELATED OFF-SITE STORMWATER CONTROLS ACCORDING TO THE PROVISIONS OF THIS CHAPTER.
2. FINAL APPROVAL MAY NOT BE GRANTED FOR A SUBDIVISION PLAT UNLESS AN APPLICANT INCLUDES STORMWATER MANAGEMENT PLANS AND DESIGNS FOR THE PROPOSED DEVELOPMENT IN SUFFICIENT DETAIL AS REQUIRED BY THE DEPARTMENT ACCORDING TO THE PROVISIONS OF THIS CHAPTER. EASEMENTS SHALL BE PLATTED AND RECORDED FOR ALL STORMWATER MANAGEMENT FACILITIES AS REQUIRED BY THE DEPARTMENT. STORMWATER MANAGEMENT FACILITIES SHALL BE PUBLICLY OWNED AND MAINTAINED UPON THE REQUEST OF THE DEPARTMENT AND IN ACCORDANCE WITH THE CITY'S WATERSHED MANAGEMENT PROGRAM.
3. AN APPLICATION FOR A BUILDING OR GRADING PERMIT SHALL INCLUDE A STORMWATER WATER MANAGEMENT PLAN IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER PROVIDING FOR STORMWATER MANAGEMENT OF THE APPLICANT'S PROPOSED DEVELOPMENT OR REDEVELOPMENT. NO BUILDING OR GRADING PERMIT MAY BE ISSUED UNLESS A STORMWATER MANAGEMENT PLAN FOR THE DEVELOPMENT OR REDEVELOPMENT HAS BEEN APPROVED BY THE DEPARTMENT ACCORDING TO THE PROVISIONS OF THIS CHAPTER. CONSTRUCTION OF THE

DEVELOPMENT OR REDEVELOPMENT SHALL BE IN ACCORDANCE WITH THE STORMWATER MANAGEMENT PLAN APPROVED BY THE DEPARTMENT.

**19.50.070 - EXEMPTIONS.**

THE FOLLOWING DEVELOPMENT ACTIVITIES ARE EXEMPT FROM THE PROVISIONS OF THIS CHAPTER AND ARE NOT REQUIRED TO PROVIDE STORMWATER MANAGEMENT:

- A. AGRICULTURAL LAND MANAGEMENT ACTIVITIES;
- B. AN ADDITION OR MODIFICATION TO AN EXISTING SINGLE-FAMILY DETACHED RESIDENTIAL STRUCTURE PROVIDED THE ADDITION OR MODIFICATION COMPLIES WITH SUBSECTION C OR D OF THIS SECTION;
- C. DEVELOPMENT ON A NON-WATERFRONT LOT THAT DOES NOT DISTURB MORE THAN FIVE THOUSAND SQUARE FEET OF LAND AREA EXCEPT IN THE CASE OF A NEW SINGLE FAMILY DWELLING WHICH IS NOT EXEMPTED FROM THE REQUIREMENTS OF THIS CHAPTER REGARDLESS OF THE EXTENT OF THE AREA OF DISTURBANCE;
- D. DEVELOPMENT ON A WATERFRONT LOT THAT DOES NOT DISTURB MORE THAN TWO THOUSAND SQUARE FEET OF LAND AREA AND DOES NOT REQUIRE A GRADING PERMIT, EXCEPT IN THE CASE OF A NEW SINGLE FAMILY DWELLING WHICH IS NOT EXEMPTED FROM THE REQUIREMENTS OF THIS CHAPTER REGARDLESS OF THE EXTENT OF THE AREA OF DISTURBANCE;
- E. ANY LAND DEVELOPMENT ACTIVITY THAT THE ADMINISTRATION DETERMINES IS REGULATED BY SPECIFIC STATE LAWS GOVERNING THE MANAGEMENT OF STORMWATER RUNOFF.

**19.50.080 - STORMWATER MANAGEMENT CRITERIA.**

- A. THE MINIMUM CONTROL REQUIREMENTS ESTABLISHED IN THIS SECTION AND THE DESIGN MANUAL ARE AS FOLLOWS:
  - 1. THE DEPARTMENT REQUIRES THAT THE PLANNING TECHNIQUES, NONSTRUCTURAL PRACTICES, AND DESIGN METHODS SPECIFIED IN THE DESIGN MANUAL ARE TO BE USED TO IMPLEMENT ESD TO THE MEP. THE USE OF ESD PLANNING TECHNIQUES AND TREATMENT PRACTICES MUST BE EXHAUSTED BEFORE ANY STRUCTURAL BMP IS IMPLEMENTED. STORMWATER MANAGEMENT PLANS FOR DEVELOPMENT PROJECTS SUBJECT TO THIS ORDINANCE SHALL BE DESIGNED USING ESD SIZING CRITERIA, RECHARGE VOLUME, WATER QUALITY VOLUME, AND CHANNEL PROTECTION STORAGE VOLUME CRITERIA ACCORDING TO THE DESIGN MANUAL. THE MEP STANDARD IS MET WHEN CHANNEL STABILITY IS MAINTAINED, PREDEVELOPMENT GROUNDWATER RECHARGE IS REPLICATED, NONPOINT SOURCE POLLUTION IS MINIMIZED, AND STRUCTURAL STORMWATER MANAGEMENT PRACTICES ARE USED ONLY IF DETERMINED TO BE ABSOLUTELY NECESSARY.
  - 2. CONTROL OF THE TWO AND TEN-YEAR FREQUENCY STORM EVENT SHALL BE REQUIRED ACCORDING TO THE DESIGN MANUAL IF THE DEPARTMENT DETERMINES THAT HISTORICAL FLOODING PROBLEMS EXIST AND IMPACT EXISTING DOWNSTREAM FLOODPLAIN DEVELOPMENT.
  - 3. THE DEPARTMENT MAY REQUIRE MORE THAN THE MINIMUM CONTROL REQUIREMENTS SPECIFIED IN THIS SECTION IF HYDROLOGIC OR TOPOGRAPHIC CONDITIONS WARRANT OR IF FLOODING, STREAM CHANNEL EROSION, OR WATER QUALITY PROBLEMS EXIST DOWNSTREAM FROM A PROPOSED PROJECT.
  - 4. ALTERNATIVE MINIMUM CONTROL REQUIREMENTS MAY BE ADOPTED SUBJECT TO ADMINISTRATION APPROVAL. THE ADMINISTRATION SHALL REQUIRE A DEMONSTRATION THAT ALTERNATIVE REQUIREMENTS WILL IMPLEMENT ESD TO THE

MEP AND CONTROL FLOOD DAMAGES, ACCELERATED STREAM EROSION, WATER QUALITY, AND SEDIMENTATION. COMPREHENSIVE WATERSHED STUDIES MAY ALSO BE REQUIRED.

5. STORMWATER MANAGEMENT AND DEVELOPMENT PLANS WHERE APPLICABLE, SHALL BE CONSISTENT WITH ADOPTED AND APPROVED WATERSHED MANAGEMENT PLANS OR FLOOD MANAGEMENT PLANS AS APPROVED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT IN ACCORDANCE WITH THE FLOOD HAZARD MANAGEMENT ACT OF 1976.
- B. IN THE CASE OF REDEVELOPMENT, EVERY STORMWATER MANAGEMENT PLAN SHALL SATISFY THE FOLLOWING REQUIREMENTS.
  1. THE STORMWATER MANAGEMENT PLAN SHALL BE CONSISTENT WITH THE DESIGN MANUAL.
  2. THE STORMWATER MANAGEMENT PLAN SHALL REDUCE EXISTING SITE IMPERVIOUS AREAS BY AT LEAST FIFTY PERCENT. WHERE SITE CONDITIONS PREVENT THE REDUCTION OF IMPERVIOUS AREA BY FIFTY PERCENT, THE STORMWATER MANAGEMENT PLAN SHALL PROVIDE QUALITATIVE CONTROL FOR AT LEAST FIFTY PERCENT OF THE SITE'S EXISTING IMPERVIOUS AREA. WHEN A COMBINATION OF IMPERVIOUS AREA REDUCTION AND STORMWATER PRACTICE IMPLEMENTATION IS USED, THE COMBINED AREA SHALL EQUAL OR EXCEED FIFTY PERCENT OF THE SITE'S IMPERVIOUS AREA. ANY PERMIT APPLICATION LEGALLY SUBMITTED PRIOR TO APRIL 9, 2007, SHALL MEET THE REQUIREMENTS OF THE UNAMENDED REGULATION.
  3. UPON APPLICATION BY THE OWNER OR HIS OR HER AGENT, THE DIRECTOR MAY WAIVE THE REQUIREMENTS OF THE PRECEDING PARAGRAPH IF HYDROLOGIC AND HYDRAULIC DESIGN CONDITIONS PREVENT IMPERVIOUS AREA REDUCTION OR ON-SITE STORMWATER MANAGEMENT. WAIVERS SHALL BE CONSISTENT WITH SECTION 19.50.120 OF THIS CODE. IN GRANTING SUCH A WAIVER, THE DIRECTOR SHALL DIRECT THE APPLICANT TO THE FOLLOWING PRACTICAL ALTERNATIVES:
    - A. OFF-SITE BMP IMPLEMENTATION FOR A DRAINAGE AREA AT LEAST ONE AND ONE-HALF TIMES THE SIZE AND PERCENT IMPERVIOUSNESS TO THAT OF THE PROJECT;
    - B. WATERSHED OR STREAM RESTORATION;
    - C. RETROFITTING; AND/OR
    - D. OTHER PRACTICES TO REDUCE IMPERVIOUS SURFACES OR THE IMPACT OF STORMWATER RUNOFF NOT INCONSISTENT WITH THE PURPOSES OF THIS CHAPTER.
  4. THE DEPARTMENT MAY DEVELOP SEPARATE POLICIES FOR PROVIDING WATER QUALITY TREATMENT FOR REDEVELOPMENT PROJECTS. ANY SEPARATE REDEVELOPMENT POLICY SHALL BE REVIEWED AND APPROVED BY THE ADMINISTRATION AND MAY INCLUDE, BUT NOT BE LIMITED TO:
    - A. A COMBINATION OF ESD AND AN ON-SITE OR OFF-SITE STRUCTURAL BMP;
    - B. RETROFITTING INCLUDING EXISTING BMP UPGRADES, FILTERING PRACTICES, AND OFF-SITE ESD IMPLEMENTATION;
    - C. PARTICIPATION IN A STREAM RESTORATION PROJECT;
    - D. POLLUTION TRADING WITH ANOTHER ENTITY;
    - E. PAYMENT OF A FEE-IN-LIEU; OR
    - F. A PARTIAL WAIVER OF THE TREATMENT REQUIREMENTS IF ESD IS NOT PRACTICABLE.
  5. THE DETERMINATION OF WHAT ALTERNATIVES WILL BE AVAILABLE MAY BE MADE BY THE DEPARTMENT AT THE APPROPRIATE POINT IN THE DEVELOPMENT REVIEW PROCESS. THE DEPARTMENT SHALL CONSIDERATION THE PRIORITIZATION OF

ALTERNATIVES IN SECTION 19.50.080.B.4. OF THIS CODE AFTER IT HAS BEEN DETERMINED THAT IT IS NOT PRACTICABLE TO MEET THE 2009 REGULATORY REQUIREMENTS USING ESD. IN DECIDING WHAT ALTERNATIVES MAY BE REQUIRED, THE DEPARTMENT MAY CONSIDER FACTORS INCLUDING, BUT NOT LIMITED TO:

- A. WHETHER THE PROJECT IS IN AN AREA TARGETED FOR DEVELOPMENT INCENTIVES SUCH AS A PRIORITY FUNDING AREA, A DESIGNATED TRANSIT ORIENTED DEVELOPMENT AREA, OR A DESIGNATED BASE REALIGNMENT AND CLOSURE REVITALIZATION AND INCENTIVE ZONE;
- B. WHETHER THE PROJECT IS NECESSARY TO ACCOMMODATE GROWTH CONSISTENT WITH COMPREHENSIVE PLANS; OR
- C. WHETHER BONDING AND FINANCING HAVE ALREADY BEEN SECURED BASED ON AN APPROVED DEVELOPMENT PLAN.

**19.50.085 - STORMWATER MANAGEMENT MEASURES.**

THE ESD PLANNING TECHNIQUES AND PRACTICES AND STRUCTURAL AND NONSTRUCTURAL STORMWATER MANAGEMENT MEASURES ESTABLISHED IN THIS SECTION SHALL BE USED, EITHER ALONE OR IN A COMBINATION, IN DEVELOPING A STORMWATER MANAGEMENT PLAN.

1. ESD PLANNING TECHNIQUES AND PRACTICES.

- A. THE FOLLOWING PLANNING TECHNIQUES SHALL BE APPLIED ACCORDING TO THE DESIGN MANUAL TO SATISFY THE APPLICABLE MINIMUM CONTROL REQUIREMENTS ESTABLISHED IN 19.50.080 OF THIS ORDINANCE:
  - I. PRESERVING AND PROTECTING NATURAL RESOURCES;
  - II. CONSERVING NATURAL DRAINAGE PATTERNS;
  - III. MINIMIZING IMPERVIOUS AREA;
  - IV. REDUCING RUNOFF VOLUME;
  - V. USING ESD PRACTICES TO MAINTAIN ONE HUNDRED PERCENT OF THE ANNUAL PREDEVELOPMENT GROUNDWATER RECHARGE VOLUME;
  - VI. USING GREEN ROOFS, PERMEABLE PAVEMENT, REINFORCED TURF, AND OTHER ALTERNATIVE SURFACES;
  - VII. LIMITING SOIL DISTURBANCE, MASS GRADING, AND COMPACTION;
  - VIII. CLUSTERING DEVELOPMENT; AND
  - IX. ANY PRACTICES APPROVED BY THE ADMINISTRATION.
- B. THE FOLLOWING ESD TREATMENT PRACTICES SHALL BE DESIGNED ACCORDING TO THE DESIGN MANUAL TO SATISFY THE APPLICABLE MINIMUM CONTROL REQUIREMENTS ESTABLISHED IN SECTION 19.50.080 OF THIS ORDINANCE:
  - I. DISCONNECTION OF ROOFTOP RUNOFF;
  - II. DISCONNECTION OF NON-ROOFTOP RUNOFF;
  - III. SHEETFLOW TO CONSERVATION AREAS;
  - IV. RAINWATER HARVESTING;
  - V. SUBMERGED GRAVEL WETLANDS;
  - VI. LANDSCAPE INFILTRATION;
  - VII. INFILTRATION BERMS;
  - VIII. DRY WELLS
  - IX. MICRO-BIORETENTION;
  - X. RAIN GARDENS;
  - XI. SWALES;
  - XII. ENHANCED FILTERS; AND
  - XIII. ANY PRACTICES APPROVED BY THE ADMINISTRATION.

- C. 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 ITS CODES TO ELIMINATE ANY IMPEDIMENTS TO IMPLEMENTING ESD TO THE MEP ACCORDING TO THE DESIGN MANUAL.
2. STRUCTURAL STORMWATER MANAGEMENT MEASURES.
  - 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 19.50.080(A) OF THIS CODE.
    - I. STORMWATER MANAGEMENT PONDS;
    - II. STORMWATER MANAGEMENT WETLANDS;
    - III. STORMWATER MANAGEMENT INFILTRATION;
    - IV. STORMWATER MANAGEMENT FILTERING SYSTEMS; AND
    - V. STORMWATER MANAGEMENT OPEN CHANNEL SYSTEMS.
  - 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.
  - C. STRUCTURAL STORMWATER MANAGEMENT PRACTICES SHALL BE SELECTED TO ACCOMMODATE THE UNIQUE HYDROLOGIC OR GEOLOGIC REGIONS OF THE STATE.
3. ESD PLANNING TECHNIQUES AND TREATMENT PRACTICES AND STRUCTURAL STORMWATER MANAGEMENT MEASURES USED TO SATISFY THE MINIMUM REQUIREMENTS IN SECTION 19.50.080 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 SHALL BE OBTAINED BEFORE ANY STORMWATER MANAGEMENT PRACTICE IS ALTERED OR REMOVED.
4. ALTERNATIVE ESD PLANNING TECHNIQUES AND TREATMENT PRACTICES AND STRUCTURAL STORMWATER MEASURES MAY BE USED FOR NEW DEVELOPMENT RUNOFF CONTROL IF THEY MEET THE PERFORMANCE CRITERIA ESTABLISHED IN THE DESIGN MANUAL AND ALL SUBSEQUENT REVISIONS AND ARE APPROVED BY THE ADMINISTRATION. PRACTICES USED FOR REDEVELOPMENT PROJECTS SHALL BE APPROVED BY THE DEPARTMENT.
5. FOR THE PURPOSES OF MODIFYING THE MINIMUM CONTROL REQUIREMENTS OR DESIGN CRITERIA, THE OWNER/DEVELOPER SHALL SUBMIT TO THE DEPARTMENT AN ANALYSIS OF THE IMPACTS OF STORMWATER FLOWS DOWNSTREAM IN THE WATERSHED. THE ANALYSIS SHALL INCLUDE HYDROLOGIC AND HYDRAULIC CALCULATIONS NECESSARY TO DETERMINE THE IMPACT OF HYDROGRAPH TIMING MODIFICATIONS OF THE PROPOSED DEVELOPMENT UPON A DAM, HIGHWAY, STRUCTURE, OR NATURAL POINT OF RESTRICTED STREAMFLOW. THE POINT OF INVESTIGATION IS TO BE ESTABLISHED WITH THE CONCURRENCE OF THE DEPARTMENT, DOWNSTREAM OF THE FIRST DOWNSTREAM TRIBUTARY WHOSE DRAINAGE AREA EQUALS OR EXCEEDS THE CONTRIBUTING AREA TO THE PROJECT OR STORMWATER MANAGEMENT FACILITY.
6. INCORPORATION OF GREEN ROOFS AS PART OF THE SITE DESIGN IS ENCOURAGED. APPLICANT MUST SHOW THE QUANTITY OF STORAGE FOR THE DESIGN PROPOSED

WHICH WILL BE CONSIDERED AS AN OFFSET FOR THE OVERALL STORMWATER MANAGEMENT REQUIREMENT.

7. ALTERNATIVE STRUCTURAL AND NONSTRUCTURAL STORMWATER MANAGEMENT PRACTICES MAY BE USED FOR NEW DEVELOPMENT WATER QUALITY CONTROL IF THEY MEET THE PERFORMANCE CRITERIA ESTABLISHED IN THE DESIGN MANUAL AND APPROVED BY THE ADMINISTRATION. PRACTICES USED FOR REDEVELOPMENT PROJECTS SHALL BE APPROVED BY THE DEPARTMENT.
8. FOR THE PURPOSES OF MODIFYING THE MINIMUM CONTROL REQUIREMENTS OR DESIGN CRITERIA, THE OWNER/DEVELOPER SHALL SUBMIT TO THE DEPARTMENT AN ANALYSIS OF THE IMPACTS OF STORMWATER FLOWS DOWNSTREAM IN THE WATERSHED. THE ANALYSIS SHALL INCLUDE HYDROLOGIC AND HYDRAULIC CALCULATIONS NECESSARY TO DETERMINE THE IMPACT OF HYDROGRAPH TIMING MODIFICATIONS OF THE PROPOSED DEVELOPMENT UPON ANY DOWNSTREAM AREA AND ANY DOWNSTREAM APPURTENANCES, STRUCTURE, OBSTRUCTIONS AND HYDRAULICALLY SIGNIFICANT NATURAL FEATURES. THE POINTS OF INVESTIGATION ARE TO BE ESTABLISHED WITH THE CONCURRENCE OF THE DEPARTMENT.
9. STORMWATER MANAGEMENT AND DEVELOPMENT PLANS WHERE APPLICABLE, SHALL BE CONSISTENT WITH ADOPTED AND APPROVED WATERSHED MANAGEMENT PLANS, FLOOD MANAGEMENT OR FLOODPLAIN MANAGEMENT PLANS AS APPROVED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT IN ACCORDANCE WITH THE FLOOD HAZARD MANAGEMENT ACT OF 1976 AND ANY SUBSEQUENT REVISIONS.

**19.50.090 - SPECIFIC DESIGN CRITERIA AND ANALYTICAL METHODS.**

- A. STORMWATER MANAGEMENT DESIGN CRITERIA, METHODOLOGIES, AND CONSTRUCTION SPECIFICATIONS SHALL BE SUBJECT TO THE APPROVAL OF THE DEPARTMENT, AND SHALL SATISFY THE REQUIREMENTS OF THE OF THE DESIGN MANUAL.
- B. WHEREVER POSSIBLE, THE APPLICANT SHALL INCORPORATE AND ENHANCE EXISTING NATURAL TOPOGRAPHY AND LAND COVER SUCH AS WETLANDS, PONDS, NATURAL SWALES, AND DEPRESSIONS INTO THE PROPOSED DEVELOPMENT DESIGN.
- C. STORMWATER MANAGEMENT PRACTICES SHALL BE DESIGNED FOR WATER QUALITY ENHANCEMENT AND TO FACILITATE MAINTENANCE OF THE STORMWATER MANAGEMENT FACILITY.
- D. ALL RETENTION AND DETENTION BASINS SHALL CONTAIN FOREBAYS TO FACILITATE THE MAINTENANCE OF THE BASINS. THE FOREBAYS SHALL ACCOMMODATE AN APPROVED PERCENTAGE OF THE TOTAL VOLUME OF THE BASIN, BASED ON ACCEPTED ENGINEERING PRACTICES.
- E. WHEREVER POSSIBLE AND FEASIBLE, THE STORMWATER MANAGEMENT DESIGN WILL MIMIC PRE-DEVELOPMENT HYDROLOGY.

**19.50.100 - STORMWATER MANAGEMENT PLANS.**

- A. REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS.
  1. UNLESS OTHERWISE EXEMPTED, FOR ANY PROPOSED DEVELOPMENT, THE OWNER OR HIS/HER AGENT SHALL SUBMIT TO THE DEPARTMENT FOR REVIEW AND APPROVAL, PHASED STORMWATER MANAGEMENT PLANS OR WAIVER APPLICATION AS PART OF THE GRADING PERMIT APPLICATION. AT A MINIMUM, PLANS SHALL BE SUBMITTED FOR THE CONCEPT, SITE DEVELOPMENT, AND FINAL STORMWATER MANAGEMENT CONSTRUCT PHASES OF PROJECT DESIGN. THE STORMWATER MANAGEMENT PLAN SHALL CONTAIN SUPPORTING COMPUTATIONS, DRAWINGS, AND SUFFICIENT

INFORMATION DESCRIBING THE MANNER, LOCATION, AND TYPE OF MEASURES IN WHICH STORMWATER RUNOFF FROM THE ENTIRE DEVELOPMENT WILL BE MANAGED, AND SHALL BE CONSISTENT WITH THE REQUIREMENT OF THE DESIGN MANUAL. THE DEPARTMENT SHALL REVIEW THE PLANS TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER PRIOR TO APPROVAL. THE PLANS SHALL SERVE AS THE BASIS FOR ALL SUBSEQUENT CONSTRUCTION.

2. THE DEPARTMENT SHALL PERFORM A COMPREHENSIVE REVIEW OF THE STORMWATER MANAGEMENT PLANS FOR EACH PHASE OF SITE DESIGN. COORDINATED COMMENTS WILL BE PROVIDED FOR EACH PLAN PHASE THAT REFLECTS INPUT FROM ALL APPROPRIATE AGENCIES INCLUDING, BUT NOT LIMITED TO, THE ANNE ARUNDEL COUNTY SOIL CONSERVATION DISTRICT (SCD) AND THE DEPARTMENTS OF PLANNING AND ZONING AND THE DEPARTMENT OF PUBLIC WORKS. ALL COMMENTS FROM OTHER APPROPRIATE AGENCIES SHALL BE ADDRESSED AND APPROVAL RECEIVED AT EACH PHASE OF PROJECT DESIGN BEFORE SUBSEQUENT SUBMISSIONS.
  3. ISSUANCE OF THE GRADING PERMIT SHALL CONSTITUTE APPROVAL OF THE STORMWATER MANAGEMENT PLAN FOR CONSTRUCTION.
- B. CONTENTS AND SUBMISSION OF THE STORMWATER MANAGEMENT PLAN.
1. THE OWNER/DEVELOPER SHALL SUBMIT A CONCEPT PLAN THAT PROVIDES SUFFICIENT INFORMATION FOR AN INITIAL ASSESSMENT OF THE PROPOSED PROJECT AND WHETHER STORMWATER MANAGEMENT CAN BE PROVIDED ACCORDING TO SECTION 19.50.080 OF THIS ORDINANCE AND THE DESIGN MANUAL. PLANS SUBMITTED FOR CONCEPT APPROVAL SHALL INCLUDE, BUT ARE NOT LIMITED TO:
    - A. A MAP AT A SCALE SPECIFIED BY THE DEPARTMENT SHOWING SITE LOCATION, EXISTING NATURAL FEATURES, WATER AND OTHER SENSITIVE RESOURCES, TOPOGRAPHY, AND NATURAL DRAINAGE PATTERNS AT A SCALE OF 1:10, 1:20 OR 1:50;
    - B. THE ANTICIPATED LOCATION OF ALL PROPOSED IMPERVIOUS AREAS, BUILDINGS, ROADWAYS PARKING, SIDEWALKS, UTILITIES, AND OTHER SITE IMPROVEMENTS;
    - C. THE LOCATION OF THE PROPOSED LIMIT OF DISTURBANCE, ERODIBLE SOILS, STEEP SLOPES, AND AREAS TO BE PROTECTED DURING CONSTRUCTION;
    - D. PRELIMINARY ESTIMATES OF STORMWATER MANAGEMENT REQUIREMENTS, THE SELECTION AND LOCATION OF ESD PRACTICES TO BE USED, AND THE LOCATION OF ALL POINTS OF DISCHARGE FROM THE SITE;
    - E. A NARRATIVE THAT SUPPORTS THE CONCEPT DESIGN AND DESCRIBES HOW ESD WILL BE IMPLEMENTED TO THE MEP; AND
    - F. ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.
  2. FOLLOWING CONCEPT PLAN APPROVAL BY THE DEPARTMENT, THE OWNER/DEVELOPER SHALL SUBMIT SITE DEVELOPMENT PLANS THAT REFLECT COMMENTS RECEIVED DURING THE PREVIOUS REVIEW PHASE. PLANS SUBMITTED FOR SITE DEVELOPMENT APPROVAL SHALL BE OF SUFFICIENT DETAIL TO ALLOW SITE DEVELOPMENT TO BE REVIEWED AND INCLUDE BUT NOT BE LIMITED TO:
    - A. ALL INFORMATION PROVIDED DURING THE CONCEPT PLAN REVIEW PHASE;
    - B. FINAL SITE LAYOUT, EXACT IMPERVIOUS AREA LOCATIONS AND ACREAGES, PROPOSED TOPOGRAPHY, DELINEATED DRAINAGE AREAS AT ALL POINTS OF DISCHARGE FROM THE SITE, AND STORMWATER VOLUME COMPUTATIONS FOR ESD PRACTICES AND QUANTITY CONTROL STRUCTURES;
    - C. A PROPOSED EROSION AND SEDIMENT CONTROL PLAN THAT CONTAINS THE CONSTRUCTION SEQUENCE, ANY PHASING NECESSARY TO LIMIT EARTH DISTURBANCES AND IMPACTS TO NATURAL RESOURCES AND AN OVERLAY PLAN

- SHOWING THE TYPES AND LOCATIONS OF ESD AND EROSION AND SEDIMENT CONTROL PRACTICES TO BE USED;
- D. A NARRATIVE THAT SUPPORTS THE SITE DEVELOPMENT DESIGN, DESCRIBES HOW ESD WILL BE USED TO MEET THE MINIMUM CONTROL REQUIREMENTS, AND JUSTIFIES ANY PROPOSED STRUCTURAL STORMWATER MANAGEMENT MEASURE; AND
- E. ANY OTHER INFORMATION REQUIRED BY THE APPROVING AGENCY.
3. FOLLOWING SITE DEVELOPMENT APPROVAL BY THE DEPARTMENT, THE OWNER/DEVELOPER SHALL SUBMIT FINAL EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT PLANS THAT REFLECT THE COMMENTS RECEIVED DURING THE PREVIOUS REVIEW PHASE. PLANS SUBMITTED FOR FINAL APPROVAL SHALL BE OF SUFFICIENT DETAIL TO ALLOW ALL APPROVALS AND PERMITS TO BE ISSUED ACCORDING TO THE FOLLOWING:
- A. FINAL EROSION AND SEDIMENT CONTROL PLANS SHALL BE SUBMITTED ACCORDING TO COMAR 26.17.01.05; AND
- B. FINAL STORMWATER MANAGEMENT PLANS SHALL BE SUBMITTED FOR APPROVAL IN THE FORM OF CONSTRUCTION DRAWINGS AND BE ACCOMPANIED BY A REPORT THAT INCLUDES SUFFICIENT INFORMATION TO EVALUATE THE EFFECTIVENESS OF THE PROPOSED RUNOFF CONTROL DESIGN.
4. REPORTS SUBMITTED FOR FINAL STORMWATER MANAGEMENT PLAN APPROVAL SHALL INCLUDE, BUT ARE NOT LIMITED TO:
- A. GEOTECHNICAL INVESTIGATIONS INCLUDING SOIL MAPS, BORINGS, SITE SPECIFIC RECOMMENDATIONS, AND ANY ADDITIONAL INFORMATION NECESSARY FOR THE FINAL STORMWATER MANAGEMENT DESIGN;
- B. DRAINAGE AREA MAPS DEPICTING PREDEVELOPMENT AND POST DEVELOPMENT RUNOFF FLOW PATH SEGMENTATION AND LAND USE;
- C. HYDROLOGIC COMPUTATIONS OF THE APPLICABLE ESD AND UNIFIED SIZING CRITERIA ACCORDING TO THE DESIGN MANUAL FOR ALL POINTS OF DISCHARGE FROM THE SITE;
- D. HYDRAULIC AND STRUCTURAL COMPUTATIONS FOR ALL ESD PRACTICES AND STRUCTURAL STORMWATER MANAGEMENT MEASURES TO BE USED;
- E. A NARRATIVE THAT SUPPORTS THE FINAL STORMWATER MANAGEMENT DESIGN; AND
- F. ANY OTHER INFORMATION REQUIRED BY THE.
5. CONSTRUCTION DRAWINGS SUBMITTED FOR FINAL STORMWATER MANAGEMENT PLAN APPROVAL SHALL INCLUDE, BUT ARE NOT LIMITED TO:
- A. A VICINITY MAP;
- B. EXISTING AND PROPOSED TOPOGRAPHY AND PROPOSED DRAINAGE AREAS, INCLUDING AREAS NECESSARY TO DETERMINE DOWNSTREAM ANALYSIS FOR PROPOSED STORMWATER MANAGEMENT FACILITIES;
- C. ANY PROPOSED IMPROVEMENTS INCLUDING LOCATION OF BUILDINGS OR OTHER STRUCTURES, IMPERVIOUS SURFACES, STORM DRAINAGE FACILITIES, AND ALL GRADING;
- D. THE LOCATION OF EXISTING AND PROPOSED STRUCTURES AND UTILITIES;
- E. ANY EASEMENTS AND RIGHTS-OF-WAY;
- F. THE DELINEATION, IF APPLICABLE, OF THE ONE HUNDRED-YEAR FLOODPLAIN, ON-SITE WETLANDS OR CRITICAL AREA DESIGNATION AND ONE HUNDRED-FOOT BUFFER;
- G. STRUCTURAL AND CONSTRUCTION DETAILS INCLUDING REPRESENTATIVE CROSS

SECTIONS FOR ALL COMPONENTS OF THE PROPOSED DRAINAGE SYSTEM OR SYSTEMS, AND STORMWATER MANAGEMENT FACILITIES;

H. ALL NECESSARY CONSTRUCTION SPECIFICATIONS;

I. A SEQUENCE OF CONSTRUCTION;

J. DATA FOR TOTAL SITE AREA, DISTURBED AREA, NEW IMPERVIOUS AREA, AND TOTAL IMPERVIOUS AREA;

K. A TABLE SHOWING ESD AND UNIFIED SIZING CRITERIA VOLUMES REQUIRED IN THE DESIGN MANUAL;

L. A TABLE OF MATERIALS TO BE USED FOR STORMWATER MANAGEMENT FACILITY PLANTING;

M. ALL SOIL BORINGS LOGS AND LOCATIONS;

N. AN INSPECTION AND MAINTENANCE SCHEDULE;

O. CERTIFICATION BY THE OWNER/DEVELOPER THAT ALL STORMWATER MANAGEMENT CONSTRUCTION WILL BE DONE ACCORDING TO THIS PLAN;

P. AN AS-BUILT CERTIFICATION SIGNATURE BLOCK TO BE EXECUTED AFTER PROJECT COMPLETION; AND

Q. ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

C. PREPARATION OF THE STORMWATER MANAGEMENT PLAN.

1. THE STORMWATER MANAGEMENT PLAN SHALL BE PREPARED UNDER THE GENERAL SUPERVISION OF A PROFESSIONAL ENGINEER REGISTERED TO PRACTICE IN THE STATE OF MARYLAND. THE PROFESSIONAL ENGINEER AND ANY OTHER DESIGN PROFESSIONAL INVOLVED IN THE PREPARATION OF ANY STORMWATER MANAGEMENT PLAN SUBMITTED TO THE DEPARTMENT, SHALL SIGN AND SEAL THE PLAN.

2. IF A STORMWATER MANAGEMENT PLAN REQUIRES EITHER A DAM SAFETY PERMIT FROM THE MARYLAND DEPARTMENT OF ENVIRONMENT OR A SMALL POND APPROVAL FROM THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT, THEN THE DAM AND/OR POND DESIGN SHALL BE PREPARED, SIGNED AND SEALED BY A PROFESSIONAL ENGINEER REGISTERED TO PRACTICE IN THE STATE OF MARYLAND.

D. DESIGN REQUIREMENTS.

1. STORMWATER MANAGEMENT FACILITIES SHALL BE DESIGNED TO MINIMIZE THE NEED OF MAINTENANCE, TO PROVIDE ACCESS FOR MAINTENANCE PURPOSES AND TO BE STRUCTURALLY SOUND. ADDITIONALLY, A STORMWATER MANAGEMENT FACILITY SHALL BE DESIGNED IN ACCORDANCE WITH STANDARD CONSTRUCTION SPECIFICATIONS AND DETAILS ESTABLISHED AND PROMULGATED BY THE DEPARTMENT OF PUBLIC WORKS AND THE DEPARTMENT OF THE ENVIRONMENT.

2. PRIOR TO APPROVAL OF A STORMWATER MANAGEMENT DESIGN, THE APPLICANT SHALL SUBMIT A PROPOSED STAGED INSPECTION AND CONSTRUCTION CONTROL SCHEDULE. THE SCHEDULE SHALL PROVIDE FOR REGULAR INSPECTIONS BY A REGISTERED PROFESSIONAL ENGINEER TO BE CONDUCTED DURING CONSTRUCTION OF STORMWATER MANAGEMENT SYSTEMS IN ACCORDANCE WITH ACCEPTED ENGINEERING PRACTICES.

3. THE PERMITTEE SHALL NOTIFY THE DEPARTMENT BEFORE COMMENCING ANY WORK TO IMPLEMENT THE STORMWATER MANAGEMENT PLAN AND UPON COMPLETION OF THE WORK.

4. NO STAGE OF WORK INVOLVING THE INSTALLATION OF STORMWATER MANAGEMENT FACILITIES SHALL PROCEED UNTIL THE WORK PREVIOUSLY COMPLETED IS INSPECTED AND APPROVED BY THE DEPARTMENT.

5. ANY PORTION OF THE WORK THAT DOES NOT COMPLY WITH THE STORMWATER

MANAGEMENT PLAN SHALL BE CORRECTED PROMPTLY BY THE PERMITTEE.

6. A FINAL INSPECTION SHALL BE CONDUCTED BY THE DEPARTMENT UPON COMPLETION OF THE STORMWATER MANAGEMENT FACILITY TO DETERMINE IF THE COMPLETED WORK IS CONSTRUCTED IN ACCORDANCE WITH THE APPROVED STORMWATER MANAGEMENT PLAN. THE FINAL INSPECTION BY THE DEPARTMENT DOES NOT RELIEVE THE PERMITTEE OF ANY OF REQUIREMENT IMPOSED ON THE PERMITTEE BY THIS CHAPTER.
- E. CONSTRUCTION COMPLIANCE. ARCHIVE ABLE AND REPRODUCIBLE AS-BUILT PLANS OF THE STORMWATER MANAGEMENT FACILITY SHALL BE FORWARDED TO THE DEPARTMENT UPON COMPLETION OF THE STORMWATER MANAGEMENT FACILITY AND FINAL INSPECTION BY THE DEPARTMENT THE PERMITTEE'S PROFESSIONAL ENGINEER SHALL CERTIFY THAT THE STORMWATER MANAGEMENT FACILITY HAS BEEN CONSTRUCTED AS SHOWN ON THE AS-BUILT PLANS AND THAT THE STORMWATER MANAGEMENT FACILITY MEETS THE APPROVED STORMWATER MANAGEMENT PLAN'S DESIGN AND SPECIFICATIONS.
- F. ELECTRONIC DOCUMENTATION. THE DIRECTOR MAY REQUIRE THE PERMITTEE AND HIS/HER ENGINEER TO SUBMIT ALL OF THE DOCUMENTS ASSOCIATED WITH THE GRADING PERMIT IN AN ELECTRONIC FORMAT FOR ARCHIVING PURPOSES. THE DOCUMENTS SHALL BE SUBMITTED IN THE FORMAT REQUIRED BY THE DIRECTOR.
- G. RELEASE OF SECURITY. THE PERFORMANCE BOND SHALL NOT BE REDUCED NOR RELEASED UNTIL ALL ASPECTS OF THE STORMWATER MANAGEMENT PLAN ARE COMPLETED, INCLUDING, BUT NOT LIMITED TO:
  1. THE SUBMISSION AND ACCEPTANCE OF "AS BUILT DRAWINGS" IN ACCORDANCE WITH SUBSECTION E OF THIS SECTION,
  2. THE COMPLETION OF ALL FORMS REQUIRED BY THE ADMINISTRATION, AND
  3. THE STORMWATER MANAGEMENT FACILITY HAS BEEN IN OPERATION FOR A MINIMUM OF ONE YEAR WITHOUT FAILURE.

**19.50.110 - RIGHT-TO-DISCHARGE.**

- A. IF A STORMWATER MANAGEMENT PLAN INVOLVES CONVEYANCE OF RUNOFF FROM A SITE, THE APPLICANT SHALL:
  1. PROVIDE WRITTEN NOTIFICATION TO ALL PROPERTY OWNERS WITHIN FIVE HUNDRED FEET DOWNSTREAM OF THE PROPOSED TERMINUS POINT AT WHICH RUNOFF WILL BE DISCHARGED OF THE INTENDED STORMWATER MANAGEMENT PLAN; AND
  2. OBTAIN FROM PROPERTY OWNERS ADJACENT TO THE INTENDED TERMINUS POINT AT WHICH RUNOFF WILL BE DISCHARGED ANY NECESSARY RIGHT TO DISCHARGE OR OTHER PROPERTY INTERESTS REQUIRED TO AUTHORIZE THE FLOWAGE OF WATER.
- B. APPROVAL OF A STORMWATER MANAGEMENT PLAN SHALL NOT BE CONSTRUED TO CREATE OR AFFECT ANY REAL PROPERTY RIGHTS.

**19.50.120 - WAIVERS.**

- A. EXCEPT AS PROVIDED IN SECTION 19.50.120.D. OF THIS CODE, THE DEPARTMENT SHALL GRANT STORMWATER MANAGEMENT QUANTITATIVE CONTROL WAIVERS ONLY TO THOSE PROJECTS WITHIN AREAS WHERE WATERSHED MANAGEMENT PLANS HAVE BEEN DEVELOPED CONSISTENT WITH SECTION 19.50.075F OF THIS ORDINANCE. WRITTEN REQUESTS FOR QUANTITATIVE STORMWATER MANAGEMENT WAIVERS SHALL BE SUBMITTED THAT CONTAIN SUFFICIENT DESCRIPTIONS, DRAWINGS, AND ANY OTHER INFORMATION THAT IS NECESSARY TO DEMONSTRATE THAT ESD HAS BEEN IMPLEMENTED TO THE MEP. A SEPARATE WRITTEN WAIVER REQUEST SHALL BE

REQUIRED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION IF THERE ARE SUBSEQUENT ADDITIONS, EXTENSIONS, OR MODIFICATIONS TO A DEVELOPMENT RECEIVING A WAIVER.

B. EXCEPT AS PROVIDED IN SECTION 19.50.120D OF THIS CODE, IF WATERSHED MANAGEMENT PLANS CONSISTENT WITH SECTION 19.50.075F OF THIS CODE HAVE NOT BEEN DEVELOPED, STORMWATER MANAGEMENT QUANTITATIVE CONTROL WAIVERS MAY BE GRANTED TO THE FOLLOWING PROJECTS PROVIDED THAT IT HAS BEEN DEMONSTRATED THAT ESD HAS BEEN IMPLEMENTED TO THE MEP:

1. THAT HAVE DIRECT DISCHARGES TO TIDALLY INFLUENCED RECEIVING WATERS;
2. THAT ARE IN-FILL DEVELOPMENT LOCATED IN A PRIORITY FUNDING AREA WHERE THE ECONOMIC FEASIBILITY OF THE PROJECT IS TIED TO THE PLANNED DENSITY, AND WHERE IMPLEMENTATION OF THE 2009 REGULATORY REQUIREMENTS WOULD RESULT IN A LOSS OF THE PLANNED DEVELOPMENT DENSITY PROVIDED THAT:
  - A. PUBLIC WATER AND SEWER AND STORMWATER CONVEYANCE EXIST;
  - B. THE QUANTITATIVE WAIVER IS APPLIED TO THE PROJECT FOR THE IMPERVIOUS COVER THAT PREVIOUSLY EXISTED ON THE SITE ONLY;
  - C. ESD TO THE MEP IS USED TO MEET THE FULL WATER QUALITY TREATMENT REQUIREMENTS FOR THE ENTIRE DEVELOPMENT; AND ESD TO THE MEP IS USED TO PROVIDE FULL QUANTITY CONTROL FOR ALL NEW IMPERVIOUS SURFACES; OR
3. WHEN THE APPROVING AGENCY DETERMINES THAT CIRCUMSTANCES EXIST THAT PREVENT THE REASONABLE IMPLEMENTATION OF QUANTITY CONTROL PRACTICES.

C. EXCEPT AS PROVIDED IN SECTION 19.50.120D OF THIS CODE, STORMWATER MANAGEMENT QUALITATIVE CONTROL WAIVERS APPLY ONLY TO:

1. IN-FILL DEVELOPMENT PROJECTS WHERE ESD HAS BEEN IMPLEMENTED TO THE MEP AND IT HAS BEEN DEMONSTRATED THAT OTHER BMPs ARE NOT FEASIBLE;
2. REDEVELOPMENT PROJECTS IF THE REQUIREMENTS OF SECTION 19.50.085 OF THIS ORDINANCE ARE SATISFIED; OR
3. SITES WHERE THE APPROVING AGENCY DETERMINES THAT CIRCUMSTANCES EXIST THAT PREVENT THE REASONABLE IMPLEMENTATION OF ESD TO THE MEP.

D. STORMWATER MANAGEMENT QUANTITATIVE AND QUALITATIVE CONTROL WAIVERS MAY BE GRANTED FOR PHASED DEVELOPMENT PROJECTS IF A SYSTEM DESIGNED TO MEET THE 2009 REGULATORY REQUIREMENTS AND THE DEPARTMENT REQUIREMENTS FOR MULTIPLE PHASES HAS BEEN CONSTRUCTED BY MAY 4, 2010. IF THE 2009 REGULATORY REQUIREMENTS CANNOT BE MET FOR FUTURE PHASES CONSTRUCTED AFTER MAY 4, 2010, ALL REASONABLE EFFORTS TO INCORPORATE ESD IN FUTURE PHASES MUST BE DEMONSTRATED.

E. WAIVERS SHALL ONLY BE GRANTED WHEN IT HAS BEEN DEMONSTRATED THAT ESD HAS BEEN IMPLEMENTED TO THE MEP AND MUST:

1. BE ON A CASE-BY-CASE BASIS;
2. CONSIDER THE CUMULATIVE EFFECTS THE DEPARTMENT WAIVER POLICY; AND
3. REASONABLE ENSURE THE DEVELOPMENT WILL NOT ADVERSELY IMPACT STREAM QUALITY.

F. IF THE DEPARTMENT HAS ESTABLISHED AN OVERALL WATERSHED MANAGEMENT PLAN FOR A SPECIFIC WATERSHED, THE DEPARTMENT MAY DEVELOP QUANTITATIVE WAIVER AND REDEVELOPMENT PROVISIONS THAT DIFFER FROM SECTION 19.50.120 OF THIS ORDINANCE.

G. A WATERSHED MANAGEMENT PLAN DEVELOPED FOR THE PURPOSE OF IMPLEMENTING DIFFERENT STORMWATER MANAGEMENT POLICIES FOR WAIVERS AND REDEVELOPMENT SHALL:

1. INCLUDE DETAILED HYDROLOGIC AND HYDRAULIC ANALYSES TO DETERMINE HYDROGRAPH TIMING;
  2. EVALUATE BOTH QUANTITY AND QUALITY MANAGEMENT AND OPPORTUNITIES FOR ESD IMPLEMENTATION;
  3. INCLUDE A CUMULATIVE IMPACT ASSESSMENT OF CURRENT AND PROPOSED WATERSHED DEVELOPMENT;
  4. IDENTIFY EXISTING FLOODING AND RECEIVING STREAM CHANNEL CONDITIONS;
  5. BE CONDUCTED AT A REASONABLE SCALE;
  6. SPECIFY WHERE ON-SITE OR OFF-SITE QUANTITATIVE AND QUALITATIVE STORMWATER MANAGEMENT PRACTICES ARE TO BE IMPLEMENTED;
  7. BE CONSISTENT WITH THE GENERAL PERFORMANCE STANDARDS FOR STORMWATER MANAGEMENT IN MARYLAND FOUND IN THE DESIGN MANUAL; AND
  8. BE APPROVED BY THE ADMINISTRATION.
- H. IF THE DIRECTOR DETERMINES THAT A WAIVER IS APPROPRIATE UNDER THIS SECTION BUT THAT THE CONSTRUCTION OF THE PROPOSED ALTERNATIVE TO ON-SITE STORMWATER QUANTITY OR QUALITY MANAGEMENT IS NOT IN THE CITY'S INTEREST, THE DEPARTMENT MAY REQUIRE THE APPLICANT TO MAKE A MONETARY CONTRIBUTION TO THE STORMWATER UTILITY OR TO AN IDENTIFIED CITY CAPITAL PROJECT INTENDED TO PROVIDE WATER QUANTITY AND/OR QUALITY IMPROVEMENTS TO THE DRAINAGE BASIN IN WHICH THE PROPOSED DEVELOPMENT SITE IS LOCATED. THE AMOUNT OF THE CONTRIBUTION SHALL NOT EXCEED THE COST OF CONSTRUCTING AN EFFECTIVE ON-SITE STORMWATER MANAGEMENT FACILITY, INCLUDING THE VALUE OF THE LAND THAT WOULD BE REQUIRED TO CONSTRUCT THE STORMWATER MANAGEMENT FACILITY, AS WELL AS THE COST OF CONSTRUCTING, LANDSCAPING AND PERPETUALLY MAINTAINING THE FACILITY. THE COST OF PERPETUALLY MAINTAINING THE STORMWATER MANAGEMENT FACILITY IS PRESUMED TO EQUAL TO THE COST OF CONSTRUCTING THE STORMWATER MANAGEMENT FACILITY.

**19.50.130 - [Reserved]**

**19.50.140 - MODIFICATIONS.**

UPON WRITTEN APPLICATION OF THE PROPERTY OWNER OR HIS/HER AGENT, THE DIRECTOR MAY GRANT A WRITTEN MODIFICATION TO ANY REQUIREMENT OF SECTION 19.50.080 IF THERE ARE EXCEPTIONAL CIRCUMSTANCES APPLICABLE TO THE SITE SUCH THAT STRICT ADHERENCE TO THE REQUIREMENT WOULD RESULT IN UNNECESSARY HARDSHIP AND WOULD NOT FULFILL THE INTENT OF THE CHAPTER. THE APPLICATION SHALL STATE THE SPECIFIC MODIFICATIONS SOUGHT AND THE REASONS FOR THE DESIRED MODIFICATIONS. THE DIRECTOR SHALL NOT GRANT A MODIFICATION TO ANY REQUIREMENT OF SECTION 19.50.080 EXCEPT FOR GOOD CAUSE, CONSISTENT WITH THE PROVISIONS FOR EXCEPTIONS PROVIDED IN THIS CHAPTER, SHOWN BY THE APPLICANT REQUESTING THE MODIFICATION.

**19.50.150 - PERMITS.**

**A. PERMIT REQUIREMENT.**

1. A GRADING PERMIT SHALL NOT BE ISSUED FOR ANY PARCEL OR LOT UNLESS A STORMWATER MANAGEMENT PLAN, MEETING ALL OF THE REQUIREMENTS OF THIS CHAPTER, HAS BEEN APPROVED OR WAIVED BY THE DEPARTMENT. WHERE APPROPRIATE, A GRADING PERMIT SHALL NOT BE ISSUED WITHOUT:
  - A. APPROVAL OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT;

- B. A RECORDED PRIVATE STORMWATER MANAGEMENT FACILITY INSPECTION AND MAINTENANCE AGREEMENT PURSUANT TO SECTION 19.50.190;
  - C. A PERFORMANCE BOND; AND
  - D. PROOF OF PROPERTY INTERESTS AS REQUIRED UNDER SECTION 19.50.110.
- B. PERMIT SUSPENSION AND REVOCATION.
- 1. A GRADING PERMIT ISSUED BY THE DEPARTMENT MAY BE SUSPENDED OR REVOKED BY GIVING WRITTEN NOTICE THEREOF TO THE PERMITTEE, IF THE DIRECTORS OF PLANNING AND ZONING, PUBLIC WORKS, OR THE DEPARTMENT OF THE ENVIRONMENT FINDS ANY OF THE FOLLOWING:
    - A. VIOLATION OF ANY CONDITION OF THE STORMWATER MANAGEMENT PLAN APPROVAL.
    - B. CHANGE IN ANY SITE RUNOFF CHARACTERISTICS UPON WHICH AN APPROVAL OR WAIVER WAS GRANTED.
    - C. CONSTRUCTION OF A STORMWATER MANAGEMENT FACILITY NOT IN ACCORDANCE WITH THE APPROVED PLAN.
    - D. NONCOMPLIANCE WITH A CORRECTION NOTICE OR A STOP WORK ORDER RELATED TO THE CONSTRUCTION OF THE STORMWATER MANAGEMENT FACILITY.
    - E. AN IMMEDIATE DANGER TO A DOWNSTREAM AREA.
  - 2. THE GROUNDS FOR SUSPENSION OR REVOCATION SET FORTH IN THE PRECEDING SUBSECTION ARE IN ADDITION TO, AND ARE NOT INTENDED TO SUPERSEDE, OTHER GROUNDS FOR THE ISSUANCE OF A STOP WORK ORDER OR THE SUSPENSION OR REVOCATION OF A GRADING PERMIT.
- C. PERMIT CONDITIONS. IN GRANTING A STORMWATER MANAGEMENT PLAN APPROVAL, THE DEPARTMENT MAY IMPOSE SUCH TERMS AND CONDITIONS THAT THE DIRECTOR OR HIS/HER DESIGNEE MAY DEEM NECESSARY TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER AND THE PRESERVATION OF THE PUBLIC HEALTH AND SAFETY.

**19.50.160 - PERFORMANCE BOND.**

- A. PRIOR TO THE ISSUANCE OF A GRADING PERMIT FOR ANY CONSTRUCTION, THE APPLICANT SHALL PROVIDE THE CITY OF ANNAPOLIS WITH A SURETY OR CASH BOND, IRREVOCABLE LETTER OF CREDIT, OR OTHER MEANS OF SECURITY ACCEPTABLE TO THE CITY ATTORNEY IN A FORMAT ACCEPTABLE TO THE CITY ATTORNEY. THE AMOUNT OF THE SECURITY SHALL NOT BE LESS THAN THE TOTAL ESTIMATED CONSTRUCTION COST PER THE ESTIMATE FORM.
- B. THE SECURITY SHALL NOT BE FULLY RELEASED UNTIL ALL ASPECTS OF THE GRADING PERMIT ARE COMPLETED, INCLUDING, BUT NOT LIMITED TO:
  - 1. THE SUBMISSION AND ACCEPTANCE OF "AS BUILT DRAWINGS" IN ACCORDANCE WITH SUBSECTION G OF SECTION 19.50.100;
  - 2. COMPLIANCE WITH ALL LANDSCAPING PLANS;
  - 3. ABSENCE OF EROSION OR OTHER SITE PROBLEMS;
  - 4. THE COMPLETION OF ALL FORMS REQUIRED BY THE ADMINISTRATION; AND,
  - 5. THE STORMWATER MANAGEMENT FACILITY HAS BEEN IN OPERATION FOR A MINIMUM OF ONE YEAR WITHOUT FAILURE.

**19.50.170 - OWNERSHIP AND MAINTENANCE OF STORMWATER MANAGEMENT FACILITIES.**

- A. ALL STORMWATER MANAGEMENT FACILITIES THAT SERVE A SINGLE LOT, FACILITY OR SUBDIVISION SHALL BE PRIVATELY OWNED AND PRIVATELY MAINTAINED EXCEPT AS PROVIDE IN SUBSECTION C OF THIS SECTION.

- B. ALL STORMWATER MANAGEMENT FACILITIES MEASURES RELYING ON VEGETATED AREAS OR SITE FEATURES SHALL BE PRIVATELY OWNED AND PRIVATELY MAINTAINED.
- C. AT THE DISCRETION OF THE DIRECTOR, A REGIONAL STORMWATER MANAGEMENT FACILITY MAY BE PUBLICLY OWNED AND PUBLICLY MAINTAINED. IF A REGIONAL STORMWATER MANAGEMENT FACILITY IS TO BE PUBLICLY OWNED, IT SHALL BE CONVEYED TO THE CITY OF ANNAPOLIS PRIOR TO THE FINAL RELEASE OF SECURITY.

**19.50.180 - WATERSHED RESTORATION FUND.**

- A. A WATERSHED RESTORATION FUND SHALL BE ESTABLISHED AND THE MONEYS THEREIN SHALL BE USED BY THE CITY FOR LAND ACQUISITION (INCLUDING EASEMENTS AND RIGHTS-OF-WAY), AND THE STUDY, ENGINEERING, DESIGN, PURCHASE, CONSTRUCTION, EXPANSION, REPAIR, MAINTENANCE, LANDSCAPING AND INSPECTION OF PUBLIC STORMWATER MANAGEMENT SYSTEMS.
- B. THE WATERSHED RESTORATION FEE SCHEDULE APPLICABLE TO THE FUND SHALL BE ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. THE FEES SCHEDULE SHALL REFLECT AN ANNUAL TWO PERCENT RATE INCREASE IN EFFECT FROM JULY 1, 2015 UNTIL JUNE 30, 2018 FOR STORMWATER FEES UNDER THIS SECTION. TO ENCOURAGE ENVIRONMENTALLY SOUND AND EFFECTIVE STORMWATER MANAGEMENT PRACTICES, THE DIRECTOR MAY AUTHORIZE A REDUCTION IN THE WATERSHED RESTORATION FEE NOT TO EXCEED FIFTY PERCENT IN ACCORDANCE WITH A DULY ESTABLISHED POLICY SETTING FORTH WHICH STORMWATER MANAGEMENT FACILITIES SHALL QUALIFY FOR A REDUCTION OF THE WATERSHED RESTORATION FEE AND HOW SUCH REDUCTIONS SHALL BE CALCULATED.
- C. IN THE CASE OF AN APPLICATION FOR A WAIVER TO ON-SITE WATER QUANTITY AND/OR WATER QUALITY MANAGEMENT UNDER THIS CHAPTER, THE DIRECTOR MAY IN HIS/HER DISCRETION ACCEPT THE CONVEYANCE OF AN INTEREST IN LAND, THE CONSTRUCTION OF A STORMWATER MANAGEMENT FACILITY, THE SCHEDULED FEE OR ANY EQUIVALENT COMBINATION THEREOF AS THE WATERSHED RESTORATION FEE.
- D. THE DIRECTOR SHALL NOT ACCEPT A CONVEYANCE OF LAND OR THE CONSTRUCTION OF A STORMWATER MANAGEMENT FACILITY PURSUANT TO THE PRECEDING SUBSECTION THAT DOES NOT COVER ADEQUATELY THE COST TO THE CITY OF MANAGING THE STORMWATER GENERATED FROM THE SUBJECT PROPERTY OR IF SUCH ACCEPTANCE IS OTHERWISE NOT IN THE INTEREST OF THE CITY.
- E. PUBLIC WORKS, IN CONSULTATION WITH THE DEPARTMENT, IS RESPONSIBLE FOR MAINTENANCE, REPAIR AND RETROFIT OF STORMWATER FACILITIES THAT LIE IN THE PUBLIC RIGHT-OF-WAY AND THESE FUNDS SHALL BE USED TO THIS EFFECT.

**19.50.190 - PRIVATE STORMWATER MANAGEMENT FACILITY INSPECTION AND MAINTENANCE AGREEMENT.**

- A. PRIOR TO THE ISSUANCE OF ANY BUILDING OR GRADING PERMIT WHICH HAS A PRIVATE STORMWATER MANAGEMENT FACILITY AS ONE OF THE REQUIREMENTS OF THE PERMIT, THE APPLICANT SHALL EXECUTE AND DELIVER TO THE DEPARTMENT, A STORMWATER MANAGEMENT FACILITY INSPECTION AND MAINTENANCE AGREEMENT BINDING ON THE APPLICANT (ITS SUCCESSORS AND ASSIGNS) AND ON ALL OWNERS (THEIR SUCCESSORS AND ASSIGNS) OF LAND SERVED BY THE STORMWATER MANAGEMENT FACILITY.
- B. THE AGREEMENT REQUIRED BY THE PRECEDING SUBSECTION SHALL:
  - 1. AUTHORIZE ACCESS TO THE STORMWATER MANAGEMENT FACILITY AT REASONABLE TIMES, FOR PERIODIC INSPECTION BY THE CITY (OR ITS CONTRACTOR OR AGENT),

2. REQUIRE THE PROPERTY OWNER AND/BENEFICIAL USERS PERIODICALLY INSPECT AND MAINTAIN THE STORMWATER MANAGEMENT FACILITY IN A PROPER WORKING CONDITION SATISFYING THE REQUIREMENTS OF THIS CHAPTER,
  3. INCLUDE SUCH OTHER ITEMS AND CONDITIONS AS THE DIRECTOR MAY REQUIRE.
- C. THE AGREEMENT REQUIRED BY THIS SECTION SHALL ALSO PROVIDE THAT IF, AFTER NOTICE BY THE DEPARTMENT TO CORRECT A VIOLATION OF THIS CHAPTER, SATISFACTORY CORRECTIVE MEASURES HAVE NOT BEEN COMPLETED BY THE OWNER AND OR BENEFICIAL USERS WITHIN THE TIME SPECIFIED IN THE NOTICE, THE DEPARTMENT MAY CAUSE TO BE PERFORMED ALL NECESSARY WORK TO CORRECT THE VIOLATION AND MAY ASSESS THE OWNER, AND/OR BENEFICIAL USERS, THE COST OF THE WORK. THE AGREEMENT SHALL FURTHER PROVIDE THAT THE COST OF THE WORK SHALL CONSTITUTE A LIEN ON THE PROPERTY AND MAY BE PLACED ON THE TAX BILL FOR THE PROPERTY AND COLLECTED IN THE SAME MANNER AS PROPERTY TAXES. THE AGREEMENT SHALL ALSO PROVIDE THAT THE OWNER AND/OR BENEFICIAL USERS SHALL BE LIABLE FOR INTEREST, CALCULATED AT THE MAXIMUM LEGAL RATE, ON THE UNPAID BALANCE OF ANY SUCH CHARGES UNTIL PAID, AS WELL AS REASONABLE ATTORNEY FEES INCURRED BY THE CITY IN COLLECTING SUCH BALANCE.
- D. THE AGREEMENT REQUIRED BY THIS SECTION SHALL BE RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY. THE COST OF SUCH RECORDATION SHALL BE PAID BY THE APPLICANT OR THE OWNER.

**19.50.200 - RESPONSIBILITY OF PERMITTEE AND OWNER.**

THE PERMITTEE AND OWNER SHALL BE JOINTLY RESPONSIBLE FOR THE INSTALLATION OF THE STORMWATER MANAGEMENT FACILITY IN COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER.

**19.50.210 - INSPECTION PROGRAM.**

- A. ALL PRIVATELY OWNED STORMWATER MANAGEMENT FACILITIES SHALL BE INSPECTED DURING CONSTRUCTION, DURING THE FIRST YEAR OF OPERATION, AND ANNUALLY THEREAFTER BY THE DEPARTMENT.
- B. REGULAR INSPECTIONS SHALL BE MADE AND DOCUMENTED FOR EACH ESD SYSTEM AT THE STAGES OF CONSTRUCTION SPECIFIED IN THE DESIGN MANUAL AND CERTIFIED BY A PROFESSIONAL ENGINEER LICENSED IN THE STATE OF MARYLAND. AT A MINIMUM, ALL ESD SYSTEM AND OTHER NONSTRUCTURAL PRACTICES SHALL BE INSPECTED UPON COMPLETION OF FINAL GRADING, THE ESTABLISHMENT OF PERMANENT STABILIZATION, AND BEFORE ISSUANCE OF USE AND OCCUPANCY APPROVAL.
- C. ALL PRIVATELY OWNED STORMWATER MANAGEMENT FACILITIES SHALL BE INSPECTED AND MAINTAINED IN ACCORDANCE WITH THE STORMWATER MANAGEMENT FACILITY INSPECTION AND MAINTENANCE AGREEMENT. NOT LATER THAN AUGUST FIRST OF EACH YEAR, THE OWNER AND/OR BENEFICIAL USERS SHALL PROVIDE THE DEPARTMENT WITH AN INSPECTION AND MAINTENANCE REPORT, IN SUCH FORMAT AS MAY BE SPECIFIED BY THE DIRECTOR.
- D. THE DEPARTMENT SHALL MAINTAIN COPIES OF INSPECTION AND MAINTENANCE REPORTS FOR PRIVATELY OWNED STORMWATER MANAGEMENT FACILITIES AMONG THEIR DEPARTMENTAL RECORDS FOR A PERIOD OF SEVEN YEARS FROM THE DATE OF THE INSPECTION.

**19.50.220 - EMERGENCY AUTHORITY.**

IF THE DIRECTOR DETERMINES THAT THE CONDITION OF ANY STORMWATER

MANAGEMENT FACILITY, STORM DRAINAGE SYSTEM OR DRAINAGE WAY PRESENTS AN IMMEDIATE DANGER TO THE PUBLIC HEALTH OR SAFETY, THE DIRECTOR MAY TAKE ANY ACTION TO PROTECT THE PUBLIC. COSTS INCURRED BY THE CITY AS A RESULT SUCH ACTION SHALL BE ASSESSED AGAINST THE OWNERS AND BENEFICIAL USES OF THE STORMWATER MANAGEMENT FACILITY, WHO SHALL BE JOINTLY AND SEVERALLY LIABLE FOR SUCH COSTS. THE PROPERTY SERVED BY THE STORMWATER MANAGEMENT FACILITY SHALL BE SUBJECT TO A LIEN FOR THE COSTS THAT MAY BE PLACED ON THE TAX BILL FOR SUCH PROPERTY AND COLLECTED IN THE SAME MANNER AS PROPERTY TAXES.

**19.50.230 - INTERPRETATION.**

IN INTERPRETING AND APPLYING THIS CHAPTER, THE STATED REQUIREMENTS ARE DECLARED TO BE MINIMUM REQUIREMENTS WHICH ARE IMPOSED AND ARE IN ADDITION TO, AND NOT IN LIEU OF, ALL OTHER LEGAL REQUIREMENTS, AND SHALL BE INTERPRETED TO ACCOMPLISH THE PURPOSES SET FORTH IN SECTION 19.50.010. THE PROVISIONS OF THIS CHAPTER SHALL BE APPLIED PROSPECTIVELY AND ANY AMENDMENTS HERETO SHALL NOT APPLY TO SITES FOR WHICH GRADING OR BUILDING PERMIT APPLICATIONS HAVE BEEN FILED ON OR BEFORE THAT DATE WHICH IS FORTY-FIVE DAYS AFTER ADOPTION.

**19.50.240 - PENALTIES.**

ANY PERSON CONVICTED OF VIOLATING ANY PROVISION OF THIS CHAPTER SHALL BE GUILTY OF A MISDEMEANOR, AND UPON CONVICTION THEREOF, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH FOR EACH VIOLATION. EACH DAY THAT A VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE. IN ADDITION, THE CITY MAY INSTITUTE ANY ACTION IN LAW OR EQUITY TO ENFORCE THE PROVISIONS OF THIS CHAPTER.

**TITLE 21 PLANNING AND ZONING**

**Chapter 21.24 - PLANNED DEVELOPMENTS**

**21.24.090 - Planned development review criteria and findings.**

In deciding planned development applications the Planning Commission shall make written findings based on the following:

- A. The planned development is compatible with the character of the surrounding neighborhood and consistent with the Comprehensive Plan and the purposes of planned developments.
- B. The proposed locations of buildings, structures, open spaces, landscape elements, and pedestrian and vehicular circulation systems are adequate, safe, and efficient and designed to minimize any adverse impact upon the surrounding area.
- C. The planned development will promote high quality design and will not result in greater adverse impacts to the surrounding area compared to the development that may otherwise be permitted pursuant to the Zoning Code if a planned development were not approved.
- D. The planned development complies with the planned development use standards and bulk and density standards.
- E. The planned development complies with the Site Design Plan Review criteria provided in Section 21.22.080.
- F. The planned development plan includes adequate provision of public facilities and the proposed infrastructure, utilities and all other proposed facilities are adequate to serve the planned development

and adequately interconnect with existing public facilities.

The planned development complies with Chapter 21.71

~~<[https://library.municode.com/md/annapolis/codes/code\\_of\\_ordinances?](https://library.municode.com/md/annapolis/codes/code_of_ordinances?nodeId=TIT21PLZO_DIVVREGGEAP_CH21.71FOCO)~~

~~nodeId=TIT21PLZO\_DIVVREGGEAP\_CH21.71FOCO>~~19.30 of the Annapolis City Code.

## **Chapter 21.54 - CRITICAL AREA OVERLAY**

### **21.54.060 - Development requirements generally.**

- A. Intense development should be directed outside the critical area. If intense development is proposed in the critical area, it shall be directed toward the intensely developed areas.
- B. Proposed low-intensity and moderate-intensity development may be permitted in the limited development areas, but shall be subject to strict regulation to prevent adverse impacts on habitat or water quality.
- C. Development shall be limited in the resource conservation areas, which shall be chiefly designated for habitat protection.
- D. The following new development or redevelopment uses shall not be permitted in the district:
  1. Non-maritime heavy industry;
  2. Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters;
  3. Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities;
  4. Solid or hazardous waste collection or disposal facilities; or
  5. Sanitary landfills.
- E. Buffer.
  1. New development activities, including structures; roads, parking areas and other impervious surfaces; septic systems; accessory uses, including but not limited to swimming pools; and the substantial alteration of existing facilities or structures shall not be permitted in the buffer, except for those necessarily associated with water-dependent facilities.
  2. New construction on recorded lots, under the grandfathering provisions of Section 21.54.150, shall be designed and sited in such a fashion that if the buffer is impacted, the applicant shall obtain a variance in accordance with Section 21.54.160.
  3. The buffer shall be expanded beyond one hundred feet to include contiguous sensitive areas such as steep slopes, hydric soils, or highly erodible soils whose development or disturbance may impact streams, wetlands, or other aquatic environments. In the case of contiguous slopes of fifteen percent or greater, the buffer shall be expanded four feet for every one percent of slope or to the top of the slope, whichever is greater in extent.
- F. Subdivision Access.
  1. New public streets developed as part of a subdivision and necessary to provide legal access to subdivision lots will be considered as contributing to the impervious surface requirements of this chapter. The Planning and Zoning Director and the Director of Public Works may, however, allow subdivision redesign in order to minimize the amount of subdivision land dedicated to streets.
  2. Modifications in road standards may be allowed to reduce potential impacts to the site and critical area resources, where the reduced standards do not significantly affect safety, as determined by the Director of Public Works.
- G. Trees shall be protected, preserved and replaced pursuant to the requirements of Section ~~17.09.070~~ 19.20.070.

**21.54.080 - Development requirements-Intensely developed areas.**

- A. Stormwater Management. Stormwater management technologies shall be required to reduce pollutant loadings by at least ten percent below that of predevelopment levels in accordance with Chapter ~~17.10~~ 19.50.
- B. Impervious Surfaces. Manmade impervious surfaces shall be limited to the following maximum percentages of the development site:

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

- C. Erosion and Sediment Control. Erosion and sediment control measures shall be required in accordance with City Code Chapter ~~17.08~~ 19.40.
- D. Cluster Development. Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.
- E. Trees. Cutting and clearing of trees shall occur in accordance with Section ~~17.09.070~~ 19.20.070 of the City of the Annapolis City Code and with planting guidelines determined by the Department of Planning and Zoning.
- F. Habitat Protection Areas.
  1. Developers shall determine whether there are any habitat protection areas on the project site, or whether development on the site could adversely affect such areas off-site.
  2. In developing the site, roads, bridges and utilities shall not be located in a habitat protection area, even if the habitat area is outside the buffer, unless it is determined by the City that no feasible alternative exists. Where roads, bridges or utilities must cross such areas, they must be designed, constructed and maintained to protect the habitats, to provide maximum erosion protection, and to maintain hydrologic processes and water quality.
  3. The developer shall protect any wildlife corridors or habitat protection areas located in forests and developed woodlands.

**21.54.090 - Development requirements-Limited development areas.**

- A. Habitat Protection Areas.
  1. Developers shall determine whether there are any habitat protection areas on the project site, or whether development on the site could adversely affect such areas off-site.
  2. In developing the site, roads, bridges and utilities shall not be located in a habitat protection area, even if the habitat area is outside the buffer, unless it is determined by the City that no feasible alternative exists. Where roads, bridges or utilities must cross such areas, they must be designed, constructed and maintained to protect the habitats, to provide maximum erosion protection, and to maintain hydrologic processes and water quality.
  3. The developer shall protect any wildlife corridors or habitat protection areas located in forests and developed woodlands.

B. Wildlife Corridors.

1. If a development site contains a natural area which might be used as a wildlife corridor, and there are such areas adjacent, then a development proposal must incorporate the wildlife corridor into the site design.
2. The developer shall incorporate a wildlife corridor system into the site. The wildlife corridor incorporated into the site should connect the largest undeveloped, or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with off-site habitats.
3. The developer shall grant a conservation easement to the City to ensure that the wildlife corridor is maintained.

C. Forests and Developed Woodlands.

1. Forests and developed woodlands are to be maintained in accordance with Section ~~17.09.080~~19.20.080 and within planting guidelines as determined by the Department of ~~Planning and Zoning~~THE ENVIRONMENT.
2. Tree replacement and fees in lieu of tree replacement shall be allowed in accordance with the provisions of Section ~~17.09.070~~19.20.070.
3. All forests designated on development plans shall be maintained to the extent practicable, through conservation easements, restrictive covenants, or other protective instruments.
4. The afforested area shall be maintained as forest cover through easements, restrictive covenants, or other protective instruments.

D. Steep Slopes. Development is not permitted on slopes greater than fifteen percent unless it can be shown that such development is the only effective way to maintain or improve the stability of the slope, and is consistent with the density, water quality and habitat protection policies for limited development areas.

E. Soils with Development Constraints. Development is discouraged on soils having development constraints. Development may be allowed by the Department of ~~Public Works~~ THE ENVIRONMENT if adequate mitigation measures are implemented to address the identified constraints and if the development will not adversely affect water quality or plant, fish and wildlife habitat.

F. Stormwater Management. Stormwater management technologies shall be required to minimize adverse water quality impacts caused by stormwater run-off in accordance with Chapter ~~17.10~~19.50.

G. Streams.

1. If the project involves development activities which would cross or affect streams, the developer shall identify any such stream in the project area, including those off-site, which might be affected by the project.
2. The developer shall show, as part of the site plan review requirements, that the development will:
  - a. Not cause increases in the frequency and severity of floods;
  - b. Retain existing tree canopy;
  - c. Provide for the retention of the natural substrate for streambeds; and
  - d. Minimize adverse impacts to water quality and stormwater run-off.

H. Impervious Surfaces.

1. Except as otherwise provided in this section for stormwater runoff, man-made impervious surfaces are limited to fifteen percent of a parcel or lot.
2. If a parcel or lot one-half acre or less in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to twenty-five percent of the parcel or lot.
3. If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to fifteen percent of the parcel or lot.
4. If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then manmade impervious surfaces of the lot may not exceed twenty-five percent of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed fifteen percent.

5. The City of Annapolis may allow a property owner to exceed the impervious surface limits provided in Subsections (H)(2) and (H)(3) of this section if the following conditions exist:
  - a. New impervious surfaces on the site have been minimized;
  - b. For a lot or parcel one-half acre or less in size, total impervious surfaces do not exceed impervious surface limits in Subsection (H)(2) of this section by more than 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.
7. An applicant who cannot comply with the above planting or offset requirements is required to pay into the fee-in-lieu program established under Chapter ~~17.09~~19.20 as established by the City Council.

Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the critical area for the benefit of wildlife habitat, water quality improvements

or environmental education. The status of these funds must be reported at the time of comprehensive review. If it is not possible to carry out offsets or other mitigation within the critical area, any plantings or other habitat/water quality improvement should occur within the affected watershed.

8. Any required reforestation/mitigation/offset areas must be designated under a development agreement or other instrument and recorded among the land records of Anne Arundel County.
9. The State Critical Area Commission shall be notified of the requested variance prior to any administrative action by the staff and shall be notified of the action taken with regard to the requested variance within ten days of the action.
10. The request for administrative variance and all supporting documentation shall be reviewed by the Director of Planning and Zoning. The Director of Planning and Zoning shall, within ten days, issue a decision with regard to the proposed variance as to whether the variance shall be granted, denied or granted subject to specified terms and conditions.
11. The chairman of the Critical Area Commission may appeal an administrative variance granted by the Planning and Zoning Director or local approving authority. At this time the project will go before the Board of Appeals de novo.

## **Chapter 21.62 - SITE DESIGN STANDARDS**

### **21.62.030 - Design of open areas.**

Existing Features. Disturbance of existing vegetation, topography and soils shall be minimized. Efforts shall be made to preserve street trees, mature trees, trees of a diameter of four inches or above measured four feet above ground level, and trees of unique varieties. If development of the site necessitates the removal of established trees, special attention shall be given to the planting of replacements or to other landscape treatment. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. All planting and maintenance shall adhere to the requirements of Chapter ~~14.12~~19.10.

### **21.62.080 - Surface water drainage.**

A proposed development shall be designed to provide for proper surface water management through a system of controlled drainage that, wherever practicable, preserves existing natural drainage patterns and wetlands, enhances groundwater recharge areas, and that protects other properties and existing natural and artificial drainage features from the adverse effects of flooding, erosion and the depositing of silt, gravel or stone. A stormwater management plan is required to be submitted to the Director of Planning and Zoning for review and approval BY THE DEPARTMENT OF THE ENVIRONMENT under Chapter ~~17.10~~19.50 of the Annapolis City Code.

## **Chapter 21.71 – FOREST CONSERVATION**

### **~~21.71.010 – Purpose and general provisions.~~**

~~The City Council has determined that to meet the requirements of Natural Resources Article, §§ 5-1601-5-1612, Annotated Code of Maryland, the provisions of this chapter must be enacted to protect forests and environmentally sensitive areas in the City.~~

### **~~21.71.020 – Forest and tree conservation definitions.~~**

~~For the purposes of this chapter only, the following terms have the meanings indicated:~~

"Afforestation" means:

1. Establishment of tree cover on an area from which forest cover has been absent for a long period of time; or
2. ~~Planting on open areas on which there is no existing forest cover.~~

"Agricultural and resource areas" means undeveloped areas zoned for densities of less than or equal to one dwelling unit per five acres.

"Applicant" means a person who has lawfully submitted an application for approval of a planned development, special exception, subdivision site design plan, or project plan, or a grading or sediment control permit, or who has submitted a forest stand delineation for review, a preliminary forest conservation plan for review, or a final forest conservation plan for approval for a tract of land that, in its existing or redeveloped state, is forty thousand square feet or greater or who has received approval of a forest stand delineation or forest conservation plan.

"Approved forest management plan" means a document:

1. ~~Approved by the department of natural resources forester assigned to the city; and~~
2. ~~Which operates as a protective agreement for forest conservation as described in the Natural Resources Article, §§ 5-1607(e)-(f), Annotated Code of Maryland.~~

"Caliper" means ~~the diameter measured as two inches above the root collar.~~

"Champion tree" means the largest tree of its species within the United States, the State, County, or the City, as applicable.

"COMAR" means ~~the Maryland Code of Regulations.~~

"Commercial and industrial uses" means manufacturing operations, office complexes, shopping centers, and other similar uses and their associated storage areas, yarding and parking areas, more specifically described and delineated in City Code Section 21.48.020, Table of Uses.

"Commercial logging or timber harvesting operations" means the cutting and removing of tree stems from a site for commercial purposes, leaving the root mass intact.

"Contiguous forest" means a forest of twenty acres or more that connects the largest undeveloped or vegetated tracts of land within, and adjacent to, a site.

"Critical habitat area" means a critical habitat for an endangered species and its surrounding protection area. A critical habitat area shall:

1. ~~Be likely to contribute to the long-term survival of the species;~~
2. ~~Be likely to be occupied by the species for the foreseeable future; and~~
3. ~~Constitute habitat of the species which is considered critical under Natural Resources Article, §§ 4-2a-04 and 10-2a-06, Annotated Code of Maryland.~~

"Critical habitat for endangered species" means a habitat occupied by an endangered species as determined or listed under Natural Resources Article, §§ 4-2a-04 and 10-2a-04, Annotated Code of Maryland.

"DBH" or "diameter at breast height" means a tree diameter measured at four and one-half feet above the ground.

"Declaration of intent" means:

1. A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on

~~the landowner's property:~~

- ~~i. Is for certain activities exempted under the Annapolis City Code or Natural Resources Article, §§ 5-103 and 5-1601-5-1612, Annotated Code of Maryland;~~
- ~~ii. Does not circumvent the requirements of the Annapolis City Code or Natural Resources Article, §§ 5-103 and 5-1601-5-1612, Annotated Code of Maryland, and~~
- ~~iii. Does not conflict with the purposes of any other declaration of intent; or~~

~~2. The document required under COMAR 08.19.01.05 or this chapter.~~

~~"Department" means the City Department of Planning and Zoning.~~

~~"Development plan" means a drawing or drawings which delineate a planned development, special exception, subdivision, site design plan, or project plan, or a grading or sediment control permit for a tract of land that, in its existing or redeveloped state, is forty thousand square feet or greater.~~

~~Development project.~~

- ~~1. "Development project" means the grading or construction activities occurring on a specific tract that is forty thousand square feet or greater.~~
- ~~2. "Development project" includes redevelopment.~~

~~"Development project completion" means for the purposes of afforestation, reforestation:~~

- ~~1. The release of the development bond, if required;~~
- ~~2. Acceptance of the project's streets, utilities, and public services by the Department; or~~
- ~~3. Designation in writing by the Department or State that a:
  - ~~i. Development project has been completed; or~~
  - ~~ii. Particular stage of a staged development project, including a planned unit development, has been completed.~~~~

~~"Environment Article" means the Environment Article of the Annotated Code of Maryland, as amended from time to time.~~

~~"Ephemeral stream" means a stream that flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow or ice, and which has a channel bottom that is always above the local water table.~~

~~Forest.~~

- ~~1. "Forest" means a biological community dominated by trees and other woody plants covering a land area of ten thousand square feet or greater.~~
- ~~2. "Forest" includes:
  - ~~i. Areas that have at least one hundred live trees per acre with at least fifty percent of those trees having a two-inch or greater diameter at four and one-half feet above the ground and larger; and~~
  - ~~ii. Areas that have been cut but not cleared.~~~~
- ~~3. "Forest" does not include orchards.~~

~~"Forest conservation" means the retention of existing forest or the creation of new forest at the levels set by the Department.~~

~~"Forest conservation and management agreement" means an agreement as stated in Tax-Property Article, §~~

8-211, Annotated Code of Maryland.

"Forest Conservation Technical Manual" means the City technical manual, incorporated by reference herein, used to establish standards of performance required in preparing forest stand delineations and forest conservation plans.

"Forest conservation plan" means a plan approved pursuant to sections 21.71.070, 21.71.080, 21.71.090 and 21.71.100 of this chapter.

"Forest cover" means the area of a site meeting the definition of forest.

"Forest management plan" means a plan establishing best conservation and management practices for a landowner in assessment of the resource values of forested property.

"Forest mitigation bank" means an area of land which has been intentionally afforested or reforested for the express purpose of providing credits for reforestation requirements.

"Forest mitigation bank agreement" means an agreement entered into by an individual owning a forest mitigation bank and the department or local government which commits the banker to certain procedures and requirements when creating and operating the forest mitigation bank.

"Forest mitigation bank plan" means a plan submitted for approval of a forest mitigation bank to the Department, or to a local government with an approved local program, by an individual proposing to establish a forest mitigation bank.

"Forest stand delineation" means the methodology for evaluating the existing vegetation on a site proposed for development, as provided in the Forest Conservation Technical Manual.

"Growing season" means the period of consecutive frost-free days as stated in the Current Soil Survey for this country published by the National Cooperative Soil Survey Program, 16 U.S.C. § 590(a) (f).

"High density residential areas" means areas zoned for densities greater than one dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service identified as all residential zones in the Annapolis City Code, Chapter 21.40.

"Historic site" or "historic structure" means any site or structure that is:

1. Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
3. Individually listed on the Maryland Register of Historic Places; or
4. Individually listed on the inventory of historic places maintained by the City of Annapolis whose historic preservation program has been certified by the Maryland Historic Trust or the Secretary of the Interior.

"Institutional development area" means areas zoned to allow the inclusion of schools, colleges and universities, military installations, transportation facilities, utility and sewer projects, government offices and facilities, golf courses, recreation areas, parks, and cemeteries as is applied in the Annapolis City Code.

"Intermittent stream" means a stream in which surface water is absent during a part of the year as shown on the most recent seven and one-half minute topographic quadrangle published by the United States Geologic Survey or as defined in COMAR 26.23.01.01 and confirmed by field verification.

"Landscaping plan" for purposes of this section means a plan:

1. Drawn to scale, showing dimensions and details for reforesting an area at least thirty-five feet wide and covering two thousand five hundred square feet or greater in size;
2. Using native or indigenous plants when appropriate; and
3. Which is made part of an approved forest conservation plan.

"Linear project" means a project which:

1. Is elongated with nearly parallel sides;
2. Is used to transport a utility product or public service not otherwise contained in an application for subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles; and
3. May traverse fee-simple properties through defined boundaries, or established easement rights.

"Local agency" means each unit in the executive, legislative, or judicial branch of a county or municipal government, including an office or department.

"Lot" means a unit of land, the boundaries of which have been established by subdivision of a larger parcel, and which will not be the subject of further subdivision, as defined by Natural Resources Article, § 5-1601, Annotated Code of Maryland and this chapter, and without an approved forest stand delineation and forest conservation plan.

"Maintenance agreement" means the short-term management agreement associated with afforestation or reforestation plans required under Natural Resources Article § 5-1605, Annotated Code of Maryland and this chapter.

"Medium density residential areas" means areas zoned for densities greater than one dwelling unit per five acres and less than or equal to one dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service.

"Minor development project" means a project:

1. On less than five acres of land containing not more than four lots per acre; or
2. Substantively similar as defined by the department and approved by the State.

"Mixed use development" means a single, high density development project which includes two or more types of uses, more specifically described and delineated in City Code Section 21.48.030, Table of Uses.

"Natural regeneration" means the natural establishment of trees and other vegetation with at least four hundred woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least twenty feet at maturity.

"Natural resources inventory" means a compilation of natural site features including forest delineation, geological data, topography, soils series and properties, watershed data including floodplains, water resources including surface water, ground water and wetlands, wildlife habitats and connections, hydric soils, soils with K factors of .35 or greater, and slopes of fifteen percent or greater, and as further defined in the technical manual.

"Net tract areas" means:

1. Except in agriculture and resource areas, the total area of a site, including both forested and nonforested areas, to the nearest one-tenth-acre, reduced by that area where forest clearing is restricted by another local ordinance or program;
2. In agriculture and resource areas the part of the total tract for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by that area where forest clearing is

restricted by another local ordinance or program; and

3. For a linear project:

- i. The area of a right-of-way width, new access roads, and storage; or
- ii. The limits of disturbance as shown on an application for sediment and erosion control approval or in a capital improvements program project description.

Nontidal wetlands:

1. "Nontidal wetlands" means an area that is:

- i. Inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; and
- ii. Considered a nontidal wetland in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetland," published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.

2. "Nontidal wetlands" does not include tidal wetlands regulated under Environment Article, Title 16, Annotated Code of Maryland.

"Offsite" means outside of the limits of the area encompassed by the tract or parcel of record on which the activity is proposed.

"Onsite" means within the limits of the area encompassed by the tract or parcel of record on which the activity is proposed, including an area classified as a 100-year floodplain.

"100-year flood" means a flood which has one percent chance of being equaled or exceeded in any given year.

"100-year floodplain" means an area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event, or a 100-year flood.

"Perennial stream" means a stream containing surface water throughout an average rainfall year, as shown on the most recent seven and one-half-minute topographic quadrangle published by the United States Geologic Survey, or as defined in COMAR 26.23.01.01 and confirmed by field verification.

"Person" means the Federal Government, the State, a County, Municipal Corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

"Planned unit development" or "planned development" for purposes of this section means a development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in land use design approved by the City with at least twenty percent of the land permanently dedicated to open space in residential planned developments and at least five percent of the land permanently dedicated to open space in commercial, mixed-use and other planned developments.

"Planting plan" means a labeled diagram that shows the quantities, location, size, shape, color, details and specifications of specific plants to be used in the landscape.

"Priority retention area" means:

1. Specific areas with trees, shrubs and plants located in sensitive areas including 100-year floodplains, intermittent, perennial and ephemeral streams and their buffers, coastal bays and their buffers, non-

tidal wetlands and their buffers, steep slopes and their buffers, hydric soils and critical habitats as further defined in the Forest Conservation Technical Manual;

2. Areas containing trees, shrubs, or plants identified on the list of rare, threatened, and endangered species of the U.S. Fish and Wildlife Service or the Department;
3. Trees that are part of a historic site or associated with a historic structure or designated by the Department as a National, State, or City Champion Tree;
4. Areas containing one or more significant trees;
5. Areas of contiguous forest.

"Project plan" means a construction, grading, or sediment control activity on an area of forty thousand square feet or greater by a local agency or a "site design plan" as specified in City Code Section 21.22.020.

"Public utility" means any:

1. Facility, fixture or means of transmission operated in association with a public service company as defined in Public Utilities Article, Annotated Code of Maryland § 1-101(x);
2. Water and sewer services as specified in Title 16 of the Annapolis City Code; or
3. Cable television systems as defined in Local Government Article, Annotated Code of Maryland § 1-708 (a).

"Reforestation" or "reforested" means:

1. Creation of a biological community dominated by trees and other woody plants containing at least one hundred live trees per acre with at least fifty percent of those trees having the potential of attaining a two-inch or greater diameter measured at four and one-half feet above the ground, within seven years; or
2. Establishment of a forest according to procedures set forth in the Forest Conservation Technical Manual;
3. Landscaping of areas under an approved landscaping plan;
4. For a linear project involving overhead transmission lines may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.

"Regulated activity" means any of the following activities, when that activity occurs on a unit of land which is forty thousand square feet or greater:

1. Subdivision;
2. Grading;
3. An activity that requires a sediment control permit;
4. Project plan; or
5. A planned development or a special exception.

"Retention" means the deliberate holding and protection of existing trees, shrubs, or plants on the site according to established standards as provided in the Forest Conservation Technical Manual.

"Sediment control permit" means the authorization of an activity regulated under a sediment control plan as provided in Environment Article, Title 4, Annotated Code of Maryland or a grading permit as provided in Chapters 17.08 and 17.10 of the Annapolis City Code.

"Seedling" means an unbranched woody plant, less than twenty-four inches in height and having a

diameter of less than one-half inch measured at two inches above the root collar.

"Selective clearing" means the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan.

"Significant tree" means:

1. A champion tree;
2. Or a tree which is at least seventy-five percent of the diameter of the State Champion Tree;
3. Or a tree which is of twenty-four inches DBH or more and which has been determined by the Department Director to be of notable quality and or high value because of its type, size, age, historical significance, canopy benefits, or which otherwise warrants special consideration for preservation.

"Steep slope" means a slope of fifteen percent or greater.

"Steep slope buffer" means a protective setback from the steep slope itself, required by the Anne Arundel County Soil Conservation District, that is provided to maintain the integrity of the steep slope.

"Stream buffer" means all lands lying up to one hundred feet and no less than fifty feet, measured from the top of each normal bank of a perennial or intermittent stream. The width of the buffer is to be determined by the Director to prevent activity from having a deleterious effect on the stream.

"Stream restoration project" means an activity that:

1. Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway, or floodplain;
2. Avoids and minimizes impacts to forests and provides for replanting onsite an equivalent number of trees to the number removed by the project;
3. Maybe performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the State or local government to achieve or maintain water quality standards; and
4. Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.

"Subdivision" means a division of a unit of land into two or more lots of parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development.

"Tax Property Article" means the Tax Property Article of the Annotated Code of Maryland as amended from time to time.

"Timber harvesting" means:

1. A tree-cutting operation affecting one or more acres of forest or developed woodland within a one-year interval that disturbs five thousand square feet or more of forest floor;
2. Does not include grubbing and clearing of root mass.

"Tract" means property or unit of land subject to an application for a grading or sediment control permit, subdivision approval, or project plan approval.

"Tract for a planned unit development" means the entire property subject to a planned unit development.

"Tree" means a large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least twenty feet at maturity.

"Unwarranted hardship" means the applicant has demonstrated that without a variance, the applicant would

be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

Variance:

1. "Variance" means an exemption granted to an applicant from one or more requirements of this chapter.
2. "Variance" does not mean a zoning variance.

"Watershed" means all land lying within an area described as a sub-basin in water quality regulations adopted by the Maryland Department of the Environment under COMAR 26.08.02.08.

"Whip" means an unbranched woody plant greater than twenty-four inches in height and having a diameter of less than one inch measured at two inches above the root collar.

### **21.71.030 – Application.**

A. This chapter is applicable to:

1. A person making applications for a subdivision, project plan, grading, sediment control, planned development, special exception or site plan approval on units of land forty thousand square feet or greater;
2. A public utility not exempt under Subsection B.5. and 6. of this section;
3. A unit of County or Municipal Government, including public utility or public works project, making application for a subdivision, project plan, grading, or sediment control approval on areas forty thousand square feet or greater.

B. This chapter does not apply to:

1. Highway construction activities under Natural Resources Article, § 5-103, Annotated Code of Maryland;
2. Areas governed by the Chesapeake Bay Critical Area Protection Law, Natural Resources Article, §§ 8-1801–8-1817, Annotated Code of Maryland, including those areas into which critical area forest protection measures have been extended under Natural Resources Article, § 5-1602(e), Annotated Code of Maryland;
3. Commercial logging and timber harvesting operations, including harvesting conducted subject to the forest conservation and management program under Tax-Property Article, § 8-211, Annotated Code of Maryland, that are completed:
  - i. Before July 1, 1991; or
  - ii. After July 1, 1991, on property which:
    - a. Has not been the subject of application for a grading permit for development within five years after the logging or harvesting operation, and
    - b. Is the subject of a declaration of intent as provided for in Subsection C. of this section, approved by the Department;
4. Agricultural activities not resulting in a change in land use category, including agricultural support building and other related structures built using accepted best management practices, except that a person engaging in an agricultural activity clearing forty thousand square feet or greater of forest within a one-year period, may not receive an agricultural exemption, unless the person files a declaration of intent as provided for in Subsection C. of this section which includes:
  - i. A statement that the landowner or landowner's agent will practice agriculture on that portion of the

- property for five years from the date of the declaration; and
- ii. A sketch of the property which shows the areas to be cleared;
5. The cutting or clearing of public utility rights-of-way licensed under Public Utilities Article, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland, or land for electric generating stations licensed under Public Utilities Article, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland, if:
    - i. Required certificates of public convenience and necessity have been issued in accordance with Natural Resources Article, § 5-1603(f), Annotated Code of Maryland; and
    - ii. Cutting or clearing of the forest is conducted to minimize the loss of forest;
  6. Routine maintenance or emergency repairs of public utility rights-of-way licensed under Public Utilities Article, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland;
  7. Except for a public utility subject to Subsection B.5. of this section, routine maintenance or emergency repairs of a public utility right-of-way if:
    - i. The right-of-way existed before the effective date of this section; or
    - ii. The right-of-way's initial construction was approved before the effective date of this section;
  8. A residential construction activity conducted on an existing single lot of record of any size at the time of application, or a linear project not otherwise exempted under this section, if the activity:
    - i. Does not result in the cumulative cutting, clearing, or grading of more than twenty thousand square feet of forest;
    - ii. Does not result in the cutting, clearing, or grading of a forest that is subject to the requirements of a previous forest conservation plan approved under this section; and
    - iii. Is the subject of a declaration of intent filed with the department, as provided in Subsection C. of this section, stating that the lot will not be the subject of a regulated activity within five years of the cutting, clearing, or grading of forest;
  9. Strip or deep mining of coal regulated under Environment Article, Title 15, Subtitle 5 or 6, Annotated Code of Maryland;
  10. Noncoal surface mining regulated under Environment Article, Title 15, Subtitle 8, Annotated Code of Maryland;
  11. An activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child of the owner, if the activity:
    - i. Does not result in cutting, clearing, or grading of more than twenty thousand square feet of forest; and
    - ii. Is the subject of a declaration of intent filed with the Department, as provided for in Subsection C. of this section, which states that a transfer of ownership may result in a loss of exemption;
  12. A plan of subdivision or a grading or sediment control plan administratively approved before the effective date of this chapter and that is not subsequently overturned on appeal;
  13. A planned development, prior to the effective date of this chapter, that has obtained final planned development approval in accordance with Section 21-24.070 and that is not subsequently overturned on appeal;
  14. A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title of a portion of a lot or parcel, if:

- i. The transfer does not involve a change in land use, or new development or redevelopment, with associated land-disturbing activities; and
  - ii. Both the grantor and grantee file a declaration of intent, as provided for in Subsection C. of this section;
15. Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, if the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure;
16. A stream restoration project, as defined in Section 21.71.020 of this chapter, for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least five years with the affected property owner or owners;
17. A special exception application that is only a change of use that does not involve new development or redevelopment with associated land-disturbing activities.

~~C. Declaration of Intent.~~

- 1. The purpose of the declaration of intent is to verify that the proposed activity is exempt under Natural Resources Article, §§ 5-103 and 5-1601-5-1612, Annotated Code of Maryland, and this chapter.
- 2. A person seeking an exemption under Subsection B.3., 4., 8., 11., and 14. of this chapter shall file a declaration of intent with the Department.
- 3. The declaration of intent is effective for five years.
- 4. The existence of a declaration of intent does not preclude another exempted activity on the property subject to a declaration of intent, if the activity:
  - i. Does not conflict with the purpose of any existing declaration of intent; and
  - ii. Complies with the applicable requirements for an exempted activity.
- 5. If a regulated activity on the area covered by the declaration of intent occurs within five years of the effective date of the declaration of intent:
  - i. There shall be an immediate loss of exemption; or
  - ii. There may be a noncompliance action taken by the Department, as appropriate, under this chapter.
- 6. An applicant may apply for a regulated activity on that area of the property not covered under the declaration of intent if the requirements of this chapter are satisfied.
- 7. The Department may require a person failing to file a declaration of intent or a person found in noncompliance with a declaration of intent to:
  - i. Meet the retention, afforestation, and reforestation requirements established in Section 7.21.030 through Section 7.21.160 of this chapter.
  - ii. Pay a noncompliance fee of ten dollars per square foot of forest cut or cleared under the declaration of intent or as set by resolution of the City Council, whichever is greater;
  - iii. Be subject to other enforcement actions appropriate under Natural Resources Article, §§ 5-1601-5-1612, Annotated Code of Maryland and this chapter; or
  - iv. File a declaration of intent with the Department.
- 8. In its determination of appropriate enforcement action, the Department may consider whether failure to

file a declaration of intent by a person required to file is a knowing violation of this chapter.

**21.71.040 – Technical manual.**

- A. The Department shall adopt within six months of the effective date of this chapter a Forest Conservation Technical Manual. The Department may amend the manual from time to time. Until such time as the Department adopts a Forest Conservation Technical Manual, the Department shall use the State of Maryland Forest Conservation Technical Manual. Whenever the Department adopts or amends the manual, it must provide notification and information about the manual and any changes therein to the Annapolis Environmental Commission, the City Council, and the City's Planning Commission.
- B. The Forest Conservation Technical Manual shall provide specifications consistent with this chapter including but not limited to:
1. Any methods the Department approves to protect retained forests and trees during construction;
  2. A requirement that environmental features maps or natural resources inventory shall include topographic contours (at two-foot intervals or less if required by the Department), steep slopes and their buffers, soil classifications (including hydric properties), significant trees, trees measuring twenty-four inches or greater DBH, streams (intermittent, perennial, ephemeral), stream buffers, critical habitats, natural drainage courses, and wetlands and their buffers.

**21.71.045 – General requirements.**

- A. After the effective date of this chapter, a person making applications for a subdivision, project plan, grading, sediment control, planned development, special exception or site plan approval on units of land forty thousand square feet or greater, shall:
1. Submit to the Department a forest stand delineation and a forest conservation plan for the lot or tract on which the development is located; and
  2. Use methods the department approves, as detailed in the Forest Conservation Technical Manual, to protect retained forests and trees during construction.

**B. Notice Requirements.**

Posting of Property. Upon initial application for a forest conservation act review, the following posting must be done:

1. Notice must be posted on the property that is the subject of an application no less than five business days following an application for forest stand delineation review.
2. Failure to post within five business days may result in the applicant's application being determined to be invalid by the department and a new application will need to be submitted before the project will be reviewed.
3. It is the responsibility of an applicant to post any notice required under this section on the property that is the subject of an application, unless the applicant is not the property owner, in which case it is the responsibility of the property owner.
4. The posted notice must be obtained from the Department and include language indicating that the property is under Forest Conservation Act review and where interested parties may find information about the application and a copy of the plans under review.
5. The property must remain posted until a final administrative decision is rendered on the Forest Conservation Act application.
6. Any sign posted on a property by an applicant must be removed by the applicant within seven days

following the approval of the forest conservation plan.

**21.71.050 – Local agency application.**

If a local agency or person using State funds submits an application to conduct an activity regulated by this chapter, the provisions of COMAR 08.19.04.01(D) shall apply.

**21.71.060 – Forest stand delineation.**

A. Criteria.

1. A forest stand delineation shall be submitted to the Department as the first step of making application for the plans or permits specified in Section 21.71.045.
2. The delineation shall be prepared by a licensed Forester, licensed Landscape Architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A.
3. The delineation shall be used during the preliminary review process to determine the most suitable and practical areas for forest conservation and shall contain the following components:
  - i. A topographic map delineating intermittent and perennial streams, and steep slopes;
  - ii. A natural resources inventory;
  - iii. A soils map delineating soils with structural limitations, hydric soils, or soils with a soil k value greater than 0.35 on slopes of fifteen percent or more;
  - iv. Forest stand maps indicating species, location, and size of trees and showing dominant and co-dominant forest types;
  - v. Location of 100-year floodplains;
  - vi. The location and delineation of all tidal and non-tidal wetlands and their buffers;
  - vii. Information required by the Forest Conservation Technical Manual; and
  - viii. Other information the Department determines is necessary to implement this chapter, including a nontidal wetlands plan upon request.
4. The Department shall post the forest stand delineation on its website within three business days of receipt for at least fifteen calendar days and provide directions as to how the public may send or deliver written comments, testimony, or documentation pertaining to the forest stand delineation. The website posting requirement shall apply to any amendments or revisions to the forest stand delineation. The Department shall promptly post all correspondence between the department, and the applicant. All documents shall be retained by the Department as part of the record of the application.
5. If approved by the Department, a simplified forest stand delineation, a concept plan or plat, preliminary plat or plan, sediment control plan, or other appropriate document, verified by a site visit, if appropriate, may substitute for the forest stand delineation if:
  - i. No forest cover is disturbed during a construction activity; and
  - ii. Designated to be under a long term protective agreement.
6. The Department shall consider a simplified forest stand delineation, or other substitute plan described in Subsection A.5. of this section, complete if it includes:
  - i. All requirements under Subsection A.3.i., ii., iii., v., and viii. of this section;
  - ii. A map showing existing forest cover as verified by field inspection; and

- ~~iii. Other information required by this chapter.~~
- 7. An approved forest stand delineation is valid for five years except that the Department may require submission of a revised forest stand delineation if site conditions change during the five-year period.
- 8. Time for submittal.
  - i. Within thirty calendar days after receipt of the fsd, the Department shall notify the applicant in writing (by email or postal letter) whether the forest stand delineation is complete and correct. In the event a forest stand delineation is not complete and correct, the Department shall transmit to the applicant a detailed and specific listing of deficiencies.
  - ii. If the Department fails to notify the applicant in writing within thirty days, the delineation shall be treated as complete and correct.
  - iii. The Department may require in writing further information or provide for an additional fifteen calendar days under extenuating circumstances as determined by the Department.
- 9. If the applicant submits two forest stand delineations which are not found to be complete and correct by the Department, the Department shall, at the applicant's expense, engage a licensed Forester, licensed Landscape Architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A to complete and submit a forest stand delineation on the applicant's behalf.

#### **21.71.070 – Forest conservation plan.**

##### **A. General Provisions.**

- 1. A preliminary forest conservation plan cannot be appealed. A final forest conservation plan is appealable as part of the appeal of a final administrative decision, Planning Commission decision or Board of Appeals decision specified in Chapter 21.08. A stay pending appeal shall be imposed during the time allowed to file an appeal, and if an appeal has been filed, for sixty days thereafter.
- 2. With regard to (1) a plan of subdivision or a grading or sediment control plan that was administratively approved, or (2) a planned development that has obtained final planned development approval, prior to September 26, 2016, the disposition of which remain governed by former Section 17.09.025.B. of the city Code, any person aggrieved by a decision of the director to approve or disapprove the Forest Conservation Plan associated with such applications shall be entitled to note an appeal to the building board of appeals. Any party to the proceeding before the Building Board of Appeals aggrieved of the decision of the Building Board of Appeals shall be entitled to file a petition for judicial review of the decision of the Building Board of Appeals in the Circuit Court for Anne Arundel County.
- 3. The City shall use best efforts to provide weekly electronic mail updates to interested and registered users, if applicable, of newly filed or updated FCA documents and notices that are required under this chapter.
- 4. In developing a forest conservation plan, the applicant shall give priority to techniques for retaining existing forest on the site. There is a rebuttable presumption that priority retention areas shall be retained. The presumption can only be rebutted under the criteria specified in Section 21.71.080.B. of this Act.
- 5. If existing forest on the site subject to a forest conservation plan cannot be retained, the applicant shall demonstrate to the satisfaction of the Department:
  - i. How techniques for forest retention have been exhausted;
  - ii. Why the priority forests and priority areas specified in Natural Resources Article, § 5-1607(c)(1),

~~Annotated Code of Maryland, cannot be left in an undisturbed condition:~~

- ~~a. If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Natural Resources Article, § 5-1607, Annotated Code of Maryland;~~
- ~~b. Where on the site in priority areas afforestation or reforestation will occur in compliance with Natural Resources Article, § 5-1607, Annotated Code of Maryland; and~~
- ~~iii. How the disturbance to the priority forests and priority areas specified in Natural Resources Article, § 5-1607(e)(2), Annotated Code of Maryland, qualifies for a variance.~~

~~6. The applicant shall demonstrate to the satisfaction of the Department that the requirements for afforestation or reforestation onsite or offsite cannot be reasonably accomplished if the applicant proposes to make a payment into the forest conservation fund or to purchase credits from a forest mitigation bank.~~

~~7. Nontidal Wetlands: A regulated activity within the net tract area that occurs wholly or partly in areas regulated as nontidal wetlands under Environment Article, Title 9, Annotated Code of Maryland, is subject to both the nontidal wetlands regulatory requirements and the requirements of this chapter, subject to the following:~~

- ~~i. Any area of forest in the net tract area, including forest in nontidal wetlands that is retained, shall be counted towards forest conservation requirements under this chapter;~~
- ~~ii. For the purpose of calculating reforestation mitigation under this section, a forested nontidal wetland permitted to be cut or cleared and required to be mitigated under Environment Article, Title 9, Annotated Code of Maryland, shall be shown on the forest conservation plan and subtracted on an acre-for-acre basis from the total amount of forest to be cut or cleared as part of a regulated activity;~~
- ~~iii. Nontidal wetlands shall be considered to be priority areas for retention and replacement;~~
- ~~iv. Forested nontidal wetland identification and delineation should be included at the earliest stage of planning to assist the applicant in avoidance and reduction of impacts to the nontidal wetlands and to avoid delay in the approval process.~~

~~8. An approved forest conservation plan is valid for five years.~~

~~B. Preliminary Forest Conservation Plan:~~

~~1. A preliminary forest conservation plan shall be prepared by a licensed Forester, a licensed Landscape Architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A.~~

~~2. The preliminary forest conservation plan shall:~~

- ~~i. Be submitted with the proposed development plan;~~
- ~~ii. Include the approved forest stand delineation for the site;~~
- ~~iii. Include a table that lists the proposed values of the following, in square feet:~~
  - ~~a. Net tract area,~~
  - ~~b. Area of forest conservation required, and~~
  - ~~c. Area of forest conservation that the applicant proposes to provide, including both onsite and offsite area;~~
- ~~iv. Include a clear graphic indication of the forest conservation provided on the site drawn to the same~~

scale as the project plan scale, showing areas where retention of existing forest or afforestation or reforestation is proposed;

- v. ~~Include an explanation of how the provisions of Subsection A. of this section have been met;~~
- vi. ~~In the case of afforestation or reforestation, include a proposed afforestation or reforestation plan;~~
- vii. Include a proposed construction timetable showing the sequence of forest conservation procedures;
- viii. Show the proposed limits of disturbance;
- ix. Show proposed stockpile areas;
- x. Incorporate a proposed five-year maintenance agreement that shows how areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment; and
- xi. Other information the Department determines is necessary to implement this chapter.

- 3. ~~The review of the preliminary forest conservation plan shall be concurrent with the review of the preliminary site plan.~~
- 4. ~~The Department shall post the preliminary forest conservation plan on their website for at least fifteen calendar days and provide directions as to how the public may send or deliver written comments, testimony, or documentation pertaining to the preliminary forest conservation plan.~~
- 5. ~~The Department shall hold a public meeting at which the Department shall describe the approval process and the applicant shall make a presentation indicating the contents of the proposed preliminary forest conservation plan and the proposed site design plan. The general public may participate in the discussion of the application. The meeting shall be recorded and the recording shall be retained until such time as the appellate period tolls and made publicly available. In the event there are significant modifications to the preliminary forest conservation plan, the Department may require an additional public meeting if it determines such a meeting would serve the public interest.~~
- 6. ~~During different stages of the review process, the preliminary forest conservation plan may be modified, provided the department approves of the changes. All significant modifications must be posted for public review and comment.~~
- 7. ~~All correspondence material to an application shall be posted on the Department website. Comments received shall be made part of the application record.~~

#### ~~C. Final Forest Conservation Plan.~~

- 1. ~~A final forest conservation plan shall be prepared by a licensed Forester, a licensed Landscape Architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A.~~
- 2. ~~A final forest conservation plan shall:~~
  - i. ~~Be submitted by the applicant consistent with requirements established by the Department and the law with the following:~~
    - a. ~~A final subdivision plan,~~
    - b. ~~A final project plan,~~
    - c. ~~An application for a grading permit, or~~
    - d. ~~An application for a sediment control permit;~~
  - ii. ~~Show proposed locations and types of protective devices to be used during construction activities~~

~~to protect trees and forests designated for conservation;~~

- ~~iii. In the case of afforestation or reforestation, include an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing to be used;~~
- ~~iv. Incorporate justification for any proposed disturbance of priority retention areas, including reasons why such priority retention areas cannot be retained and how the applicant shall replace proposed disturbed priority retention areas through afforestation and reforestation, in compliance with the requirements of this chapter.~~
- ~~v. Incorporate a binding five-year maintenance agreement specified in COMAR 08.19.05.01 that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including:
  - ~~a. Watering, and~~
  - ~~b. A reinforcement planting provision if survival rates fall below required standards, as provided in the Forest Conservation Technical Manual;~~~~
- ~~vi. Incorporate a long-term binding protective agreement as specified in COMAR 08.19.05.02 that:
  - ~~a. Provides protection for areas of forest conservation, including areas of afforestation, reforestation, and retention; and~~
  - ~~b. Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest;~~~~
- ~~vii. Include a statement of how the project will impact the City's tree canopy goals;~~
- ~~viii. Include the substantive elements required under Subsection B.2.ii.v., vii.-ix., and xi. of this section, as finalized elements of the forest conservation plan; and~~
- ~~ix. Include other information the Department determines is necessary to implement this chapter.~~

### ~~3. Time for Notification.~~

- ~~i. Within forty-five calendar days after incorporation of the prospective final forest conservation plan into a complete plan or permit application associated with a regulated activity, the decision making authority for such plans shall notify the applicant in writing whether the forest conservation plan is complete and acceptable.~~
- ~~ii. If the decision making authority fails to notify the applicant within forty-five calendar days, the plan shall be treated as complete and approved.~~
- ~~iii. The decision making authority may require further information or extend the deadline for an additional fifteen calendar days under extenuating circumstances in its own discretion.~~
- ~~iv. At the request of the applicant, the decision making authority may extend the deadline under extenuating circumstances.~~
- ~~v. The Department shall post the notifications described in this section and the final forest conservation plan on their website.~~

~~4. The Department's review of a final forest conservation plan shall be concurrent with the review of the final subdivision or project plan, grading permit application, or sediment control application associated with the project.~~

~~5. The Department may revoke an approved forest conservation plan if it finds that:~~

- ~~i. A provision of the plan has been violated;~~
  - ~~ii. Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, omission of a relevant or material factor;~~
  - ~~iii. Changes in the development or in the condition of the site necessitate preparation of a new or amended plan; or~~
  - ~~iv. The project plan approval is terminated due to the applicant's inaction as specified in Title 17 of the City Code.~~
6. The Department may issue a stop work order against a person who violates a provision of this chapter or a regulation, order, approved forest conservation plan, or maintenance agreement.
7. Before revoking approval of a forest conservation plan, the Department shall notify the violator in writing and provide an opportunity for a hearing before the Department Director or designee.
8. Upon approval of the final forest conservation plan the Department shall post the plan on the Department's website within three business days.

**~~21.71.080 – Afforestation and retention.~~**

A. Afforestation Requirement. A person submitting an application after the effective date of this chapter for subdivision or project plan approval, a grading permit, or a sediment control permit for an area of land of forty thousand square feet or greater, shall:

- 1. Conduct afforestation on the lot or parcel in accordance with the following:
  - i. A tract having less than twenty percent of the net tract area in forest cover shall be afforested up to at least twenty percent of the net tract area for the following land use categories:
    - ~~a. Agriculture and resource areas, and~~
    - ~~b. Medium density residential areas;~~
  - ii. A tract with less than twenty percent of its net tract area in forest cover shall be afforested up to at least twenty percent of the net tract area for the following land use categories:
    - ~~a. Institutional development areas,~~
    - ~~b. High density residential areas,~~
    - ~~c. Mixed use and planned unit development areas, and~~
    - ~~d. Commercial and industrial use areas;~~
- 2. Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in Subsection A.1. of this section:
  - i. The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and
  - ii. Forest cut or cleared below the required afforestation level shall be reforested or afforested at a two to one ratio and added to the amount of afforestation necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before cutting or clearing began.

**~~B. Retention.~~**

- 1. The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the

satisfaction of the Department, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:

- i. ~~Trees, shrubs, and plants located in sensitive areas including the 100-year floodplain, intermittent and perennial streams and their buffers, coastal bays and their buffers, steep slopes and their buffers, nontidal wetlands, and critical habitats.~~
  - ii. ~~Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.~~
2. The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Department, that the applicant qualifies for a variance in accordance with Section 21.71.170 of this chapter:
- i. ~~Trees, shrubs, or plants determined to be rare, threatened, or endangered under:~~
    - a. ~~The Federal Endangered Species Act of 1973 in 16 U.S.C. §§ 1531-1544 and in 50 C.F.R. 17,~~
    - b. ~~The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§ 10-2a-01-10-2a-09, Annotated Code of Maryland, and~~
    - c. ~~COMAR 08.03.08;~~
  - ii. ~~Trees that:~~
    - a. ~~Are part of a site designated as historic by the Maryland Historic Trust, the National Park Service, or the City of Annapolis,~~
    - b. ~~Are associated with a structure designated as historic by the Maryland Historic Trust, the National Park Service, or the City of Annapolis, or~~
    - c. ~~Have been designated by the State, County, or the Department as a National, State, County or Municipality champion tree; and~~
  - iii. ~~Any tree:~~
    - a. ~~Having a DBH of thirty inches or more, or~~
    - b. ~~Which has been designated as a significant tree pursuant to this chapter.~~

### **~~21.71.090 – Reforestation.~~**

#### **~~A. Forest Conservation Threshold.~~**

1. ~~There is a forest conservation threshold established for all land use categories, as provided in Subsection A.2. of this section. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirement changes from a ratio of one acre planted for each acre removed above the threshold to a ratio of two acres planted for each acre removed below the threshold.~~
2. ~~After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a subdivision or project plan, grading and sediment control activities, and implementation of the forest conservation plan, the forest conservation plan shall provide for reforestation, purchase of credits from a forest mitigation bank, or payment into the forest conservation fund, according to the formula set forth below and in Subsection A.3. of this section and consistent with Section 21.71.070.A. of this chapter, and 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

3. Calculations:

- i. For all existing forest cover measured to the nearest one-tenth acre cleared on the net tract area above the applicable forest conservation threshold, the area of the forest removed shall be reforested at a ratio of one acre planted for each acre removed.
- ii. For all existing forest cover measured to the nearest one-tenth acre cleared on the net tract area below the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of two acres planted for each acre removed below the threshold.

**21.71.100 – Priorities and time requirements for afforestation and reforestation.**

A. Sequence for Afforestation and Reforestation:

- 1. After techniques for retaining existing forest on the site have been exhausted, the preferred sequence for afforestation and reforestation, as determined by the Department, is as follows:
  - i. Forest creation in accordance with a forest conservation plan using one or more of the following:
    - a. Transplanted or nursery stock,
    - b. Whip or seedling stock, or
    - c. Natural regeneration where it can be adequately shown to meet the objective of the Forest Conservation Technical Manual;
  - ii. In a municipal corporation with a tree management plan and in an existing population center designated in a county master plan that has been adopted to conform with the Economic Growth, Resource Protection, and Planning Act of 1992, or in any other designated area approved by the Department, the use of:
    - a. Street trees as a permissible step in the priority sequence for afforestation or reforestation and with a mature canopy coverage may be granted full credit as a mitigation technique, and
    - b. Acquisition of an offsite protection easement on existing forested areas within the City boundaries not currently protected in perpetuity as a mitigation technique, in which case the afforestation or reforestation credit granted may not exceed fifty percent of the area of forest cover protected;
  - iii. When all other options, both onsite and offsite, have been exhausted, landscaping as a mitigation technique conducted under an approved landscaping plan that establishes a forest at least thirty-five feet wide and covering at least two thousand five hundred square feet of area.
- 2. A sequence other than the one described in Subsection A.1. of this article may be used for a specific project, if necessary, to achieve the objectives of the City Land Use Plan or City Land Use

~~Policies, or to take advantage of opportunities to consolidate forest conservation efforts.~~

~~3. The following are considered a priority for afforestation and reforestation:~~

- ~~i. Those techniques that enhance existing forest by selective clearing or supplemental planting onsite;~~
- ~~ii. Onsite afforestation and reforestation where the retention options have been exhausted, using methods selected in accordance with Subsection A.6. of this section, and the location being selected in accordance with this subsection.~~
- ~~iii. Offsite afforestation or reforestation in the same watershed within the City boundaries or in accordance with an approved master plan where the applicant has demonstrated that no reasonable alternative onsite exists, or where:
  - ~~a. Any onsite priority areas for afforestation or reforestation have been planted in accordance with this subsection; and~~
  - ~~b. The applicant has justified to the Department's satisfaction that environmental benefits associated with offsite afforestation or reforestation exceed those derived from onsite planting.~~~~

~~4. In the cases cited in Subsection A.3. of this section, the method shall be selected in accordance with Subsection A.6. of this section and the location shall be selected in accordance with Subsection A.3. of this section.~~

~~5. Offsite afforestation or reforestation may include the use of forest mitigation banks within the City boundaries which have been so designated in advance by the Department.~~

~~6. Standards for meeting afforestation or reforestation requirements shall be established using one or more of the following methods:~~

- ~~i. Establish or enhance forest buffers adjacent to intermittent and perennial streams, and coastal bays and their buffers, to widths of at least fifty to one hundred feet to prevent activity causing a detrimental effect to the waterway as determined by the director;~~
- ~~ii. Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and, where practical, forested corridors should be a minimum of three hundred feet in width to facilitate wildlife movement;~~
- ~~iii. Establish or enhance forest buffers adjacent to critical habitats where appropriate;~~
- ~~iv. Establish or enhance forested areas in the 100-year floodplains;~~
- ~~v. Establish plantings to stabilize slopes of twenty-five percent or greater and slopes of fifteen percent or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;~~
- ~~vi. Establish buffers adjacent to areas of differing land use when appropriate, or adjacent to highways or utility rights-of-way;~~
- ~~vii. Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate; and~~
- ~~viii. Use native plant materials for afforestation or reforestation, when appropriate.~~

~~7. A person required to conduct afforestation or reforestation under this chapter shall accomplish it within one year or two growing seasons, whichever is a greater time period, following development project completion.~~

**~~21.71.110 – Payment instead of afforestation and reforestation.~~**

~~A. Forest Conservation Fund.~~

- ~~1. There is established a forest conservation fund.~~
- ~~2. If a person subject to this chapter demonstrates to the satisfaction of the Department that requirements for afforestation or reforestation onsite or offsite cannot be reasonably accomplished, the person shall contribute money into the City forest conservation fund:
  - ~~i. For a project inside a priority funding area, as defined in Natural Resources Article, § 5-1610, Annotated Code of Maryland, at a rate per square foot of the area of required planting to be set by resolution of the City Council sufficient to provide for site identification, acquisition, preparation, ongoing maintenance costs and overhead, and~~
  - ~~ii. For a project outside a priority funding area, at a rate twenty percent higher than the rate established for a project inside a priority funding area.~~~~
- ~~3. Money contributed instead of afforestation or reforestation under this chapter shall be paid prior to the issuance of a grading permit.~~
- ~~4. The City shall accomplish the afforestation or reforestation for which the money is deposited within two years or three growing seasons, whichever is a greater time period, after receipt of the money.~~
- ~~5. Money deposited in the City forest conservation fund:
  - ~~i. May be spent on the costs directly related to afforestation and reforestation, including site identification, acquisition, preparation, maintenance of existing forests, and achieving urban canopy goals;~~
  - ~~ii. Shall be deposited in a separate forest conservation fund; and~~
  - ~~iii. May not revert to the general fund.~~~~
- ~~6. Sites for afforestation or reforestation using fund money:
  - ~~i. Except as provided in Subsection A.6.ii. of this section, the afforestation or reforestation requirement under this chapter shall occur in the watershed in which the project is located with priority that the requirement be met on land in the City before consideration of land outside the City.~~
  - ~~ii. If the afforestation or reforestation cannot be reasonably accomplished in the City or watershed in which the project is located, then the afforestation or reforestation shall occur in a watershed in Anne Arundel County.~~~~

**~~21.71.120 – Payment by credits from a forest mitigation bank.~~**

- ~~A. If a person subject to this chapter demonstrates to the satisfaction of the Department that requirements for afforestation or reforestation onsite or offsite cannot be reasonably accomplished, the person may contribute credits from a forest mitigation bank. A credit is required for each tenth of an acre of an area of required planting.~~
- ~~B. The credits shall be debited from an approved forest mitigation bank within ninety calendar days after the development project completion.~~

**~~21.71.130 – Establishing forest mitigation banks.~~**

- ~~A. Upon approval by the Department, a person may create a forest mitigation bank from which applicants may~~

~~purchase credits to meet the afforestation and reforestation requirements of this chapter.~~

~~B. The forest mitigation bank shall:~~

- ~~1. Afforest or reforest an area of land in accordance with a forest mitigation bank agreement;~~
- ~~2. Be protected by an easement, deed restrictions, or covenants which require the land in the bank to remain forested in perpetuity and are enforceable by the Department and the Department of Natural Resources;~~
- ~~3. Limit the use of the land in the bank to those activities which are not inconsistent with forest conservation such as recreational activities, forest management under a forest conservation and management program under Tax-Property Article, § 8-211, Annotated Code of Maryland, or activities specified in a forest management plan prepared by a licensed Forester and approved by the Department;~~
- ~~4. Use native plant materials for afforestation or reforestation unless inappropriate; and~~
- ~~5. Cause trees to be planted which:
  - ~~i. Establish or enhance forested buffers adjacent to intermittent and perennial streams and coastal bays to widths of at least fifty feet;~~
  - ~~ii. Establish or increase existing forested corridors, which, where practical, should be a minimum of three hundred feet in width to facilitate wildlife movement, to connect existing forests within or adjacent to the site;~~
  - ~~iii. Establish or enhance forest buffers adjacent to critical habitats where appropriate;~~
  - ~~iv. Establish or enhance forested areas in 100-year floodplains;~~
  - ~~v. Stabilize slopes of twenty-five percent or greater;~~
  - ~~vi. Stabilize slopes of fifteen percent or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;~~
  - ~~vii. Establish buffers adjacent to areas of differing land use where appropriate, or adjacent to highways or utility rights-of-way; or~~
  - ~~viii. Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate.~~~~

~~C. A person proposing to create a forest mitigation bank shall submit to the Department a:~~

- ~~1. Completed application on a form approved by the Department which has been signed by an authorized individual in conformance with Section 21.71.030 of this chapter;~~
- ~~2. Forest mitigation bank plan which contains a:
  - ~~i. Vicinity map of the proposed mitigation bank site;~~
  - ~~ii. Simplified forest stand delineation which meets the criteria in Section 21.71.060.A.6 of this chapter;~~
  - ~~iii. Detailed afforestation or reforestation plan, which shall include a timetable and description of the site and soil preparation needed, species, size, and spacing to be utilized, prepared by a licensed Maryland Forester, a licensed Landscape Architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A; and~~
  - ~~iv. Proposed five-year maintenance agreement that:~~~~

- a. Sets forth how the areas afforested or reforested will be maintained to ensure protection and satisfactory establishment;
  - b. Complies with Section 21.71.070.C.1 of this chapter; and
  - c. Includes watering and reinforcement planting provisions if survival falls below required standards;
3. Copy of the deed to the property;
  4. Survey or other legally sufficient description of the bank site for inclusion in the deeds of easement, deed restrictions, or covenants;
  5. Title report or other assurance that:
    - i. The property is not encumbered by any covenants or other types of restrictions which would impair the property's use as a forest mitigation bank; and
    - ii. There is legally sufficient access to the forest mitigation bank site which can be used by the Department and its assignees to inspect the forest mitigation bank; and
  6. Description of the system to be used by the person owning and operating the forest mitigation bank to identify and keep track of which portions of the bank have been debited to meet an applicant's offsite afforestation or reforestation requirements.
- D. The owner of an approved forest mitigation bank shall enter into an agreement with the Department which contains:
1. The approved afforestation or reforestation plan;
  2. The approved system for marketing and tracking which portions of the bank have been debited; and
  3. An acknowledgement that the bank may not debit any portion of the afforested or reforested land until five years of successful growth has been achieved unless the banker has posted a bond or alternate form of security.

**21.71.140 – Recommended tree species.**

- A. Tree species used for afforestation or reforestation shall be native to the City, when appropriate, and selected from a list of approved species established by the Department.
- B. The Department shall adopt a list of tree species to be used for any required afforestation or reforestation and incorporate it into the Forest Conservation Technical Manual.

**21.71.150 – Financial security for afforestation and reforestation.**

- A. A person required to conduct afforestation or reforestation under this chapter shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the Department. The surety shall:
  1. Assure that the afforestation, reforestation, and the associated maintenance agreement are conducted and maintained in accordance with the approved forest conservation plan;
  2. Be in an amount equal to the estimated cost, as determined by the Department, of afforestation and reforestation; and
  3. Be in a form and of a content approved by the Department.
- B. After three growing seasons, the person required to file a bond may request reduction of the amount of the bond or other financial security by submitting a written request to the Department with a justification for

reducing the bond or other financial security amount, including estimated or actual costs to ensure afforestation or reforestation requirements are met.

- C. The Department shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking in account the following:
1. The number of acres;
  2. The proposed method of afforestation or reforestation;
  3. The cost of planting materials or replacement materials;
  4. The cost of maintenance of the afforestation or reforestation project; and
  5. Other relevant factors.
- D. If, after five growing seasons, the plantings associated with the afforestation or reforestation meet or exceed the standards of the forest conservation technical manual, the amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.
- E. A local forest conservation program may incorporate the financial security set forth in Subsections A.-D. of this section or in COMAR 08.19.05.01B.

**21.71.160 – Standards for protecting trees from construction activities.**

- A. The City shall adopt standards for the protection of trees from construction activity.
- B. Before cutting, clearing, grading, or construction begins on a site for which a forest conservation plan is required by this chapter, the applicant shall demonstrate to the Department that protective devices have been established.

**21.71.170 – Variances.**

- A. An applicant may request a variance from this chapter or the requirements of Natural Resources Article, §§ 5-1601-5-1612, Annotated Code of Maryland, if the applicant demonstrates that enforcement would result in unwarranted hardship to the applicant.
- B. An applicant for a variance shall:
1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
  2. Describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;
  3. Verify that the granting of the variance will not confer on the applicant a special privilege that would be denied to other applicants;
  4. Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant or by any previous owner of the property;
  5. Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
  6. Verify that the granting of a variance will not adversely affect water quality.
- C. The Department shall make written findings that the applicant has met the requirements in Subsections A. and B. of this section before the Department may grant a variance.
- D. Notice of a request for a variance shall be given to the Department of Natural Resources within fifteen days of receipt of a request for a variance.

- E. There is established by this chapter the right and authority of the Department of Natural Resources to initiate or intervene in an administrative, judicial, or other original proceeding or appeal in the State concerning an approval of a variance under Natural Resources Article, §§ 5-1601-5-1612, Annotated Code of Maryland, or this chapter.
- F. Any variance must be submitted to the Planning Commission or the Zoning Board of Appeals, whichever the case may be, with the project or development plan application for final determination. If the variance is sought in connection with a site design plan application not requiring Planning Commission or Zoning Board of Appeals approval, the Department shall issue a final determination on the variance application.
- G. Variance can only be appealed as part of the final administrative decision or approval of the application.

**21.71.180 – Enforcement.**

**A. Noncompliance Fees.**

1. A person found to be in noncompliance with this chapter, regulations adopted under this chapter, the forest conservation plan, or the associated five-year maintenance agreement, shall pay a minimum noncompliance fee of ten dollars per square foot of the area found to be in noncompliance with the required forest conservation. The City Council may set a greater noncompliance fee by resolution.
2. In setting the noncompliance fee, the City Council shall consider land acquisition costs, planting costs, ongoing maintenance costs and overhead required to mitigate the noncompliance.
3. Money collected under Subsection A.1. of this section shall be deposited in the forest conservation fund authorized by Section 21.71.130 of this chapter, and may be used by the Department for purposes related to implementing this chapter.

**B. Violation.**

1. A violation of any provision of this chapter shall constitute a municipal infraction and for each violation the person or entity in violation is subject to a fine as established by resolution of the City Council.
  2. Each day a violation continues is a separate violation for which a separate citation may be served.
- C. The Department may seek an injunction or other equitable relief requiring a person to cease violation of this chapter and take corrective action to restore or reforest an area.
  - D. The local program may adopt the enforcement provisions under COMAR 08.19.06.03.
  - E. The local program shall provide to the Department of Natural Resources notice of an enforcement action within fifteen days after the commencement of enforcement by the local program.

**21.71.190 – Annual report.**

On or before March 1 of each year, the Department shall submit to the Department of Natural Resources a report which contains the:

- A. Number, location, and type of projects subject to the provisions of this chapter;
- B. Amount and location of acres cleared, conserved, and planted, including any areas located in the 100-year floodplain in connection with a development project;
- C. Amount of afforestation and reforestation fees and noncompliance penalties collected and expended;
- D. Costs of implementing the forest conservation program;
- E. Location and size of all forest mitigation banks approved during the past year with a description of the priority areas afforested or reforested by the bank;

- F. ~~Number of acres debited from each forest mitigation bank since the last annual report;~~
- G. ~~Forest mitigation banks inspected since the last annual report;~~
- H. ~~Number, location, and types of violations and types of enforcement activities conducted; and~~
- I. ~~The size and location of all conserved and planted forest areas shall be submitted in an electronic geographic information system or computer aided design format if possible. if not possible, the location shall be given by Maryland State Plane Grid Coordinates and eight digit subwatershed.~~

**21.71.200 – Biennial review by the Department of Natural Resources.**

~~The Department shall submit the necessary documentation to comply with COMAR 08.19.02.04.~~

**TITLE 22 - ADEQUATE PUBLIC FACILITIES**

**Chapter 22.24 - REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE STORMWATER MANAGEMENT FACILITIES.**

**22.24.040 - Standards.**

The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to a requirement that the proposed project complies with the provisions of Chapter ~~17.10~~19.50 of the Annapolis City Code.

**SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect from the date of its passage.

**Explanation:**

UPPERCASE indicates matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments.