Ordinance No. 2010-03

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF FROSTBURG TO ADOPT AMENDED REGULATIONS CONTROLLING ADVERSE IMPACTS OF STORMWATER RUNOFF IN CONFORMANCE WITH THE STORMWATER MANAGEMENT ACT OF 2007.

WHEREAS, the City of Frostburg adopted a Stormwater Management Ordinance effective July 1, 2001 pursuant to Ordinance 2001-2 as reflected in Article VII-1(l) of the City Code; and

WHEREAS, a new model stormwater management ordinance has been promulgated by the Maryland Department of the Environment ("MDE") pursuant to the Stormwater Management Act of 2007 (the "Act") which mandates changes to implementing regulations found in the Code of Maryland Regulations and the Maryland Stormwater Design Manual; and

WHEREAS, MDE has implemented a statewide stormwater management program to control runoff from new development and redevelopment sites integrating sediment and erosion control and stormwater plans and emphasizing use of environmental site design techniques to be applied to the maximum extent practicable as set forth in a revised Design Manual, under the authority of the Environment Article, Title 4, Subtitle 2 of the Annotated Code of Maryland and the Act; and

WHEREAS, each Maryland county and municipality is required to adopt a local stormwater management ordinance consistent with the Act and MDE implementing regulations no later than May 4, 2010; and

WHEREAS, the City acknowledges that the Act requires each Maryland county and municipality to undertake a review of other land use ordinances and make necessary amendments to those ordinances to achieve consistency with the Act and this Ordinance 2010-03 immediately following the effective date of this Ordinance;

WHEREAS, the City of Frostburg has worked with Allegany County Department of Public Works and the Allegany Soil Conservation District to review and consider appropriate ordinance language to meet the requirements of the Act and MDE implementing regulations; and

WHEREAS, the State of Maryland has adopted emergency stormwater management regulations pursuant to the Act in the 2010 session of the General Assembly providing guidance for developing subdivisions and land development projects as well as options for regulating redevelopment projects in certain instances that will allow for an improved transition from the 2001 stormwater regulations to the new 2009 regulations.

NOW, THEREFORE, in consideration of the foregoing, the Mayor and Council of the City of Frostburg do hereby repeal Ordinance 2010-1 and in its place adopt a new Stormwater Management Ordinance for the City of Frostburg as follows:

Article 1, Purpose and Authority

1.1 Purpose and Goals. The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures that control the adverse impacts associated with increased stormwater runoff. Goals for this Ordinance are a) to manage stormwater by using environmental site design (ESD) practices to the maximum extent practicable (MEP); b) to maintain as nearly as possible the pre-development runoff characteristics of the land after development; and c) to reduce stream channel erosion, pollution, siltation, sedimentation, and local flooding, while using appropriate structural best management practices (BMPs) only when necessary. This Ordinance will strive to restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property, and reduce the impacts of land development.

1.2 Authority and Jurisdiction. The provisions of this Ordinance, pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 2009 replacement volume, are adopted under the authority of powers provided under the Charter of the City of Frostburg and shall apply to all development occurring within the corporate limits of the City of Frostburg. The City of Frostburg shall be responsible for the administration and

enforcement of the provisions of this Ordinance, including coordination with stakeholders, most importantly the Allegany Soil Conservation District and the Maryland Department of the Environment, Water Management Administration.

1.3 Minimum Standards. The application of this Ordinance and provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute.

1.4 Effective Date. This Ordinance applies to all new development and redevelopment projects that have not received final approval for both erosion and sediment control and stormwater management plans or have not obtained an administrative waiver as set forth herein by May 4, 2010. Stormwater management plans approved on or before May 4, 2010, shall expire if no construction has commenced within one year of the date of permit issuance and if not completed within two years from the date of permit issuance, after which the subject development or redevelopment project shall be subject to the requirements of this Ordinance, except that projects granted an administrative waiver shall comply with the timeframes found in Section 3.3 of this Ordinance.

1.5 Incorporation by reference. The following documents are incorporated by reference for use with this Ordinance:

(1) The 2000 Maryland Stormwater Design Manual, Volumes I & II (Maryland Department of the Environment, April 2000) and all subsequent revisions thereto are incorporated by reference and shall serve as the official guide for stormwater management principles, methods, and practices.

(2) USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000).

Article 2, Definitions

The following definitions are provided to describe the meaning of key terms used in this Ordinance:

(1) "Administration" means the Maryland Department of the Environment (MDE), Water Management Administration (WMA).

(2) “Administrative Waiver” means a decision by the City of Frostburg to allow, pursuant to Section 3.3 of this Ordinance, the construction of a development to be governed by the stormwater management ordinance in effect as of May 4, 2009, in the local jurisdiction where the project will be located, which waiver is separate and distinct from quantitative or qualitative control waivers that may be granted pursuant to Section 3.4 of this Ordinance.

(3) "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.

(4) "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.

(5) "Applicant" means any Person as defined herein executing the necessary forms to procure official approval of a project or a permit to carry out construction of a development project or a redevelopment project as defined herein.

(6) “Approval” means a documented action by the City of Frostburg or its Planning Commission with respect to subdivision review following review to determine and acknowledge the sufficiency of submitted material to meet the requirements of a specified stage in a local development review process, but does not mean an acknowledgement by the City of Frostburg or its Planning Commission that submitted material has been merely received for review.

(7) "Aquifer" means a porous water-bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

(8) "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.

(9) "Channel protection storage volume (Cp_v)" 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.

(10) "City" means the City of Frostburg, a municipality incorporated since 1870 under the laws of the State of Maryland and including all land area within the corporate limits pursuant to the Charter of the City of Frostburg.

(11) "City Engineer" means the person holding the title of City Engineer for the City of Frostburg.

(12) "Clearing" means the removal of trees and brush from the land but shall not include ordinary mowing of grass.

(13) "Cluster Development" means concentrating land disturbance and number of dwelling units on one portion of a Site in exchange for non-disturbance of sensitive areas or minor land disturbance for open space or passive recreation improvements on another portion of a Site.

(14) "Concept plan" means the first of three required plans to be submitted for review and approval that includes information necessary to allow initial evaluation of a proposed project.

(15) "Design Manual" means the 2000 Maryland Stormwater Design Manual and all subsequent revisions, which shall serve as the official guide for stormwater management principles, methods, and practices.

(16) "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.

(17) "Develop land" means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.

(18) "Drainage area" means that area contributing runoff to a single point measured in a horizontal plane which is enclosed by a ridge line.

(19) "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.

(20) "Environmental site design (ESD)" means using small-scale stormwater management practices, nonstructural stormwater management techniques, and the application of lessons learned from pre-development site investigation and planning with the goal of mimicking natural hydrologic runoff characteristics and minimizing the impact of land development on water resources. Methods for designing ESD practices are specified in the Design Manual.

(21) "Exemption" means those land development activities that are not subject to the stormwater management requirements contained in this Ordinance.

(22) "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 BMPs are specified in the Design Manual.

(23) "Extreme flood volume (Q_f)" means the storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the 100-year floodplain.

(24) "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; and securing bonding or financing for final development plans if either is required as a prerequisite for approval.

(25) "Final stormwater management plan" means the last of three required plans to be submitted for review and approval that includes information addressing all prior comments as necessary to allow final approval and permits to be issued by the City.

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(26) "Flow attenuation" means prolonging the flow time of runoff to reduce the peak discharge.

(27) "Grading" means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.

(28) "Impervious area" means any surface that does not allow stormwater to infiltrate into the ground, including gravel surfaces that are currently compacted or may be reasonably expected to become compacted over time.

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

(30) “Limits of Disturbance (LOD)” means the physical boundary of a project wherein disturbance of soil or a change in runoff characteristics will occur during development or redevelopment.

(31) "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 thereafter only where absolutely necessary shall structural BMP’s be implemented.

(32) "Off-site stormwater management" means the design and construction of a facility necessary to control stormwater from more than one development.

(33) "On-site stormwater management" means the design and construction of systems necessary to control stormwater within a single development.

(34) "Overbank flood protection volume (Q_p)" 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.

(35) "Person" means any county, municipal corporation, or other political subdivision of the State of Maryland, 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.

(36) "Planning techniques" means a combination of strategies employed early in project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.

(37) “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 required site-specific stormwater management computations; and e) any other information required by the City of Frostburg or its Planning Commission with respect to subdivision review, including but not limited to the proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic, a demonstration that the methods by which the development will be supplied with water and wastewater services are adequate, and the size, type and general location of all proposed wastewater and water system infrastructure.

(38) "Recharge volume (Re_v)" 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.

(39) "Redevelopment" means any construction, alteration, or improvement performed on Sites where existing land use is determined to be commercial, industrial, institutional, or multifamily residential; and where existing on-site impervious area exceeds 40 percent.

(40) "Retention structure" means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.

(41) "Retrofitting" means the implementation of ESD practices, the construction of a structural BMP, or the modification of an existing structural BMP in a previously-developed area to improve water quality leaving the Site compared with pre-existing conditions.

(42) "Sediment" means soils or other surface materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

(43) "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 unit, subdivision, or project.

(44) "Site development plan" means the second of three required plans to be submitted for review and approval that includes information necessary to allow a detailed evaluation of a proposed project.

(45) "Stabilization" means the prevention of soil movement by any of various vegetative and/or structural means.

(46) "Standard Plan" means the Allegany County Standard Plan approved by Maryland Department of the Environment, Water Management Administration, for a single family residential structure, which may include residential accessory structures located on the same lot as the single family residential structure. Residential accessory structures include but are not limited to detached garages not containing commercial uses other than permitted home occupations, pools, decks, on-site solar or wind generating structures, and storage sheds.

(47) "Stormwater" means water that originates from a precipitation event.

(48) "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.

(49) "Stripping" means any activity that removes the vegetative surface cover including tree removal, clearing, grubbing, and storage or removal of topsoil.

(50) "Variance" means the modification of minimum stormwater management requirements contained herein for specific documented circumstances whereby strict adherence to the requirements of this Ordinance would a) result in unnecessary hardship to the Applicant and b) not fulfill the purpose of this Ordinance.

(51) "Waiver" means the reduction of stormwater management requirements by the City for a specific development on the basis of a case-by-case review.

(52) "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.

(53) "Water quality volume (WQ_v)" means the volume needed to capture and treat 90 percent of the average annual rainfall events at a development site. Methods for calculating water quality volume are specified in the Design Manual.

(54) "Watershed" means the total drainage area contributing runoff to a single point.

Article 3, Applicability

3.1 Scope. No person shall develop any land for residential, commercial, industrial, or institutional uses without providing stormwater management measures that control or manage runoff from such development, except as provided within this section. Stormwater management measures must be designed to be consistent with the Design

Manual and constructed according to an approved stormwater management plan for new development or the policies stated in 3.5 of this Ordinance with respect to redevelopment.

3.2 Exemptions. The following development activities are exempt from the provisions of this Ordinance and the requirements of providing stormwater management:

(a) Agricultural land management practices;

(b) Additions or modifications to existing single family detached residential structures if they comply with 3.2(c) of this Ordinance;

(c) Any single development that disturbs less than 5,000 square feet of land area or any series of developments that cumulatively disturb less than 5,000 square feet of land area; and

(d) Land development activities that the Administration determines will be directly regulated under specific State laws that provide for managing stormwater runoff.

3.3 Administrative Waivers.

(a) The City may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010. Administrative waivers expire according to 3.3(b) of this section and may be extended only pursuant to 3.3(c) of this section.

(b) Except as provided in 3.3(c) of this section, an administrative waiver shall expire May 4, 2013, if the development does not receive final project approval prior to that date; or May 4, 2017, if the development receives final project approval prior to May 4, 2013. All construction authorized pursuant to an administrative waiver must be completed by May 4, 2017, or in the event the waiver is extended pursuant to Section 3.3(c) of this section, by the expiration date of the waiver extension.

(c) Extensions of any administrative waiver approved under this section may only be extended if, by May 4, 2010, the development has received a preliminary project approval and by May 4, 2010 was subject to a Development Rights and Responsibilities Agreement, a Tax Increment Financing approval, or an Annexation Agreement. Administrative waivers extended pursuant to this Section 3.3(c) shall expire when the Development Rights and Responsibilities Agreement, the Tax Increment Financing approval, or the Annexation Agreement expires.

3.4 Quantity and Quality Control Waivers/Watershed Management Plans

(a) Except as provided in Section 3.4(b)(1) and 3.4(d) of this Ordinance, the City shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with 3.4(g) 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 programmatic 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) If watershed management plans consistent with 3.4(g) of this Ordinance have not been developed, stormwater management quantitative control waivers may be granted to projects:

(1) that are infill 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:

(i) public water and sewer and stormwater conveyance facilities exist;

(ii) the quantitative waiver is applied to the project solely for the impervious cover that previously existed on the site;

(iii) ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and

(iv) ESD to the MEP is used to provide full quantity control for all new impervious surfaces.

(2) where it has been demonstrated that ESD has been implemented to the MEP, in which case a quantitative control waiver may be approved as a last resort and only when the following conditions are met:

(i) The City determines that circumstances exist at the Site that prevent the reasonable implementation of quantity control practices based on analysis of documentation submitted by a Professional Engineer; and

(ii) Fees in an amount determined by an estimate prepared by the Applicant and approved by the City that approximate the reasonable cost of construction of a BMP meeting the criteria of this Ordinance are paid in lieu of stormwater quantitative control practices, such fees to be dedicated exclusively to provide stormwater management improvements and/or stream restoration in the City.

(c) Except as provided in Section 3.4(e) of this Ordinance, stormwater management qualitative control waivers apply only to:

(1) Redevelopment projects if the requirements of 3.5 of this Ordinance are satisfied; or

(2) Sites where ESD has been implemented to the MEP and the City determines that circumstances exist that prevent the reasonable implementation of quality control practices.

(d) Stormwater management quantitative and qualitative control waivers may be granted by the City for phased development projects if a system designed to meet the 2000 regulatory requirements and local ordinances for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases to be constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.

(e) Waivers under this Section 3.4 shall only be granted when it has been demonstrated that ESD has been implemented to the MEP and must:

(1) Be considered on a case-by-case basis considering the recommendation of the Development Director and approval by the City Engineer;

(2) Consider the cumulative effects of the City's waiver policy; and

(3) Reasonably ensure that the development will not adversely impact stream quality.

(f) If a watershed management plan has been established for a receiving watershed, the City may develop quantitative waiver and redevelopment provisions that differ from 3.4(b) and 3.5 of this Ordinance in accordance with the adopted watershed management plan.

(g) A watershed management plan developed for the purpose of implementing alternative stormwater management policies for waivers and redevelopment shall:

(1) Include detailed hydrologic and hydraulic analyses to determine hydrographic 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 locations 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.

3.5 Redevelopment

(a) Stormwater management plans are required by the City for all redevelopment, unless otherwise specified by watershed management plans developed according to 3.4(g) of this Ordinance. Stormwater management measures must be consistent with the Design Manual.

(b) All redevelopment designs shall:

(1) Reduce impervious area within the limits of disturbance (LOD) by at least 50 percent consistent with the Design Manual;

(2) Implement ESD to the MEP to provide water quality treatment for at least 50 percent of the existing impervious area within the LOD; or

(3) Use a combination of 3.5(b)(1) and (2) of this Ordinance for at least 50 percent of the existing site impervious area within the LOD.

(c) Alternative stormwater management measures may be used to meet the requirements in 3.5(b) of this Ordinance if the Applicant satisfactorily demonstrates to the City that impervious area reduction has been maximized and ESD has been implemented to the MEP. Alternative stormwater management measures include, but are not limited to:

(1) An on-site structural BMP;

(2) An off-site structural BMP to provide water quality treatment for an area equal to or greater than 50 percent of the existing impervious area within the LOD; or

(3) A combination of impervious area reduction, ESD implementation, and an on-site or off-site structural BMP for an area equal to or greater than 50 percent of the existing site impervious area within the LOD.

(d) The City may at its sole discretion consider separate policies for providing water quality treatment for redevelopment projects if the Applicant demonstrates to the satisfaction of the City that the requirements of 3.5(b) and 3.5(c) of this Ordinance cannot be met. The following alternative redevelopment policies and procedures may be considered:

(1) Retrofitting an existing off-site stormwater management system within the watershed of the proposed redevelopment to provide water quality treatment for an area equal to or greater than 50% of the existing impervious area within the LOD;

(2) If the Applicant demonstrates to the satisfaction of the City that ESD has been implemented to the MEP and the requirements of 3.5(d)(1) cannot be reasonably met, fees may be paid in accordance with the procedure found in 3.5(b)(2) that are dedicated exclusively to provide stormwater management improvements or stream restoration in the City;

(3) Design criteria contained within a watershed management plan developed according to 3.4(g) of this Ordinance and approved by the Administration; or

(4) A partial waiver of the treatment requirements if ESD is not practicable.

(e) The determination of what alternatives will be available may be made by the City at the appropriate point in the development review process. The City shall consider prioritization of alternatives 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 City may consider factors including but not limited to:

(1) Whether the project is in an area targeted for development incentives such as a Priority Funding Area, a Transit Oriented Development area, or a designated Base Realignment and Closure Revitalization and Incentive Zone;

(2) Whether the project is necessary to accommodate growth consistent with comprehensive plans; and

(3) Whether bonding and financing have already been secured based on an approved development plan.

(f) Stormwater management shall be addressed according to the new development requirements in the Design Manual for any net increase in impervious area.

3.6 Variance. The City may grant a written variance from any requirement of Article 4, Stormwater Management Criteria, if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship and not fulfill the intent of this Ordinance. A written request for variance shall be provided to the City that shall state the specific variances sought and reasons why each variance requested should be granted. The City shall not grant any variance unless and until sufficient justification is provided by the Applicant that the implementation of ESD to the MEP has been thoroughly investigated and considered. Financial considerations alone shall not be just cause for the granting of a variance.

Article 4, Stormwater Management Criteria

4.1 Minimum Control Requirements.

(a) The minimum control requirements established in this section and the Design Manual are as follows:

(1) The City shall require that the planning techniques, nonstructural practices, and design methods specified in the Design Manual 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 to meet the purpose of this Ordinance.

(2) Control of the 10-year frequency storm event is required according to the Design Manual and all subsequent revisions if the City determines that additional stormwater management is necessary because historical flooding problems exist, downstream floodplain development is uncontrolled, and conveyance system design cannot be controlled.

(3) The City may require more than the minimum control requirements specified in this Ordinance if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed development.

(b) Alternate 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 damage, accelerated stream erosion, and sedimentation; and improve water quality. Comprehensive watershed studies may also be required.

(c) 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.

4.2 Stormwater Management Measures.

(a) The ESD planning techniques and practices and structural stormwater management measures established in this Ordinance and the Design Manual shall be used either alone or in combination in a stormwater management plan. An Applicant shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing stormwater management plans. The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in 4.1 of this Ordinance:

(1) Preserving and protecting natural resources;

(2) Conserving natural drainage patterns;

(3) Minimizing impervious area;

(4) Reducing runoff volume;

(5) Using ESD practices to maintain 100% of the annual predevelopment groundwater recharge volume;

(6) Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;

(7) Limiting soil disturbance, mass grading, and compaction;

(8) Cluster Development as defined in this Ordinance;

(9) Any additional 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 §141.54.A of this Ordinance:

(1) Disconnection of rooftop runoff;

(2) Disconnection of non-rooftop runoff;

(3) Sheet flow to conservation areas;

(4) Rainwater harvesting;

(5) Submerged gravel wetlands;

(6) Landscape infiltration;

(7) Infiltration berms;

(8) Dry wells;

(9) Micro-bioretention;

(10) Rain gardens;

(11) Swales;

(12) Enhanced filters; and

(13) Any other practice 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.

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 4.1 of this Ordinance:

(1) Stormwater management ponds;

(2) Stormwater management wetlands;

(3) Stormwater management infiltration;

(4) Stormwater management filtering systems; and

(5) 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 unique hydrologic or geologic regions of the State of Maryland.

(d) ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in 4.1 of this Ordinance must be recorded in the land records of Allegany County and shall remain unaltered by subsequent property owners. Prior approval from the City shall be obtained before any stormwater management practice is altered.

(e) Alternative ESD planning techniques, treatment practices, and structural stormwater measures may be used for control of new development runoff if they meet performance criteria established in the Design Manual and all subsequent revisions and are approved by the Administration. Alternative practices used for redevelopment projects shall be approved by the City.

(f) For the purposes of modifying the minimum control requirements or design criteria, the Applicant shall submit to the City 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 hydrographic timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted stream flow. The point of investigation is to be established with the concurrence of the City, to be downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

4.4 Specific Design Criteria. The basic design criteria, methodologies, and construction specifications, subject to the approval of the City and the Administration, shall be those found in the Design Manual.

(a) Culverts, swales and other means of conveyance shall be designed to safely convey a minimum of the 10-year peak discharge of the upstream drainage area with consideration given to the 25-year peak flow.

(b) Culverts or other conveyance structures under or directly along minor arterial roadways shall be designed to safely convey a minimum of the 25-year peak flow of the upstream area with consideration given to the 100-year peak flow.

(c) Culverts that run parallel to roadways or are located on private property shall have a minimum diameter of 12 inches or as sized for the required peak flow referenced in 4.4(a) or 4.4(b), whichever is greater.

(d) Culverts which cross under roadways shall have a minimum diameter of 15 inches or as sized for the required peak flow referenced in 4.4(a) or 4.4(b), whichever is greater.

(e) Consideration of downstream impacts associated with releasing concentrated runoff must be addressed. Impacts from the point of concentration to the nearest connection to waters of the United States, publicly-maintained storm drainage systems, or one-half mile downstream, whichever occurs first, shall be considered. Under special circumstances, the City Engineer may require additional review of downstream impacts at his/her discretion.

Article 5, Stormwater Management Plans

5.1 Review and Approval of Stormwater Management Plans.

(a) For any proposed development the Applicant shall submit phased stormwater management plans to the City for review and approval. At a minimum, plans shall be submitted for the concept, site development, and final stormwater management construction phases of project design. Each plan submittal shall include the minimum content specified in 5.2 of this Ordinance and meet the requirements of the Design Manual and Article 4 of this Ordinance.

(b) The City 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 reflecting input from all appropriate agencies including but not limited to the Allegany Soil Conservation District, the Department of Community Development, and the Department of Public Works. All comments from City and other appropriate agencies shall be addressed and approval received at each phase of project design before subsequent submissions.

(c) Use of a streamlined review process may be considered by the City for developments that demonstrate ESD to the MEP in the concept plan phase, in which case the project may proceed directly to the final plan review phase.

(d) A stormwater management plan submitted at each required review phase shall not be considered approved unless it contains the signature and date of signature of an authorized City official inscribed directly on the plan.

5.2 Content and Submission of Stormwater Management Plans.

(a) The Applicant 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 4.2 of this Ordinance and the Design Manual. Plans submitted for concept approval shall include but are not limited to the following:

(1) A map referencing NAD83 and NAVD88 coordinate systems at a scale of 1"=50' or other appropriate scale approved by the City showing site location, existing natural features, water and other sensitive resources, topography, and natural drainage patterns;

(2) The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;

(3) The location of the proposed limits of disturbance, soil type boundaries and descriptions, steep slopes, and areas to be protected during construction;

(4) 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;

(5) A narrative that supports the concept design describing how ESD will be implemented to the MEP; and

(6) Any other information required by the City.

(b) Following concept plan approval by the City, the Applicant 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 the proposed development of the Site to be reviewed and includes but is not be limited to:

(1) All information provided during the concept plan review phase as amended by comment response;

(2) Final site layout, exact impervious area locations and calculated area for same, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;

(3) 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;

(4) 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;

(5) Results of infiltration testing and determination of seasonal high groundwater table as necessary to determine feasibility of ESD or BMP practices; and

(6) Any other information required by the City.

(c) Following site development approval by the City, the Applicant 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:

(1) Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05; and

(2) Final stormwater management plans shall be submitted for approval in the form of construction drawings to be accompanied by reports that include sufficient information to evaluate the effectiveness of the proposed runoff control design.

(d) Reports submitted pursuant to 5.2(c)(2) for final stormwater management plan review shall include but are not limited to the following:

(1) Geotechnical investigations including soil maps, soil boring reports and logs, site specific recommendations, and any additional information necessary to review the final stormwater management design;

(2) Drainage area maps depicting pre-development and post-development runoff flow path segmentation and land use;

(3) Hydrologic computations of the applicable ESD and unified sizing criteria according to the Design Manual for all points of discharge from the site;

(4) Hydraulic and structural computations for all ESD practices and structural stormwater management measures to be used;

(5) A narrative that supports the final stormwater management design; and

(6) Any other information required by the City.

(e) Construction drawings submitted pursuant to 5.2(c)(2) for final stormwater management plan approval shall include, but are not limited to:

(1) A vicinity map;

(2) Existing and proposed topography and proposed drainage areas, including areas necessary to determine downstream analysis for proposed stormwater management facilities;

(3) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;

(4) The location of existing and proposed structures and utilities;

(5) Any easements and rights-of-way;

(6) The delineation, if applicable, of the 100-year floodplain and any streams and wetlands;

(7) Structural and construction details including representative cross sections for all components of the proposed drainage system or systems, and stormwater management facilities;

(8) All necessary construction specifications;

(9) A sequence of construction;

(10) Data for total site area, disturbed area, new impervious area, and total impervious area;

(11) A table showing the ESD and unified sizing criteria volumes required in the Design Manual;

(12) A table of materials to be used for stormwater management facility planting;

(13) All soil boring locations and log references to data provided in the report;

(14) An inspection and maintenance schedule pursuant to 9.3(b) of this Ordinance;

(15) Certification by the Applicant that all stormwater management construction will be done according to this plan;

(16) A signature block for each necessary off-site drainage easement shall be shown on the construction drawings. If a stormwater management plan involves direction of some or all runoff off of the Site, it is the responsibility of the developer to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any right to direct runoff onto adjacent property without that property owner's permission.

(17) An as-built certification signature block to be executed after project completion; and

(18) Any other information required by the City.

5.3 Preparation of Stormwater Management Plans.

(a) The design of stormwater management plans shall be prepared by a professional engineer, a professional land surveyor, or a landscape architect licensed in the State of Maryland, as necessary to protect the public or the environment.

(b) If a stormwater BMP requires either a dam safety permit from (‘MDE”) the Administration or a small pond approval from the Allegany Soil Conservation District, the City shall require that the design be prepared by a professional engineer licensed in the State of Maryland.

5.4 Standard Plan.

(a) The Standard Plan shall be available for Applicant use with respect to single family dwelling and accessory structures as defined in this ordinance.

(b) The use of a Standard Plan review process shall be in accordance with the limitations and conditions detailed on the Standard Plan application form as approved by the Administration.

Article 6, Permits

6.1 Permit Requirements.

(a) A grading or building permit may not be issued for any parcel or lot unless both final erosion and sediment control and stormwater management plans have been approved by the City as meeting all the requirements of the Design Manual, this Ordinance, and the City's Sediment and Erosion Control Ordinance.

(b) In cases determined by the City to be necessary and appropriate, a grading or building permit may not be issued without the following:

(1) Recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way;

(2) A recorded stormwater management maintenance agreement as described in 9.2 of this Ordinance; and

(3) A performance bond as described in Article 7 of this Ordinance.

6.2 Permit Fees. Non-refundable permit fees will be collected at each phase of stormwater management plan submission. Permit fees will provide for the cost of plan review, administration, and management of the permitting process, and inspection of all projects subject to this Ordinance. A permit fee schedule shall be established by the City based upon the relative complexity of various classes of development and redevelopment projects as may be amended from time to time without modification to this Ordinance or notification hereof. Additional fees may be charged for incomplete submissions if the City determines that review comments are not addressed or lack multiple required items so as to require unnecessary staff review.

6.3 Permit Suspension and Revocation. Any grading or building permit issued by the City may be suspended or revoked after written notice is given to the permit holder based on one or more of the following:

(a) A violation(s) of the conditions of the final stormwater management plan as approved is found;

(b) Changes are found in site runoff characteristics upon which an approval or waiver was granted;

(c) Construction is found to be not in accordance with the approved plan;

(d) Noncompliance with correction notice(s) or stop work order(s) issued for the construction of any stormwater management practice;

(e) An immediate danger exists in a downstream area in the opinion of the City; and

(f) Absence of a qualified inspector on site as required in Article 8.1(b).

6.4 Permit Conditions. In granting approval for any phase of site development, the City may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Ordinance and the preservation of public health and safety.

Article 7, Performance Bond

7.1 Security Required. The City shall require from the Applicant a surety bond, a cash bond, an irrevocable letter of credit, or another means of security acceptable to the City prior to the issuance of any building and/or grading permit for the construction of a development requiring stormwater management. The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this Ordinance, and other applicable laws and regulations, and any time limitations.

7.2 Amount of Security. The amount of the security shall be set minimally at the total estimated construction and as-built certification costs of all stormwater management facilities and an additional 10% of the construction cost estimate reserved for additional inspection services supplementing those required in Article 8.1(b) if determined

necessary by the City. A line item cost estimate shall be prepared by the Applicant identifying these costs for review by the City Engineer to determine the final amount of the security. The estimate shall include all labor, materials, and equipment at a publicly bid rate. The Applicant shall have the option of directly paying for the additional inspection services if required as an alternative to City action to access funds for inspection services from the stormwater management bond.

7.3 Release of Security.

(a) Any bond or other security shall not be fully released without a final inspection of the completed work by the City, submission of "as-built" plans, and certification of completion by the City indicating that all stormwater management facilities are in compliance with the approved stormwater management plans and the provisions of this Ordinance.

(b) A procedure may be used to release parts of the bond held by the City after various stages of construction have been completed and accepted by the City. The procedures used for partially releasing performance bonds must be specified by the City in writing prior to stormwater management plan approval.

Article 8, Construction Inspection

8.1 Inspection Schedule and Reports. The City shall require that construction inspections of stormwater facilities be performed on a regular basis as a condition of issuing a grading permit. A report of each inspection shall be presented to the City. The following conditions for inspection reporting apply:

(a) The permit holder shall notify the City at the following points:

(1) 48-hours before commencement of any grading or site development work;

(2) 48-hours before commencement of work on any part of an approved stormwater management plan; and

(3) upon completion of the development or redevelopment project.

(b) Regular inspections shall be made and documented for each ESD planning technique and practice at the stages of construction specified in the Design Manual and as otherwise indicated on the approved stormwater management plan , to be implemented by the City, its authorized representative, or as certified by a professional engineer licensed in the State of Maryland. At a minimum, all ESD and other nonstructural practices shall be inspected upon completion of final grading, the establishment of permanent stabilization, and before issuance of any use and occupancy permit for the development. The City reserves the right to conduct inspections for any ESD planning techniques, treatment practices, and structural stormwater management measures and conveyance systems at any time during construction.

(c) Written inspection reports shall include:

(1) The date and location of the inspection;

(2) Whether construction was in compliance with the approved stormwater management plan;

(3) Any variations from the approved construction specifications; and

(4) Any violations that exist.

(d) The permit holder, the City, and on-site personnel shall be notified in writing when violations are observed. Written notification by the inspector identifying the violation shall describe the nature of the violation and the required corrective action.

(e) No work shall proceed on the next phase of development until the City inspects and approves the work previously completed and furnishes the permit holder with the results of the inspection reports as soon as possible after completion of each required inspection.

8.2 Inspection Requirements During Construction.

(a) At a minimum, regular inspections shall be made and documented at the following specified stages of construction:

(1) For ponds:

i. Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:
   a) core trenches for structural embankments;
   b) inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and
   c) trenches for enclosed storm drainage facilities.
ii. During placement of structural fill, concrete, and installation of piping and catch basins;
iii. During backfill of foundations and trenches;
iv. During embankment construction; and
v. Upon completion of final grading and establishment of permanent stabilization.

(2) For wetlands: at the stages specified for pond construction in 8.2(a)(1) of this Ordinance, during and after wetland reservoir area planting, and during the second growing season to verify a vegetation survival rate of at least 50 percent.

(3) For infiltration trenches:

i. During excavation to sub-grade;
ii. During placement and backfill of under drain systems and observation wells;
iii. During placement of geo-textiles and all filter media;
iv. During construction of appurtenant conveyance systems such as diversion structures, pre-filters and filters, inlets, outlets, and flow distribution structures; and
v. Upon completion of final grading and establishment of permanent stabilization.

(4) For infiltration basins: at the stages specified for pond construction in section 8.2(a)(1) of this Ordinance and during placement and backfill of under drain systems.

(5) For filtering systems:

i. During excavation to sub-grade;
ii. During placement and backfill of under drain systems;
iii. During placement of geo-textiles and all filter media;
iv. During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and
v. Upon completion of final grading and establishment of permanent stabilization.

(6) For open channel systems:

i. During excavation to sub-grade;
ii. During placement and backfill of under drain systems for dry swales;
iii. During installation of diaphragms, check dams, or weirs; and
iv. Upon completion of final grading and establishment of permanent stabilization.

(7) For ESD treatment practices: upon completion of final grading and establishment of permanent stabilization at a minimum, and during any other stage as identified in the Design Manual or as determined by the City to be necessary and appropriate.

(b) The City may, for enforcement purposes, use any one or a combination of the following actions:

(1) A notice of violation shall be issued specifying the need for corrective action if noncompliance with any feature of the approved stormwater management plan is identified;

(2) A stop work order shall be issued for the site by the City if a violation persists;

(3) Bonds or securities shall be withheld and/or the case may be referred for legal action if efforts to correct the violation have not been undertaken in a reasonable time as determined by the City; and

(4) In addition to any other sanctions, a civil action or criminal prosecution may be brought against any Person in violation of the Stormwater Management Subtitle, the Design Manual, or this Ordinance.

(c) Any step in the enforcement process may be taken at any time, depending on the severity of the violation.

(d) It shall be the responsibility of the permit holder to retain and ensure that a professional engineer licensed in the State of Maryland performs routine inspections at the stages of construction specified in the Design Manual and as otherwise indicated on the approved stormwater management plan and certifies that ESD planning techniques, treatment practices, and structural stormwater managements measures and conveyance systems comply with the specifications contained in the approved plans and supporting documentation.

(e) Once construction is complete, an "as-built" plan certification shall be submitted by either a professional engineer or professional land surveyor licensed in the State of Maryland for approval by the City to ensure that ESD planning techniques, treatment practices, and structural stormwater management measures and conveyance systems comply with the specifications contained in the approved stormwater management plan. At a minimum, "as-built" certification shall include a set of drawings overlaying and comparing the approved stormwater management plan with constructed improvements. The City shall require as deemed necessary additional information, including but not limited to construction inspection reports, compaction reports, and photographs. If BMPs requiring Allegany Soil Conservation District approval are constructed, pond "as-built" plans must also be submitted for approval by Allegany Soil Conservation District.

(f) The City retains the right to negotiate a Development Agreement with the Applicant for larger or more complicated development projects that would integrate construction, as-built plan preparation, and inspection requirements for publicly-dedicated infrastructure in addition to stormwater management requirements set forth in this Ordinance. In this Development Agreement, the City and Applicant may jointly agree to a master third party inspection process by a qualified firm or agency agreeable to the parties.

(g) The City shall submit notice of construction completion to the Administration on a form supplied by the Administration for each structural stormwater management practice within 45 days of construction completion. The type, number, total drainage area, and total impervious area treated by all ESD techniques and practices shall be reported to the Administration on a site by site basis. If BMPs requiring Allegany Soil Conservation District approval are constructed, a copy of this notice of construction completion form shall also be submitted to ASCD.

Article 9, Maintenance

9.1 Maintenance Inspection.

(a) The City shall ensure that preventative maintenance is performed by inspecting all ESD treatment systems and stormwater management structures. Inspection shall occur during the first year of operation and at least once every three (3) years thereafter. A maintenance agreement between the owner of the stormwater management facilities and the City shall be executed for privately-owned or publically-owned ESD treatment systems and stormwater management structures as described in 9.2 of this Ordinance.

(b) Inspection reports shall be maintained by the City for all ESD treatment systems and stormwater management structures.

(c) Inspection reports for ESD treatment practices and stormwater management structures shall include the following:

(1) The date of inspection;

(2) Name of inspector;

(3) An assessment of the quality of the stormwater management system related to ESD treatment practice efficiency and the control of runoff to the MEP;

(4) The condition of:

i. Vegetation or filter media;
ii. Fences or other safety devices;
iii. Spillways, valves, or other control structures;
iv. Embankments, slopes, and safety benches;
v. Reservoir or treatment areas;
vi. Inlet and outlet channels or structures;
vii. Underground drainage;
viii. Sediment and debris accumulation in storage and fore bay areas;
ix. Any nonstructural practices to the extent practicable; and
x. Any other item that could affect the proper function of the stormwater management system.

(5) Description of needed maintenance.

(d) Upon notifying a stormwater facilities owner of the inspection results, the stormwater facilities owner shall have 30 days or other timeframe mutually agreed to between the City and the stormwater facilities owner to correct the deficiencies discovered. The City shall conduct a subsequent inspection to ensure completion of the repairs.

(e) If repairs are not properly and promptly undertaken and completed, enforcement procedures pursuant to 9.2(c) of this Ordinance shall be followed by the City.

(f) If, after an inspection by the City, the condition of a stormwater management facility is determined to present an immediate danger to public health or safety because of an unsafe condition, improper construction, or poor maintenance, the City shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the City shall be assessed against the stormwater facilities owner as provided in 9.2(c) of this Ordinance.

9.2 Maintenance Agreement.

(a) Prior to the issuance of any building permit for which stormwater management is required, the City shall require the Applicant to obtain signature by the property owner of the land proposed to contain stormwater management facilities of an inspection and maintenance agreement binding on the current owner and all subsequent owners of land containing the proposed private stormwater management facilities. Such agreement shall provide for access to the stormwater management facilities at reasonable times for regular inspections by the City or its authorized representative to ensure that the facilities are being maintained in proper working condition and are meeting design standards.

(b) The agreement shall be recorded by the Applicant or property owner in the land records of Allegany County.

(c) The agreement shall also provide that upon notice by the City to the owner of stormwater management facilities requiring correction of any deficiency found by inspection, if correction is not made by the owner of the stormwater management facilities within a reasonable time period stated in the notice and not to exceed 30 days, the City may perform all necessary work to place the facilities in proper working condition. The owner of the stormwater management facilities shall then be assessed the cost of the City's work plus any penalties provided by local law. This assessment may be accomplished by placing a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the City.

9.3 Maintenance Responsibility.

(a) The owner of a property that contains private stormwater management facilities installed pursuant to this Ordinance, or any other person in control of such property, shall maintain in good condition and promptly repair and restore all ESD practices, grade surfaces, walls, drains, dams and structures, conveyances, vegetation, erosion and sediment control measures, and other protective devices in perpetuity. Such repairs or restoration and maintenance shall be in accordance with previously approved plans or newly submitted plans.

(b) A maintenance schedule shall be developed for the life of any structural stormwater management facility or system of ESD practices and shall state the maintenance to be completed, the time period for completion, and the responsible party that will perform the maintenance. This maintenance schedule shall be printed on the approved final stormwater management plan and shall be included in the executed operation and maintenance agreement.

Article 10, Appeals

10.1 Right to Appeal. Any person aggrieved by the action of any official charged with the enforcement of this Ordinance pursuant to disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce this Ordinance in regard to a specific application, shall have the right to appeal the action.

10.2 Appeal Process. Any appeal shall be filed in writing within 30 days of the official date of the transmittal of the final decision or determination which is the basis for the appeal. The appeal shall state clearly the grounds on which the appeal is based. Any appeal may be rejected for lack of timeliness or failure to clearly state the grounds for the appeal.

10.3 Hearing Authority. All timely and clearly-stated appeals shall be heard by an Appeals Board, which shall consist of the City Engineer, the City Attorney or his/her designee, and a third person not employed by City government who has demonstrated professional expertise in the area of stormwater management or civil engineering, to be appointed by the Director of Community Development.

10.4 Hearing Process. Any appeal hearing shall be scheduled so that the appellant may attend and shall be in accordance with rules and regulations to be promulgated by the Mayor and Council of the City of Frostburg. All decisions of the Appeals Board shall be made in writing, signed by all Appeals Board members, and delivered to the appellant no later than 30 days from the hearing date.

10.5 Further Appeal. Any Person aggrieved by the decision of the Appeals Board may appeal that decision to the Allegany County Circuit Court, 30 Washington Street, Cumberland, Maryland, in accordance with rules of the Circuit Court for administrative appeals. A decision rendered by the Appeals Board is presumed to be correct for purposes of such appeal until the Circuit Court's judicial review is completed and a decision rendered.

Article 11, Severability

If any portion of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall not affect the validity of the remaining portions of this Ordinance. It is the intent of the City that this Ordinance shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

Article 12, Penalties

Any person convicted of violating the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than Five Thousand Dollars ($5,000.00) or imprisonment not exceeding 1 year or both for each violation with costs imposed at the discretion of the court and not to exceed Fifty Thousand Dollars ($50,000.00). Each day that a violation continues shall be a separate offense. In addition, the City may institute injunctive, mandamus or other appropriate action or proceedings of law to correct violations of this Ordinance. Any court of competent jurisdiction shall have the right to issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

Article 13, Effective Date

This Ordinance shall take effect in accordance with Section 311, Ordinances, of the Charter of the City of Frostburg, which requires two hearings, an introduction and a second hearing not less than 15 or more than 60 days after the meeting at which the ordinance was introduced, with an effective date following twenty (20) calendar days following passage by the Mayor and City Council.

Introduced: April 15, 2010
Second Hearing: May 20, 2010
Adopted: May 20, 2010
Effective: June 9, 2010

MAYOR AND CITY COUNCIL OF FROSTBURG

BY_____
Arthur T. Bond, Mayor

Attest:

_____
John R. Kirby, Jr.
City Administrator