

## **CHAPTER 213 OF THE CITY CODE**

### **STORMWATER MANAGEMENT**

#### **ARTICLE I**

#### **PURPOSE AND AUTHORITY**

##### **213.1 Purpose**

The purpose of this Chapter 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. The goal is to manage stormwater by using environmental site design (ESD) to the maximum extent practicable (MEP) to maintain after development as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding, and use appropriate structural best management practices (BMPs) only when necessary. This will 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.

##### **213.2 Statutory Authority; Enforcement**

The provisions of this Chapter, pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 2009 replacement volume, are adopted under the authority of the Code of the City of Hagerstown and shall apply to all development occurring within the incorporated area of the City. The application of this Chapter 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. The City Engineer shall be responsible for the coordination and enforcement of the provisions of this Chapter. 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.

##### **213.3 Documents incorporated by reference**

For the purpose of this Chapter, the following documents are incorporated by reference:

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

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

##### **213.4 Grandfathering**

A. In this section, the following terms have the meanings indicated:

(1) Administrative waiver.

- (a) "Administrative waiver" means a decision by the City Engineer pursuant to this Chapter to allow 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.
  - (b) "Administrative waiver" is distinct from a waiver granted pursuant to Section 213.8 of this Chapter.
- (2) Approval.
- (a) "Approval" means a documented action by the City Engineer 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.
  - (b) "Approval" does not mean an acknowledgement by the City Engineer that submitted material has been received for review.
- (3) Final project approval.
- (a) "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.
  - (b) "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 the City's 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:
    - (i) The proposed drainage patterns;
    - (ii) The location of all points of discharge from the site; and
    - (iii) 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 City Engineer 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 City Engineer may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010. Administrative waivers expire according to 213.4.C of this Chapter and may be extended according to 213.4.D of this Chapter.
- C. Expiration of Administrative Waivers.
- (1) Except as provided for in 213.4.D of this Chapter, 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 213.4.D of this Chapter, by the expiration date of the waiver extension.
- D. Extension of Administrative Waivers.
- (1) Except as provided in 213.4.D.2 of this Chapter, 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 Agreement, a Tax Increment Financing approval, or an Annexation Agreement.
  - (3) Administrative waivers extended according to 213.4.D.2 of this Chapter shall expire when the Development Agreement, the Tax Increment Financing approval, or the Annexation Agreement expires.

## **ARTICLE II DEFINITIONS**

### **213.5 Terms defined**

The following definitions are provided for the terms used in this Chapter:

- (1) "Administration" means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).
- (2) "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.
- (3) "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.
- (4) "Applicant" means any person, firm, or governmental agency who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.
- (5) "Approving Agency" means the entity responsible for the review and approval of stormwater management plans.
- (6) "Aquifer" means a porous water bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

(7) "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.

(8) "Certifying Engineer" means the professional engineer, surveyor, or landscape architect who will be responsible for the signing and sealing of the engineer's stormwater management certification that is required on all stormwater management plans, and for performing the required inspections during construction.

(9) "Channel protection storage volume (Cp<sub>v</sub>)" 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 Hagerstown, a Maryland Municipal Corporation

(11) "City Engineer" means the City's duly appointed City Engineer or his or her duly authorized representative.

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

(13) "Concept plan" means the first of three required plan approvals that include the information necessary to allow an initial evaluation of a proposed project.

(14) "Design Manual" means the 2000 Maryland Stormwater Design Manual, and all subsequent revisions, that serves as the official guide for stormwater management principles, methods, and practices.

(15) "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.

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

(17) "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.

(18) "Disturbance" means the physical change of grades or cover of the ground surface in either a permanent or temporary manner.

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

(20) "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.

(21) "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.

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

(23) "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.

(24) "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.

(25) "Final stormwater management plan" means the last of three required plan approvals that includes the information necessary to allow all approvals and permits to be issued by the approving agency.

(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. This includes the removal of roots, stumps, and similar material to a nominal depth below the surface of the ground.

(28) "Impervious area" means any surface that does not allow stormwater to infiltrate into the ground.

(29) "In-fill development" means new development that occurs on vacant, bypassed and underutilized lands within existing developed areas. The site on which the in-fill development is occurring shall not be part of an overall development plan such as that found in industrial/business parks. In-fill development shall typically be limited to site areas less than three acres in size.

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

(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 only where absolutely necessary, a structural BMP is implemented. The City Engineer shall be responsible for determining whether or not the MEP standard has been met.

(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 an immediate 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) "Owner/Developer" means any individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity of agent thereof commencing proceedings under this Chapter to effect development or redevelopment for himself or others.

(36) "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.

(37) "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.

(38) "Pollutants" means those items that are commonly found in urban runoff, including sediment, nutrients, trace metals, pesticides, herbicides, bacteria, and hydrocarbons.

(39) "Predevelopment" means the conditions of the site that exist prior to the development that is subject to the requirements of this Chapter. The City's 1982 aerial photography will be used as a guide in establishing predevelopment conditions.

(40) "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.

(41) "Redevelopment" means any construction, alteration, or improvement that is performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential and existing site impervious area exceeds 40 percent.

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

(43) "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 over current conditions.

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

(45) "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.

(46) "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.

(47) "Soil Conservation District" means the Washington County Conservation District, or its duly authorized representative.

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

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

(50) "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.

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

(52) "Variance" means the modification of the minimum stormwater management requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this Chapter.

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

(54) "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.

(55) "Water quality volume (WQ<sub>v</sub>)" means the volume needed to capture and treat 90 percent of the average annual rainfall events at a development site. Methods for calculating the water quality volume are specified in the Design Manual.

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

## **ARTICLE III APPLICABILITY**

### **213.6 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 developments, except as provided within this section. Stormwater management measures must be designed consistent with the Design Manual and constructed according to an approved plan for new development or the policies stated in Section 213.9 of this Chapter for redevelopment.

### **213.7 Exemptions**

- A. The following development activities are exempt from the provisions of this Chapter and the requirements of providing stormwater management:
  - 1. Agricultural land management practices;
  - 2. Additions or modifications to existing single family detached residential structures if they comply with Section 213.7.A.3 of this Chapter;
  - 3. Any developments that do not disturb over 5,000 square feet of land area; and
  - 4. Land development activities that the Administration determines will be regulated under specific State laws, which provide for managing stormwater runoff.
  
- B. Nothing in this section shall prohibit the City Engineer from requiring stormwater management controls upon the evaluation of the cumulative effects of previous exemptions. Conditions evidenced in the City's 1982 aerial photographs shall be used to evaluate these effects.

### **213.8 Waivers; Watershed Management Plans**

- A. Except as provided in 213.8.B. and D. of this Chapter, the City Engineer shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with Section 213.8.G of this Chapter. 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 213.8.D of this Chapter, if watershed management plans consistent with Section 213.8.G of this Chapter 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) Projects 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



- (d) ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or
  - (2) Projects where the City Engineer determines that unusual circumstances exist that prevent the reasonable implementation of quantity control practices.
- C. Except as provided in 213.8.D of this Chapter, 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 213.9 of this Chapter are satisfied; or
  - (3) Sites where the City Engineer 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 the stormwater management facilities were designed to meet the 2000 regulatory requirements (and the City's stormwater management ordinance). 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 of the City's waiver policy;
  - (3) Reasonably ensure the development will not adversely impact stream quality;
  - (4) Demonstrate that the waiver will not increase known undesirable flooding; and
  - (5) Address in a reasonable manner known downstream drainage deficiencies.
- F. If the City establishes an overall watershed management plan for a specific watershed, then the City may develop quantitative waiver and redevelopment provisions that differ from Sections 213.8 and 213.9 of this Chapter.
- 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.

## 213.9 Redevelopment

- A. Stormwater management plans are required by the City for all redevelopment, unless otherwise specified by watershed management plans developed according to Section 213.8.G of this Chapter. Stormwater management measures must be consistent with the Design Manual.
- B. All redevelopment designs shall:
- (1) Reduce impervious area within the limit of disturbance (LOD) by at least 50 percent according to 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 Section 213.9.B (1) and (2) of this Chapter for at least 50 percent of the existing site impervious area.
- C. Alternative stormwater management measures may be used to meet the requirements in Section 213.9.B of this Chapter if the owner/developer satisfactorily demonstrates to the City Engineer 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; 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 develop separate policies for providing water quality treatment for redevelopment projects if the requirements of Section 213.9 A. and B. of this Chapter cannot be met. These policies may include, but not be limited to:
- (1) A combination of ESD and an on-site or off-site structural BMP;
  - (2) Retrofitting including existing BMP upgrades, filtering practices, and off-site ESD implementation;
  - (3) Participation in projects providing stormwater quality enhancement at sites designated and approved by the City Engineer; the scope and specific practices used in these projects must be reviewed and approved by the City Engineer, and must comply with all applicable local, State, and Federal permit requirements, regulations, etc.;
  - (4) Pollution trading with another entity, if a City-specific pollution trading program is approved by the Administration and adopted by the City Council;
  - (5) Payment of a fee-in-lieu into a Stormwater Management Fund, if such a fund is created by the City Council, that would be dedicated to providing stormwater management/storm drainage improvements at locations designated by the City Engineer; the operation of the fund would be governed by policies approved by the Administration and adopted by the City Council; or
  - (6) 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 Engineer at the appropriate point in the development review process. The City Engineer shall consider the prioritization of alternatives in Section 213.9.C of this Chapter 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 Engineer 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 designated Enterprise or Incentive Zone;
- (2) Whether the project is necessary to accommodate growth consistent with comprehensive plans; or
- (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.

### **213.10 Variances**

The City Engineer may grant a written variance from any requirement of Section 213.11, 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 Chapter. A written request for variance shall be provided to the City Engineer and shall state the specific variances sought and reasons for their granting. The City Engineer shall not grant a variance unless and until sufficient justification is provided by the person developing land that the implementation of ESD to the MEP has been investigated thoroughly.

## **ARTICLE IV STORMWATER MANAGEMENT CRITERIA**

### **213.11 Minimum Control Requirements**

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

- (1) 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 systems must be exhausted before any structural BMP is implemented. Stormwater management plans for development projects subject to this Chapter 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 without causing damage or unduly endangering the water quality of the underlying aquifer, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.
- (2) Control of the 2-year and 10-year frequency storm event is required according to the Design Manual and all subsequent revisions unless the City Engineer determines that additional stormwater management is necessary because historical flooding problems exist downstream.
- (3) The extreme flood volume calculated for the 100-year frequency storm event shall be used as sizing criteria if so directed by the City Engineer. However, this requirement may be waived if the owner/developer demonstrates that implementing the extreme flood volume will actually cause detrimental impacts downstream. As a minimum, any structural BMP's proposed shall convey the runoff for the 100-year storm event through

the BMP structure without causing unacceptable damage and/or flooding to the subject property or surrounding properties. Undeveloped offsite areas contributing runoff to the point of study, if not under the direct control of the owner/developer performing the analysis, shall be treated as being developed in accordance with the zoning designation for those lands for the 100-year analysis.

- (4) The City Engineer may require more than the minimum control requirements specified in this Chapter if hydrologic or topographic conditions warrant, or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project. The extent of a downstream area that is subject to the requirements stated herein will vary depending upon the location, and will be established with the concurrence of the City Engineer.
- 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 damages, accelerated stream erosion, water quality, and sedimentation. 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.
  - D. Should, in the opinion of the City Engineer, downstream deficiencies require stormwater management criteria in excess of the minimums identified in this Chapter, the City Engineer may direct or the owner/developer may elect to correct the noted deficiencies in order to obtain relief from the more stringent criteria. However, nothing in this section shall be considered as waiving the need for a development to comply with the minimum requirements identified in this Chapter.

### **213.12 Stormwater Management Measures**

The ESD planning techniques and practices and structural stormwater management measures established in this Chapter and the Design Manual shall be used, either alone or in combination in a stormwater management plan. A developer shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management plan.

#### **A. ESD Planning Techniques and Practices.**

- (1) The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in Section 213.11 of this Chapter:
  - (a) Preserving and protecting natural resources;
  - (b) Conserving natural drainage patterns;
  - (c) Minimizing impervious area;
  - (d) Reducing runoff volume;
  - (e) Using small-scale ESD practices to maintain 100 percent of the annual predevelopment groundwater recharge volume, subject to the limitations for

stormwater management and infiltration practices in Karst areas as defined in Appendix D.2 of the Design Manual.

- (f) Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces, subject to the restrictions listed in 213.12.A.(2) below.
  - (g) Limiting soil disturbance, mass grading, and compaction;
  - (h) Clustering development; and
  - (i) Any practices approved by the Administration.
- (2) The following ESD treatment practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Section 213.11 of this Chapter. However, for any proposed practice that relies upon infiltration to discharge stormwater from the site, the owner/developer must demonstrate to the City Engineer's satisfaction that such infiltration can be accomplished without causing damage to existing or proposed structures and features, and with minimal degradation to the aquifer underlying the site.
- (a) Disconnection of rooftop runoff;
  - (b) Disconnection of non-rooftop runoff;
  - (c) Sheetflow to conservation areas;
  - (d) Rainwater harvesting;
  - (e) Submerged gravel wetlands;
  - (f) Landscape infiltration;
  - (g) Infiltration berms;
  - (h) Micro-bioretenion;
  - (i) Rain gardens;
  - (j) Swales;
  - (k) Enhanced filters; and
  - (l) Any practices approved by the Administration.
- (3) 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 planning and zoning ordinances and public works codes to eliminate any impediments to implementing ESD to the MEP according to the Design Manual.

#### B. Structural Stormwater Management Measures.

- (1) The following structural stormwater management practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Section 213.11 of this Chapter:
- (a) Stormwater management ponds;
  - (b) Stormwater management wetlands;
  - (c) Stormwater management infiltration, subject to the approval of the City Engineer, and taking into consideration the issues identified in Section 213.12.B(3) below;
  - (d) Stormwater management filtering systems incorporating underdrains, unless the underdrain requirement is waived by the City Engineer; and
  - (e) Stormwater management open channel systems.

- (2) 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.
  - (3) Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the State. When selecting structural BMP's, special attention is directed to the existence of Karst geology within Washington County, and the influence these areas have on acceptable means for stormwater management. Refer to the Design Manual for specific guidelines.
  - (4) The design engineer and the owner/developer are responsible for considering safety and access to all proposed facilities. The Design Manual includes several possible design safety considerations. Measures to be considered may include fencing, slope benching, flattened side slopes, access roads, etc. Permanent pools greater than two (2) feet in depth, or structures with 100-year ponding depths greater than four feet shall incorporate appropriate safety measures, approved by the City Engineer.
- C. ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in Section 213.11 of this Chapter must be recorded in the land records of Washington County and remain unaltered by subsequent property owners. Prior approval from the City Engineer shall be obtained before any stormwater management practice is altered.
- D. 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 City Engineer and the Administration. Practices used for redevelopment projects shall be approved by the City Engineer.

### **213.13 Specific Design Criteria**

The basic design criteria, methodologies, and construction specifications, subject to the approval of the City Engineer and the Administration, shall be those of the Design Manual.

## **ARTICLE V STORMWATER MANAGEMENT PLANS**

### **213.14 Review and Approval of Stormwater Management Plans**

- A. For any proposed development with a disturbed area greater than 15,000 square feet (i.e. any development that is not covered by a Standard Erosion and Sediment Control Plan issued by the Washington County Conservation District), the owner/developer 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 Section 213.15 of this Chapter and meet the requirements of the Design Manual and Sections 213.11 and 213.12 of this Chapter.

- B. For proposed developments with a disturbed area less than or equal to 15,000 square feet, the City's Zoning Administrator shall have the discretion to allow the owner/developer to submit a concept plan and a combined site development/final stormwater management construction plan. However, both the concept plan and the combined site development/final stormwater management plan must still meet the minimum content specified in Section 213.15, and meet the requirements of the Design Manual and Sections 213.11 and 213.12 of this Chapter.
- C. 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 that reflect input from all appropriate agencies including, but not limited to the Soil Conservation District (SCD) and the departments of Planning, Engineering, Public Works, Utilities, and the Fire Marshall. All comments from the City and other appropriate agencies shall be addressed and approval received at each phase of project design before subsequent submissions.

### **213.15 Contents and Submission of Stormwater Management Plans**

- A. The owner/developer shall submit a concept plan to the City Planning Department that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided according to Section 213.11 of this Chapter and the Design Manual. Plans submitted for concept approval shall include, but are not limited to:
  - (1) A map at a scale specified by the City showing site location, existing natural features, water and other sensitive resources, surface rock outcroppings, 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 limit of disturbance, erodible soils, 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 and describes how ESD will be implemented to the MEP; and
  - (6) Any other information required by the approving agency.
- B. Following concept plan approval by the City, 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:
  - (1) All information provided during the concept plan review phase;
  - (2) 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;
  - (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; and
  - (5) Any other information required by the approving agency.
- C. Following site development approval by the City, 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:
- (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 and be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.
- D. Reports submitted for final stormwater management plan approval shall include, but are not limited to:
- (1) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;
  - (2) Drainage area maps depicting predevelopment 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;
  - (6) The seal and signature of the Professional Engineer that prepared the report; and
  - (7) Any other information required by the City.
- E. Construction drawings submitted 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 on-site 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 logs and locations;
  - (14) An inspection and maintenance schedule, with specific maintenance instructions to be followed by the owner of the facilities;
  - (15) Certification by the owner/developer that all stormwater management construction will be done according to this plan;
  - (16) An as-built certification signature block to be executed by the Certifying Engineer after project completion; and
  - (17) Any other information required by the City.
- F. 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.

### **213.16 Preparation of Stormwater Management Plans**

- A. The design of stormwater management plans shall be prepared by any individual whose qualifications are acceptable to the City Engineer. The City Engineer may require that the design be prepared by either a professional engineer, professional land surveyor, or landscape architect licensed in the State, as necessary to protect the public or the environment.
- B. If a stormwater BMP requires either a dam safety permit from MDE or small pond approval from the Washington County Conservation District, the City shall require that the design be prepared by a professional engineer licensed in the State.

## **ARTICLE VI PERMITS**

### **213.17 Permit Requirements**

A grading or building permit may not be issued for any parcel or lot unless final erosion and sediment control and stormwater management plans have been approved by the City as meeting all the requirements of the Design Manual and this Chapter. Where appropriate, a building permit may not be issued without:

- A. A recorded stormwater management maintenance agreement as described in Section 213.25 of this Chapter; and
- B. A performance surety as described in Section 213.21 of this Chapter.

When appropriate, final Use & Occupancy approval for any structure covered by a building permit shall not be granted until easements have been recorded for the stormwater management facility, along with easements required to provide adequate access for inspection and maintenance from a public right-of-way

### **213.18 Permit Fee**

Non-refundable permit fees will be collected at each phase of stormwater management plan submittal. 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 Chapter. A permit fee schedule shall be established by the City based upon the relative complexity of the project and may be amended from time to time.

### **213.19 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 permittee for any of the following reasons:

- A. Any violation(s) of the conditions of the stormwater management plan approval;
- B. Changes in site runoff characteristics upon which an approval or waiver was granted;
- C. Construction is 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; and
- E. An immediate danger exists in a downstream area in the opinion of the City Engineer.

### **213.20 Permit Conditions**

In granting an 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 Chapter and the preservation of public health and safety.

## **ARTICLE VII PERFORMANCE SURETY**

### **213.21 Security required**

The City shall require from the developer a surety or cash bond, irrevocable letter of credit, or other 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 amount of the security shall not be less than the total estimated construction cost of all stormwater management facilities. 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 Chapter, and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the City, submission of "asbuilt" plans, and certification of completion by the Certifying Engineer that all stormwater management facilities comply with the approved plan and the provisions of this Chapter. 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 VIII INSPECTIONS**

### **213.22 Inspection Schedule and Reports**

- A. The developer shall notify the City Engineer at least 48 hours before commencing any work in conjunction with site development, the stormwater management plan, and upon completion of the 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 by the Certifying Engineer. 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 use and occupancy approval.
- 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 owner/developer and on-site personnel shall be notified in writing when violations are observed. Written notification 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 Certifying Engineer inspects and approves the work previously completed, and furnishes the City Engineer and the owner/developer with, at a minimum, the inspection reports required in Sections 213.22 B & C as soon as possible after completion of each required inspection.

### **213.23 Inspection Requirements During Construction**

- A. At a minimum, regular inspections shall be made and documented by the Certifying Engineer at the following specified stages of construction:
  - (1) For ponds:
    - (a) Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:
      - (i) Core trenches for structural embankments;
      - (ii) Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and
      - (iii) Trenches for enclosed storm drainage facilities;
    - (b) During placement of structural fill, concrete, and installation of piping and catch basins;
    - (c) During backfill of foundations and trenches;
    - (d) During embankment construction; and
    - (e) Upon completion of final grading and establishment of permanent stabilization.

- (2) Wetlands – at the stages specified for pond construction in Section 213.23.A (1) of this Chapter, 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:
    - (a) During excavation to subgrade;
    - (b) During placement and backfill of under drain systems and observation wells;
    - (c) During placement of geotextiles and all filter media;
    - (d) During construction of appurtenant conveyance systems such as diversion structures, pre-filters and filters, inlets, outlets, and flow distribution structures; and
    - (e) Upon completion of final grading and establishment of permanent stabilization.
  - (4) For infiltration basins – at the stages specified for pond construction in Section 213.23.A (1) of this Chapter and during placement and backfill of under drain systems.
  - (5) For filtering systems:
    - (a) During excavation to subgrade;
    - (b) During placement and backfill of under drain systems;
    - (c) During placement of geotextiles and all filter media;
    - (d) During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and
    - (e) Upon completion of final grading and establishment of permanent stabilization.
  - (6) For open channel systems:
    - (a) During excavation to subgrade;
    - (b) During placement and backfill of under drain systems for dry swales;
    - (c) During installation of diaphragms, check dams, or weirs; and
    - (d) Upon completion of final grading and establishment of permanent stabilization.
- 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 stormwater management plan noncompliance 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 or the case may be referred for legal action if reasonable efforts to correct the violation have not been undertaken; or
  - (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 Chapter.
- C. Any step in the enforcement process may be taken at any time, depending on the severity of the violation.
- D. Once construction is complete, "as-built" plan certification shall be submitted by either a professional engineer or professional land surveyor licensed in the State of Maryland to ensure that ESD planning techniques, treatment practices, and structural stormwater management measures and conveyance systems comply with the specifications contained in the approved plans. At a minimum, "as-built" certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. The City may require additional information in accordance with established policies.

- E. 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 SCD approval are constructed, notice of construction completion shall also be submitted to the appropriate SCD.

## **ARTICLE IX MAINTENANCE**

### **213.24 Maintenance Inspection**

- A. The City shall ensure that preventative maintenance programs are in place for all ESD treatment systems and structural stormwater management measures. Inspection shall occur during the first year of operation and at least once every 3 years thereafter. In addition, a maintenance agreement between the owner and the City shall be executed for privately-owned ESD treatment systems and structural stormwater management measures as described in Section 213.25 of this Chapter.
- B. Inspection reports shall be maintained by the City for all ESD treatment systems and structural stormwater management measures.
- C. Inspection reports for ESD treatment systems and structural stormwater management measures 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:
    - (a) Vegetation or filter media;
    - (b) Fences or other safety devices;
    - (c) Spillways, valves, or other control structures;
    - (d) Embankments, slopes, and safety benches;
    - (e) Reservoir or treatment areas;
    - (f) Inlet and outlet channels or structures;
    - (g) Underground drainage;
    - (h) Sediment and debris accumulation in storage and forebay areas;
    - (i) Any nonstructural practices to the extent practicable; and
    - (j) Any other item that could affect the proper function of the stormwater management system.
  - (5) Description of needed maintenance.
- D. Upon notifying an owner of the inspection results, the owner shall have 30 days, or other time frame mutually agreed to between the City and the 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 undertaken and completed, enforcement procedures following section 213.25 C of this Chapter 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 owner(s), as provided in Section 213.25 C of this Chapter.

#### **213.25 Maintenance Agreement**

- A. Prior to the issuance of any building permit for which stormwater management is required, the City shall ensure that an inspection and maintenance agreement binding on all current (and all subsequent) owners of land served by a private stormwater management facility is in place. This agreement shall either be a document completed and executed by the applicant or owner, or shall be in the form of inspection and maintenance requirements or covenants listed on a recorded subdivision plat for the subject property. Such agreements and/or covenants shall provide for access to the facility at reasonable times for regular inspections by the City or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.
- B. The agreement, or the subdivision plat containing the inspection and maintenance requirements, shall be recorded by the applicant or owner in the land records of Washington County.
- C. The agreement shall also provide that, if after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within 30 days, the City may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties. This 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.

#### **213.26 Maintenance Responsibility**

- A. The owner of a property that contains private stormwater management facilities installed pursuant to this Chapter, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all ESD treatment systems, grade surfaces, walls, drains, dams and structures, 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 or newly submitted plans.
- B. A maintenance schedule shall be developed for the life of any structural stormwater management facility or system of ESD treatment systems and shall state the maintenance to be completed, the time period for completion, and the responsible party what will perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

## **ARTICLE X APPEALS**

### **213.27 Appeals**

Any person aggrieved by the action of any official charged with the enforcement of this Chapter, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce the Chapter in regard to a specific application, shall have the right to appeal the action to the (special hearing examiner). The appeal shall be filed in writing within 30 days of the date of official transmittal of the final decision or determination to the applicant, state clearly the grounds on which the appeal is based, and be processed in the manner prescribed for hearing administrative appeals under the City Code.

## **ARTICLE XI SEVERABILITY**

### **213.28 Severability**

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

## **ARTICLE XII PENALTIES**

### **213.29 Penalties**

Any person convicted of violating the provisions of this Chapter 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 in 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 Chapter. 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.