

Chapter 11 STORMWATER MANAGEMENT

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ARTICLE I. IN GENERAL

Sec. 11-1. Purpose and authority.

(a) The purpose of this Chapter is to protect, maintain, and enhance the public health, safety and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased stormwater runoff. Proper management of stormwater runoff will minimize damage to public and private property, reduce the effects of development on land and stream channel erosion, assist in the attainment and maintenance of water quality standards, reduce local flooding, and maintain after development, as nearly as possible, the predevelopment runoff characteristics.

(b) The provisions of this Chapter are adopted pursuant to section 8-11A-02, National Resources Article, Annotated Code of Maryland, 1983 replacement volume, and shall apply to all development except for single family residences and structures appurtenant thereto, occurring within the incorporated area of the village. The application of this Chapter and the 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 Village Manager or his designee shall be responsible for the coordination and enforcement of the provisions of this Chapter.

(No. 55-05-84, 5-14-84; No. 01-03-02, 01-14-02)

Sec. 11-2. Definitions.

For the purposes of this Chapter, the following definitions describe the meaning of the terms used in this chapter:

(a) *Adverse impact:* Any deleterious effect on abutting property owners' waters or wetlands, including their quality, quantity, surface areas, species composition, aesthetic 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.

(b) *Applicant:* Any person, firm, corporation or governmental agency who executes the necessary forms to procure official approval of a building permit to carry out construction.

- (c) *Aquifer*: A porous water-bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.
- (d) *Clearing*: The removal of trees and brush from the land but shall not include the ordinary mowing of grass.
- (e) *Detention structure*: A permanent structure for the temporary storage of runoff, which is designed so as not to create a permanent pool of water.
- (f) *Develop land*: To change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial or institutional construction or alteration.
- (g) *Drainage area*: That area contributing runoff to a single point.
- (h) *Easement*: 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.
- (i) *Exemption*: Those land development activities that are not subject to the stormwater management requirements contained in this chapter.
- (j) *Flow attenuation*: Prolonging the flow time of runoff to reduce the peak discharge.
- (k) *Grading*: Any act by which soil is cleared, stripped, or stockpiled, excavated, scarified, filled or any combination thereof.
- (l) *Infiltration*: The passage or movement of water into the soil surface.
- (m) *Off-site stormwater management*: The design and construction of a facility necessary to control stormwater from more than one development.
- (n) *On-site stormwater management*: The design and construction of systems necessary to control stormwater within an immediate development.
- (o) *Porous paving*: An open-graded asphaltic or reticular concrete or other material, which allows water to pass through it.
- (p) *Sediment*: Soils or other surficial materials transported or deposited by the action of wind, water, ice or gravity as a product of erosion.
- (q) *Site*: Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one ownership, or are contiguous and in adverse ownership where development is to be performed as part of a unit, subdivision or project.
- (r) *Stabilization*: The prevention of soil movement by any of various vegetative and/or structural means.
- (s) *Stormwater management*:
 - (1) For quantitative control a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and,

- (2) For qualitative control, a system of vegetative, structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.
- (t) *Stormwater management plan*: A set of drawings or other documents submitted by a person as a prerequisite to obtaining a building permit, which contain all of the information and specifications pertaining to stormwater management.
- (u) *Stripping*: Any activity, which removes the vegetative surface cover including tree removal, clearing, grubbing and storage or removal of topsoil.
- (v) *Variance*: The modification of the minimum stormwater management requirements for specific circumstances such that strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this Chapter.
- (w) *Waiver*: The relinquishment from stormwater management requirements by the Village for a specific development on a case-by-case review basis.
- (x) *Watercourse*: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any area adjacent thereto which is subject to inundation by reason of overflow, floodwater or water runoff.
- (y) *Water resources administration*: The State of Maryland Water Resources Administration.
- (z) *Watershed*: The total drainage area contributing runoff to a single point as determined by the water resources administration.
- (aa) *Wetlands*: An area that has saturated soils or periodic high groundwater levels and vegetation adapted to wet conditions and periodic flooding.

(No. 55-05-84, 5-14-84)

ARTICLE II. APPLICABILITY

Sec. 11-3. Scope.

No person shall develop any land for residential or commercial uses without having provided for appropriate stormwater management measures that control or manage runoff from such developments, except as provided within this article.

(No. 55-05-84, 5-14-84)

Sec. 11-4. Exemptions.

The following development activities are exempt from the provisions of this chapter and the requirements of providing a stormwater management plan:

- (a) Additions or modifications to existing single-family detached residential structures and any structures appurtenant thereto;

- (b) Developments that do not disturb over five thousand (5,000) square feet of land area;
- (c) Land development activities which the water resources administration determines will be regulated under specific state laws which provide for managing stormwater runoff; and
- (d) Residential developments consisting of single-family houses.

(No. 55-05-84, 5-14-84; No. 01-03-02, 01-14-02)

Sec. 11-5. Waiver of requirements; eligibility.

(a) The village may grant a waiver of the stormwater management requirements for individual developments; provided, that a written request is submitted by the applicant containing descriptions, drawings and any other information that is necessary to evaluate the proposed development. 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) Eligibility for a waiver shall be determined if the applicant can conclusively demonstrate that:

- (1) The proposed development will not generate more than a ten (10) per cent increase in the two-year predevelopment peak discharge rate and will not cause an adverse impact on the receiving wetland, watercourse or water body; or
- (2) A site is completely surrounded by existing developed areas, which are served by an existing network of public storm drainage systems of adequate capacity to accommodate the runoff from the additional development.

(No. 55-05-84, 5-14-84; No. 01-03-02, 01-14-02)

Sec. 11-6. Variances.

The Board of Managers may grant a written variance from any requirement of Article V (Stormwater Management Criteria) if there are exceptional circumstances applicable to the site such that strict adherence to the provisions of this chapter will result in unnecessary hardship and not fulfill the intent of this chapter. A written request for variance shall be provided to the Village Manager and shall state the specific variances sought and reasons for their granting. The Board of Managers shall not grant a variance unless and until sufficient specific reasons justifying the variance are provided by the person developing the land.

(No. 55-05-84, 5-14-84)

ARTICLE III. STORMWATER MANAGEMENT PLANS

Sec. 11-7. Review and approval of stormwater management plans.

(a) A stormwater management plan or an application for a waiver shall be submitted to the village manager by the developer or owner for review and approval for any proposed development, unless otherwise exempted. The stormwater management plan shall contain supporting computations, drawings, and/or sufficient information describing the manner, location and type of measures in which stormwater runoff will be managed from the entire development. The village manager shall review the plan to determine compliance with the requirements of this chapter prior to approval. The plan shall serve as the basis for all subsequent construction.

(b) Notification of approval or reasons for the disapproval or modification shall be given to the applicant within forty-five (45) days after submission of the completed stormwater plan. If a decision is not made within forty-five (45) days the applicant shall be informed of the status of the review and process and the anticipated completion date. The stormwater management plan shall not be considered approved without the inclusion of the signature and date of signature of the village manager on the plan.

(No. 55-05-84, 5-14-84)

Sec. 11-8. Contents of the stormwater management plan.

The developer or owner is responsible for submitting a stormwater management plan, which meets the design requirements provided by this Chapter. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The developer, builder or owner shall certify on the drawings that all clearing, grading, drainage, construction and development shall be conducted in strict accordance with the plan.

- (a) The minimum information submitted for support of a stormwater management plan or application for a waiver shall be as follows:
 - (1) Site characteristics:
 - a. Topography survey showing existing and proposed contours, including area necessary to determine downstream analysis for the proposed stormwater runoff flows.
 - b. Description of all watercourses, impoundments and wetland on or adjacent to the site or into which stormwater flows.
 - c. Delineation of 100-year floodplains, if applicable.
 - (2) Computations:
 - a. Hydrology;
 - b. Hydraulic; and,
 - c. Structural.
- (b) In addition to the information listed above, stormwater management design plans shall include:
 - (1) Stormwater management plans:
 - a. Vicinity map.
 - b. Drainage area map showing the watershed boundaries, drainage area and stormwater flow paths.
 - c. Proposed improvements including location of buildings or other structures, impervious surfaces and storm drainage facilities, if applicable.

- d. Location of utilities.
 - e. Structural details for all components of the proposed drainage systems and stormwater management facilities, if applicable.
 - f. Timing schedules and sequence of development clearing, including stripping, rough grading, construction, final grading and vegetative stabilization.
 - g. Maintenance schedule.
 - h. Notes on drawings specifying materials to be used.
 - i. Construction specifications.
 - j. Location of easements.
- (2) Estimate of stormwater management construction cost.
 - (3) Other information as required.

(No. 55-05-84, 5-14-84)

ARTICLE IV. PERMITS

Sec. 11-9. Permit--Requirements.

A grading or building permit may not be issued for any parcel or lot unless a stormwater management plan has been approved or waived by the Village Manager as meeting all the requirements of this chapter. Where appropriate, a building permit may not be issued without:

- (a) Recorded easements for a stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way;
- (b) A recorded stormwater management maintenance agreement, if applicable; and,
- (c) Performance bond.

(No. 55-05-84, 5-14-84)

Sec. 11-10. Same--Fee.

A nonrefundable permit fee will be collected at the time the stormwater management plan or application for waiver is submitted. The permit fee 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 Board of Managers based upon the relative complexity of the project and may be amended from time to time.

(No. 55-05-84, 5-14-84)

Sec. 11-11. Same--Suspension, revocation and municipal infraction fines.

Any grading or building permit issued by the Village Manager may be suspended, revoked or subject to a municipal infraction fine 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 a waiver was granted.
- (c) Construction is not in accordance with the approved plans.
- (d) Noncompliance with correction notice(s) or stop work order(s) issued for the construction of flooding due to runoff water on abutting properties.
- (e) An immediate danger exists in a downstream area in the opinion of the village manager.

(No. 55-05-84, 5-14-84)

Sec. 11-12. Same--Conditions.

In granting the plan approval, the Village Manager may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of this Chapter and the public health and safety.

(No. 55-05-84, 5-14-84)

ARTICLE V. STORMWATER MANAGEMENT CRITERIA

Sec. 11-13. Minimum control requirements.

The minimum stormwater control requirements shall require that all developments provide management measures necessary to maintain the post-development peak discharge for a twenty-four-hour, two-year frequency storm event at a level that is equal to or less than the twenty-four-hour, two-year predevelopment peak discharge rate through stormwater management practices that control the volume, timing and rate of flows. Where runoff is discharged into an off-site stormwater management facility, the control requirements and procedures shall be in accordance with section 11-15 (c).

(No. 55-05-84, 5-14-84)

Sec. 11-14. Stormwater management measures.

(a) Stormwater management measures shall be required to satisfy the minimum control requirements. The stormwater management practices to be utilized in developing a stormwater management plan shall be according to the following order of preference:

- (1) Infiltration of runoff on-site;
- (2) Stormwater retention structures;
- (3) Stormwater detention structures.

(b) Infiltration practices shall be utilized to reduce volume increases to the extent possible as determined in accordance with infiltration standards and specifications established by the water resources administration. A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the person developing land or the owner for rejecting each practice based on site conditions.

(No. 55-05-84, 5-14-84)

Sec. 11-15. Specific design criteria.

(a) Infiltration systems shall be designed in accordance to standards and specifications that are developed or approved by the water resources administration and shall meet the following requirements, if applicable:

- (1) Infiltration systems greater than three (3) feet deep shall be located at least ten (10) feet from basement wall;
- (2) Infiltration systems designed to handle runoff from impervious commercial parking areas shall be a minimum of one hundred (100) feet from any water supply well;
- (3) Infiltration systems may not receive runoff until the entire contributory drainage area to the infiltration system has received final stabilization; and,
- (4) All stormwater runoff designs shall be so constructed as not to allow runoff to flow to adjoining properties.

(b) Retention and detention ponds shall not be allowed in the Village.

(c) The pre-development peak discharge rate shall be computed assuming that all land uses in the site to be developed are in good hydrologic condition.

(d) Where a stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the developer/owner 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 such rights.

(No. 55-05-84, 5-14-84)

ARTICLE VI. PERFORMANCE, INSPECTION AND MAINTENANCE

Sec. 11-16. Performance bond.

The Village may require from the developer or owner a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Village Manager prior to the issuance of any building and/or grading permit for construction of a development requiring a stormwater management plan. The amount of the security shall not be less than the total estimated construction cost of the stormwater management plan. The security so 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 the provisions of this Chapter and other applicable laws and regulations, and any time limitations. The security shall not be fully released without a final inspection of completed work by the Village Manager, submission of "as-built" plans, and certification of completion by the Village Manager of the stormwater management plan as being in compliance with the approved plan and the provisions of this Chapter. A provision may be made for partial release of this Chapter. A provision may be made for partial release of the amount of the security pro-rata upon completion and acceptance of the various stages of development as specifically delineated, described and scheduled on the required plans and specifications. The developer shall notify the village manager upon completion of each stage that is ready for inspection.

(No. 55-05-84, 5-14-84)

Sec. 11-17. Inspection schedule and reports.

(a) Prior to approval of a stormwater management plan, the developer shall submit to the Village Manager a proposed inspection and construction control schedule. The Village Manager or his authorized representative shall conduct inspections and file reports for periodic inspections necessary during construction of stormwater management systems to ensure compliance with the approved plans.

(b) No work shall proceed until the Village Manager or his designee inspects and approves the work previously completed and furnishes the developer or owner with the results of the inspection reports as soon as possible after completion of each required inspection.

(c) Any portion of the work, which does not comply will be promptly corrected by the developer or owner after written notice from the village manager. The notice shall set forth the nature of corrections required and the time within which corrections will be made.

(d) The developer or owner shall notify the Village Manager before commencing any work in conjunction with the stormwater management plan and upon completion of the project when a final inspection will be conducted.

(No. 55-05-84, 5-14-84)

Sec. 11-18. Inspection requirements during construction.

After commencing initial site operations, regular inspections shall be made at the following specified stages of construction:

- (a) *Infiltration systems:* At the commencement, during and upon completion of construction.
- (b) *Porous paving infiltration systems:* At the following stages so as to ensure proper placement and allow for infiltration into the subgrade, or as approved in the stormwater management plans:
 - (1) Upon completion of stripping, stockpiling, [and] the construction of temporary sediment control and drainage facilities;
 - (2) Upon completion of subgrade section;
 - (3) Upon completion of on-site stormwater systems;
 - (4) Throughout the placement of the porous asphaltic concrete surface course to ensure proper laying temperatures and compaction.

(No. 55-05-84, 5-14-84)

Sec. 11-19. Final inspection.

(a) A final inspection shall be conducted by the Village Manager or his designee upon completion of any stormwater management plan to determine if the completed work is constructed in accordance with approved plans and this Chapter. "As-built" certification by a registered professional engineer

licensed in Maryland is also required to certify that any stormwater facility, if applicable, has been constructed as shown on the "as-built" plans and meets approved plans and specifications. The developer will receive written notification of the results of the final inspection. The Village Manager shall maintain a permanent file of inspection reports.

(b) If, after an inspection by the Village Manager or his designee, the condition of a stormwater management plan or facility, if applicable, presents an immediate danger to the public health or safety, because of any unsafe condition or improper maintenance, the village manager shall take such action as may be necessary to protect the public health, safety and welfare and make the facility safe. Any cost incurred by the Village shall be assessed against the owner(s), as provided in Section 11-20(c).

(No. 55-05-84, 5-14-84)

Sec. 11-20. Maintenance agreement, if applicable.

(a) Prior to the issuance of any building permit for which stormwater management facility is required, the Village Manager shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by the private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspection by the Village Manager or his authorized representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provisions established.

(b) The agreement shall be recorded by the applicant and/or owner in the land records of Montgomery County.

(c) The agreement shall also provide that, if after notice by the Village Manager to correct a violation requiring maintenance work and satisfactory corrections are not made by the owner(s) within a reasonable period of time (thirty (30) days maximum), the Village Manager 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, and there shall be a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the village.

(No. 55-05-84, 5-14-84)

Sec. 11-21. Maintenance responsibility.

(a) The owner of the property on which work has been done pursuant to this Chapter for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment-control measures, and other protective devices. Such repairs or restorations, and maintenance shall be in accordance with approved plans.

(b) A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan.

(No. 55-05-84, 5-14-84)

ARTICLE VII. APPEALS

Sec. 11-22. Appeals to Board of Managers; procedures.

(a) The Board of Managers shall have the power to hear and decide appeals where it is alleged that there is any error in any requirement, decision or determination made by the Village Manager or his designee in the administration or enforcement of this chapter. The foregoing shall not be construed to authorize appeals to the Board of Managers from the issuance of a municipal infraction citation or the bringing of criminal charges pursuant to this chapter.

(b) Appeals taken pursuant to this section shall conform to the following procedures:

- (1) An appeal to the Board of Managers may be taken by any person(s) aggrieved by a decision of the Village Manager or his designee arising from this Chapter. Such appeal shall be filed within thirty (30) days after the issuance of notice of such action by the Village Manager. The Village Manager shall forthwith transmit to the Board of Managers all the papers constituting the record pertaining to the appeal. An appeal shall automatically stay all proceedings in furtherance of the action appealed from unless the village manager certifies to the Board of Managers that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by a court having jurisdiction to issue the order.
- (2) All appeals shall be initiated by a petition on appeal in which the appellant shall set forth:
 - a. The alleged error by the Village Manager or his designee;
 - b. Facts sufficient to show that the appellant is an aggrieved party; and,
 - c. Any other matters which are material and relevant to the issues raised by the appeal.
- (3) Upon receipt of a petition on appeal, the Village Manager shall place the matter on the Board agenda and announce a public hearing thereon which shall be held at a regular monthly or special meeting of the Board of Managers. The Village Manager shall give written notice of such hearing to the parties in interest and abutting property owners at least ten (10) days prior to the meeting at which such application is to be considered.
- (4) For the conduct of any hearing hereunder, a quorum shall be not less than four (4) members of the Board of Managers, and in all instances an affirmative vote of four (4) members to overrule any decision, ruling or determination of the official charged with the enforcement of this Chapter, except that nothing in this section shall be construed to permit a violation of state law.
- (5) At the hearing any party may appear in person, by agent or by attorney. The decision by the Board of Managers shall be made within sixty (60) days following the hearing. In exercising its powers, the Board of Managers may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination it deems appropriate, and to that end shall have all the powers of the Village Manager.
- (6) The Secretary of the Board of Managers shall keep minutes of all appeal hearings,

showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, which shall be filed in the office of the village manager and shall be a public record.

(No. 55-05-84, 5-14-84)

ARTICLE VIII. ENFORCEMENT, EFFECTIVE DATE

Sec. 11-23. Penalties.

Except for violations which are specifically designated as municipal infractions, 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 one (1) year or both for each and every violation with costs imposed in the discretion of the court. Each day that the violation continues shall be a separate offense.

(No. 55-05-84, 5-14-84)

Sec. 11-24. Effective date.

This Chapter shall take effect on the 1st day of July 1984.

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