

CITY OF SALISBURY, MARYLAND

**ORDINANCE NO. 2101
AS AMENDED ON SECOND READING - MAY 10, 2010**

AN ORDINANCE TO REPEAL ORDINANCE 1844 (STORMWATER MANAGEMENT ORDINANCE) TO COMPLY WITH THE REQUIREMENTS OF THE MARYLAND DEPARTMENT OF ENVIRONMENT WATER MANAGEMENT ADMINISTRATION ESTABLISHED IN THE CODE OF MARYLAND REGULATIONS ADOPTED MAY 4, 2009.

WHEREAS, the State of Maryland has mandated the adoption of a uniform Stormwater Management Ordinance, allowing certain modifications pertinent to the City of Salisbury.

WHEREAS, the City Council of the City of Salisbury, Maryland hereby finds that an Ordinance revising Stormwater Management regulations is required in order to provide for the health, safety and welfare of the citizens of the City of Salisbury, and to comply with state law as set forth in COMAR 26.17.02.03 requiring implementation prior to May 4, 2010.

BE IT ENACTED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that Ordinance 1844 entitled “Stormwater Management” is hereby repealed and reenacted with amendments, to read as follows:

ARTICLE I – GENERAL PROVISIONS

13.28.010 Purpose and Authority

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.

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 Salisbury Municipal Code and shall apply to all development occurring within the corporate limits 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 of Salisbury Department of Public Works 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.

13.28.020 Incorporation 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).

13.28.021 Grandfathering

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

(1) **Administrative waiver.**

- (a) **“Administrative waiver” means a decision by the City Department of Public Works 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.**
- (b) **“Administrative waiver” is distinct from a waiver granted pursuant to section 13.28.040 (3) of this chapter.**

(2) **Approval.**

- (a) **“Approval” means a documented action by the City Department of Public Works following a review to determine and acknowledge the sufficiency of submitted material to meet the requirements of a specified stage in the City’s Department’s development review process.**
- (b) **“Approval” does not mean an acknowledgement by the City Department of Public Works 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~~ Department of Public Works’ 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~~ Department of Public Works including, but not limited to:
 - (i) The proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic;**
 - (ii) A demonstration that the methods by which the development will be supplied with water and wastewater service are adequate; and**
 - (iii) The size, type, and general location of all proposed wastewater and water system infrastructure.****

B. The ~~City~~ Department of Public Works may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010. Administrative waivers expire according to 13.28.021 C. of this Chapter and may be extended according to 13.28.021 D. of this chapter.

C. Expiration of Administrative Waivers.

- (1) Except as provided for in 13.28.021 D. (2) 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 13.28.021 D. of this chapter, by the expiration date of the waiver extension.**

D. Extension of Administrative Waivers.

- (1) Except as provided in 13.28.021 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 Rights and Responsibilities Agreement, a Tax Increment Financing approval, or an Annexation Agreement.**
- (3) Administrative waivers extended according to 13.28.021 D. (2) of this chapter shall expire when the Development Rights and Responsibilities Agreement, the Tax Increment Financing approval, or the Annexation Agreement expires.**

13.28.030 DEFINITIONS

A. 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) "Channel protection storage volume (C_{pv})" 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.
- (9) "Clearing" means the removal of trees and brush from the land but shall not include the ordinary mowing of grass, grading, grubbing or other earth disturbance.
- (10) "Concept plan" means the first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.
- (11) "Design Manual" means the 2000 Maryland Stormwater Design Manual, and all subsequent revisions, that serve as the official guide for stormwater management principles, methods, and practices.
- (12) "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.
- (13) "Develop land" means to change the runoff characteristics of a parcel of land or a portion thereof in conjunction with residential, commercial, industrial, or institutional construction or alteration.
- (14) "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.
- (15) "Drainage area" means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

- (16) "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.
- (17) "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.
- (18) "Exemption" means those land development activities that are not subject to the stormwater management requirements contained in this chapter.
- (19) "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.
- (20) "Extreme flood volume (Q_T)" 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.
- (21) "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.
- (22) "Flow attenuation" means prolonging the flow time of runoff to reduce the peak discharge.
- (23) "Grading" means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.
- (24) "Impervious area" means any surface that does not allow stormwater to infiltrate into the ground.
- (25) ~~"Infill development" means any development on an existing lot of record that was platted at least 15 years prior to the date that the development plans are approved, or the average age of surrounding structures is at least 15 years.~~
"In-fill development" means any new development on a lot located within a previously developed area.
- (26) "Infiltration" means the passage or movement of water into the soil surface.
- (27) "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.

- (28) "Off-site stormwater management" means the design and construction of a facility necessary to control stormwater from more than one development.
- (29) "On-site stormwater management" means the design and construction of systems necessary to control stormwater within an immediate development.
- (30) "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.
- (31) "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.
- (32) "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.
- (33) "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.
- (34) "Redevelopment" means any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential and existing site impervious area exceeds 40 percent.
- (35) "Retention structure" means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.
- (36) "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.
- (37) "Sediment" means soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- (38) "Site" means any tract, lot, or parcel of land, or portion thereof, or combination of tracts, lots, or 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.

- (39) "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.
- (40) "Stabilization" means the prevention of soil movement by any of various vegetative and/or structural means.
- (41) "Standard Plan" means a simplified stormwater management plan that addresses stormwater management for a single family residential lot through nonstructural practices. See Section 13.28.040 (3) G.
- (42) "Stormwater" means water that originates from a precipitation event.
- (43) "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.
- (44) "Stripping" means any activity that removes the vegetative surface cover including tree removal, clearing, grubbing, and storage or removal of topsoil.
- (45) "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.
- (46) "Waiver" means the reduction of stormwater management requirements by the City for a specific development on a case-by-case review basis.
- (47) "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.
- (48) "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 the water quality volume are specified in the Design Manual.
- (49) "Watershed" means the total drainage area contributing runoff to a single point.

13.28.040 APPLICABILITY

(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 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 13.28.040 (4) of this chapter for redevelopment.

(2) Exemptions

The following development activities are exempt from the provisions of this chapter 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 section 13.28.040 (2) C. of this chapter;
- C. Any developments that do not cumulatively disturb over 5,000 square feet of land area from the date of adoption of this chapter; and
- D. Land development activities that the Administration determines will be regulated under specific State laws, which provide for managing stormwater runoff.

(3) Waivers/Watershed Management Plans

- A. ~~The City~~ **Except as provided in 13.28.040 (3) B. and D. of this chapter, the Department of Public Works** shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with section 13.28.040 (3) 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 13.28.040 (3) D. of this chapter,** if watershed management plans consistent with section 13.28.040 (3) 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) That have direct discharges to tidally influenced receiving waters; or
 - (2) **That are in-fill development located in a Priority Funding Area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2009 regulatory requirements would result in a loss of the planned development density provided that:**
 - (a) **Public water and sewer and stormwater conveyance exist;**

- (b) **The quantitative waiver is applied to the project for the impervious cover that previously existed on the site only;**
 - (c) **ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and**
 - (d) **ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or**
 - (3) When the approving agency determines that circumstances exist that prevent the reasonable implementation of quantity control practices.
- C. **Except as provided in 13.28.040 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 13.28.040 (4) of this chapter are satisfied; or
 - (3) Sites where the approving agency determines that circumstances exist that prevent the reasonable implementation of ESD to the MEP.
- D. **Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the 2000 regulatory requirements and the City ordinance for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.**
- E. Waivers shall only be granted when it has been demonstrated that ESD has been implemented to the MEP and must:
- (1) Be on a case-by-case basis;
 - (2) Consider the cumulative effects of the City's waiver policy; and
 - (3) Reasonably ensure the development will not adversely impact stream quality.
- F. If the City has established an overall watershed management plan for a specific watershed, then the City may develop quantitative waiver and redevelopment provisions that differ from sections 13.28.040 (3) B. and 13.28.040 (4) of this Ordinance.
- G. A watershed management plan developed for the purpose of implementing different stormwater management policies for waivers and redevelopment shall:

- (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
 - (2) Evaluate both quantity and quality management and opportunities for ESD implementation;
 - (3) Include a cumulative impact assessment of current and proposed watershed development;
 - (4) Identify existing flooding and receiving stream channel conditions;
 - (5) Be conducted at a reasonable scale;
 - (6) Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;
 - (7) Be consistent with the General Performance Standards for Stormwater Management in Maryland found in the Design Manual; and
 - (8) Be approved by the Administration.
- H. The City may allow the use of a Standard Plan to address both quantitative and qualitative control. A Standard Plan may be used if:
- (1) The project is single-family lot residential construction;
 - (2) There is no contiguous land undergoing development by the same owner, builder, or developer;
 - (3) The total site impervious cover does not exceed 15% of the total lot area; and
 - (4) Total land area disturbed during construction is less than 30,000 square feet.
- I. Issuance of a stormwater management quantitative or qualitative control waiver may be conditioned upon successful completion of a stream restoration project by the developer. All City requirements associated with the stream restoration project must be accomplished to the satisfaction of the City prior to release of the project surety.

(4) Redevelopment

- A. Stormwater management plans are required by the City for all redevelopment, unless otherwise specified by watershed management plans developed according to section 13.28.040 (3) F. 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 13.28.040 (4) 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 13.28.040 (4) B. of this chapter if the owner/developer 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; 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.
 - (4) An off-site structural BMP must be located within the corporate limits of the City. The City will consider an off-site location on a City street or other City-owned property, which location will be subject to approval by the City. Acceptable structural BMP's shall be determined by the City. The developer shall be responsible for all permitting, traffic control, material and installation costs, street repaving and other work efforts associated with the BMP design and construction. If the approved off-site location is on City property, the developer's contractor shall comply with the City's insurance requirements which may be made part of the public works agreement for the project. The off-site BMP must be accompanied by an inspection and maintenance agreement fully executed by the off-site property owner(s) per this chapter and must be constructed by the developer or his agent and accepted by the City prior to release of the project surety.
 - (5) Retrofitting may be permitted provided that the existing stormwater management facility to be retrofitted and the retrofit BMP(s) to be used are acceptable to the City. All City requirements associated with the retrofit project must be accomplished to the satisfaction of the City prior to release of the project surety. The drainage area to be served by the retrofitted facility shall equal or exceed 50 percent of the existing impervious area of the site to be redeveloped in accordance with Section 13.28.040 (4) B.

D. The City may develop separate policies for providing water quality treatment for redevelopment projects if the requirements of section 13.28.040 (4) B. and C. of this chapter cannot be met. Any separate redevelopment policy shall be reviewed and approved by the Administration and may include, but not be limited to:

- (1) **Pollution trading with another entity;**
- (2) **Payment of a fee-in-lieu; or**
- (3) **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~~ **Department of Public Works** at the appropriate point in the development review process. The ~~City~~ **Department** shall consider the prioritization of alternatives in 13.28.040 (4) D 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~~ **Department** 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 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; 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.

(5) Variance

The City may grant a written variance from any requirement of section 13.28.050, 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 and shall state the specific variances sought and reasons for their granting. The City 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.

13.28.050 STORMWATER MANAGEMENT CRITERIA

(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 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, 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 if the City determines that additional stormwater management is necessary because historical flooding problems exist and downstream floodplain development 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 project.
- 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.

(2) 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 13.28.050 (1) of this Chapter:
 - (a) Preserving and protecting natural resources;
 - (b) Conserving natural drainage patterns;
 - (c) Minimizing impervious area;
 - (d) Reducing runoff volume;
 - (e) Using ESD practices to maintain 100 percent of the annual predevelopment groundwater recharge volume;
 - (f) Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
 - (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 13.28.050 (1) of this Ordinance:
 - (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) Dry wells;

- (i) Micro-bioretenion;
 - (j) Rain gardens;
 - (k) Swales;
 - (l) Enhanced filters; and
 - (m) 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 will, with due consideration given to safety issues, investigate the feasibility of modifying 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 13.28.050 (1) of this chapter:
 - (a) Stormwater management ponds;
 - (b) Stormwater management wetlands;
 - (c) Stormwater management infiltration;
 - (d) Stormwater management filtering systems; 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.

C. ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in section 13.28.050 (1) of this chapter must be recorded in the land records of the County and remain unaltered by subsequent property owners. Prior approval from the City 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 Administration. Practices used for redevelopment projects shall be approved by the City.
- E. For the purposes of modifying the minimum control requirements or design criteria, the owner/developer 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 hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted streamflow. The point of investigation is to be established with the concurrence of the City, downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

(3) Specific Design Criteria

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

13.28.060 STORMWATER MANAGEMENT PLANS

(1) Review and Approval of Stormwater Management Plans

- A. For any proposed development, 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 13.28.060 (2) of this chapter and meet the requirements of the Design Manual and section 13.28.050 (1) of this chapter.
- 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 that reflect input from all appropriate agencies including, but not limited to the Wicomico Soil Conservation District (WSCD), the Wicomico County Planning and Zoning Department and the City of Salisbury Department of Public Works. All comments from the City and other appropriate agencies shall be addressed and approval received at each phase of project design before subsequent submissions.
- C. The approval of a stormwater management plan or grant of a waiver application shall expire on the date two (2) years from the date of approval or grant of the waiver. Plans approved prior to May 4, 2010 shall expire on the date two (2) years from the original approval date. Projects that are not actively under construction, as determined by the City, on the plan approval expiration date must renew the plan approval before commencement of construction and may be subject to an additional plan review fee.

(2) Contents and Submission of Stormwater Management Plans

- A. The owner/developer shall submit a concept plan that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided according to section 13.28.050 (2) 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, 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 City.
- 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 City.
- 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; and
 - (6) 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;
- (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 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.

(3) 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. The City 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 Wicomico Soil Conservation District, the City shall require that the design be prepared by a professional engineer licensed in the State.

13.28.070 PERMITS

(1) Permit Requirement

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. Recorded easements for the 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 as described in section 13.28.100 (2) of this chapter; and
- C. A performance bond as described in section 13.28.080 of this Chapter.

(2) 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.

(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 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.

(4) 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.

13.28.080 PERFORMANCE BOND

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 125 percent of 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 released without a final inspection of the completed work by the City, submission and approval of "as-built" plans, and certification of completion by a professional engineer registered in Maryland that all stormwater management facilities comply with the approved plan and the provisions of this chapter.

13.28.090 INSPECTION

(1) Inspection Schedule and Reports

- A. The developer shall notify the City 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 City, its authorized representative, or 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 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 City inspects and approves the work previously completed and furnishes the developer with the results of the inspection reports as soon as possible after completion of each required inspection.

(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:
 - (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 13.28.090 (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:
 - (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 13.28.090 (2) 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 or property line 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.
- 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.

13.28.100 MAINTENANCE

(1) Maintenance Inspection

- A. The City shall ensure that preventative maintenance is performed by inspecting 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 13.28.100 (2) 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 13.28.100 (2) 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 13.28.100 (2) C. of this chapter.

(2) Maintenance Agreement

- A. Prior to the issuance of any building permit for which stormwater management is required, the City shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement 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 shall be recorded by the applicant or owner in the land records of Wicomico 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 a reasonable period of time (30 days maximum), 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.

(3) 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 practices, 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 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 stormwater management plan.

13.28.110 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 Board of Zoning Appeals. 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 Board of Zoning Appeals rules of procedure.

13.28.120 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.

13.28.130 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.

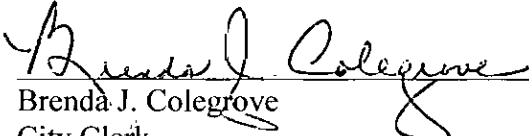
13.28.140 EFFECTIVE DATE

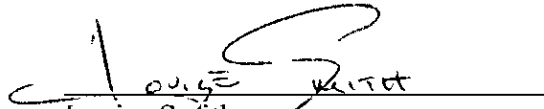
And be it further enacted, that this Ordinance shall take effect May 10, 2010.

AND BE IT FURTHER ENACTED AND ORDAINED by the City Council of the City of Salisbury, Maryland, that this Ordinance shall take effect on May 4, 2010.

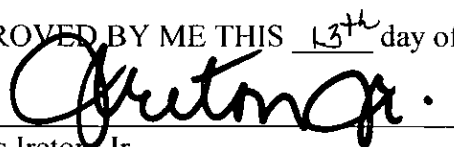
THIS ORDINANCE was introduced and read at a meeting held on the 22nd day of March, 2010, and having been published as required by Law, in the meantime, was finally passed by the Council on the 10th day of May, 2010.

ATTEST:


Brenda J. Colegrove
City Clerk


Louise Smith
President, Salisbury City Council

APPROVED BY ME THIS 13th day of May, 2010


James Ireton, Jr.
Mayor