

HOUSE BILL 1125

M3

EMERGENCY BILL

0lr1581
CF 0lr3414

By: **Delegates Holmes, Barkley, Beidle, Cane, G. Clagett, Elmore, James, Jameson, Love, McConkey, Norman, O'Donnell, Serafini, Sossi, Stull, and Wood**

Introduced and read first time: February 17, 2010

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2010

CHAPTER _____

1 AN ACT concerning

2 **Stormwater Management – Development Projects – ~~Redevelopment and~~**
3 **Preliminary Plan Approval Requirements**

4 FOR the purpose of ~~establishing certain requirements for a certain redevelopment~~
5 ~~project design; authorizing a certain developer to pay a certain fee in lieu~~
6 ~~payment to a certain local government to offset certain stormwater~~
7 ~~management requirements; requiring a certain fee in lieu payment to be in an~~
8 ~~amount determined by a local government and used for certain purposes;~~
9 ~~authorizing a person to submit a certain stormwater management plan that~~
10 ~~complies with certain laws and regulations if a certain development project~~
11 ~~receives certain approvals before a certain date; requiring an approving body to~~
12 require a redevelopment project design to meet certain requirements;
13 authorizing a certain approving body to authorize certain alternative
14 stormwater measures for certain redevelopment projects under certain
15 circumstances; authorizing certain quantitative control waivers be granted to
16 certain projects under certain circumstances; authorizing certain quantitative
17 and qualitative control waivers be granted to certain phased development
18 projects under certain circumstances; requiring the developer of a certain
19 phased development project that has been granted a certain waiver to meet
20 certain requirements under certain circumstances; authorizing a certain
21 approving body to grant a certain administrative waiver to a certain
22 development project that received certain preliminary approval from a certain
23 approving body by a certain date; specifying that certain administrative waivers

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 are subject to certain expiration; authorizing a certain approving body to grant
 2 an extension to a certain administrative waiver under certain circumstances;
 3 defining certain terms; providing for the construction of this Act; making this
 4 Act an emergency measure; and generally relating to stormwater management.

5 BY repealing and reenacting, with amendments,
 6 Article – Environment
 7 Section ~~4-203(b)~~ and ~~4-204~~ 4-201.1, 4-203(b), and 4-204(a)
 8 Annotated Code of Maryland
 9 (2007 Replacement Volume and 2009 Supplement)

10 BY adding to
 11 Article – Environment
 12 Section ~~4-203(e)~~ 4-203.1 through 4-203.3
 13 Annotated Code of Maryland
 14 (2007 Replacement Volume and 2009 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 16 MARYLAND, That the Laws of Maryland read as follows:

17 Article – Environment

18 ~~4-203.~~

19 ~~(b) [The] SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE~~
 20 ~~Department shall adopt rules and regulations which establish criteria and procedures~~
 21 ~~for stormwater management in Maryland. The rules and regulations shall:~~

22 ~~(1) Indicate that the primary goal of the State and local programs will~~
 23 ~~be to maintain after development, as nearly as possible, the predevelopment runoff~~
 24 ~~characteristics;~~

25 ~~(2) Make allowance for the difference in hydrologic characteristics and~~
 26 ~~stormwater management needs of different parts of the State;~~

27 ~~(3) Specify that watershed-wide analyses may be necessary to prevent~~
 28 ~~undesirable downstream effects of increased stormwater runoff;~~

29 ~~(4) Specify the exemptions a county or municipality may grant from~~
 30 ~~the requirements of submitting a stormwater management plan;~~

31 ~~(5) (i) Specify the minimum content of the local ordinances or the~~
 32 ~~rules and regulations of the affected county governing body to be adopted which may~~
 33 ~~be done by inclusion of a model ordinance or model rules and regulations; and~~

34 ~~(ii) Establish regulations and a model ordinance that require:~~

1 ~~1. The implementation of environmental site design to~~
2 ~~the maximum extent practicable;~~

3 ~~2. The review and modification, if necessary, of planning~~
4 ~~and zoning or public works ordinances to remove impediments to environmental site~~
5 ~~design implementation; and~~

6 ~~3. A developer to demonstrate that:~~

7 ~~A. Environmental site design has been implemented to~~
8 ~~the maximum extent practicable; and~~

9 ~~B. Standard best management practices have been used~~
10 ~~only where absolutely necessary;~~

11 ~~(6) Indicate that water quality practices may be required for any~~
12 ~~redevelopment, even when predevelopment runoff characteristics are maintained;~~

13 ~~(7) Specify the minimum requirements for inspection and~~
14 ~~maintenance of stormwater practices;~~

15 ~~(8) Specify all stormwater management plans shall be designed to:~~

16 ~~(i) Prevent soil erosion from any development project;~~

17 ~~(ii) Prevent, to the maximum extent practicable, an increase in~~
18 ~~nonpoint pollution;~~

19 ~~(iii) Maintain the integrity of stream channels for their biological~~
20 ~~function, as well as for drainage;~~

21 ~~(iv) Minimize pollutants in stormwater runoff from new~~
22 ~~development and redevelopment in order to:~~

23 ~~1. Restore, enhance and maintain the chemical,~~
24 ~~physical, and biological integrity of the waters of the State;~~

25 ~~2. Protect public health;~~

26 ~~3. Safeguard fish and aquatic life and scenic and~~
27 ~~ecological values; and~~

28 ~~4. Enhance the domestic, municipal, recreational,~~
29 ~~industrial, and other uses of water as specified by the Department;~~

30 ~~(v) Protect public safety through the proper design and~~
31 ~~operation of stormwater management facilities;~~

1 ~~(vi) Maintain 100% of average annual predevelopment~~
 2 ~~groundwater recharge volume for the site;~~

3 ~~(vii) Capture and treat stormwater runoff to remove pollutants~~
 4 ~~and enhance water quality;~~

5 ~~(viii) Implement a channel protection strategy to reduce~~
 6 ~~downstream erosion in receiving streams; and~~

7 ~~(ix) Implement quantity control strategies to prevent increases~~
 8 ~~in the frequency and magnitude of out-of-bank flooding from large, less frequent~~
 9 ~~storm events; AND~~

10 ~~(9) (i) Establish a comprehensive process for approving grading~~
 11 ~~and sediment control plans and stormwater management plans; and~~

12 ~~(ii) Specify that the comprehensive process established under~~
 13 ~~subparagraph (i) of this paragraph takes into account the cumulative impacts of both~~
 14 ~~plans.~~

15 ~~(E) (1) IN THIS SUBSECTION, "REDEVELOPMENT" MEANS:~~

16 ~~(I) ANY CONSTRUCTION, ALTERATION, OR IMPROVEMENT~~
 17 ~~PERFORMED ON A SITE IN WHICH EXISTING LAND USE IS COMMERCIAL,~~
 18 ~~INDUSTRIAL, INSTITUTIONAL, OR RESIDENTIAL, INCLUDING MULTIFAMILY~~
 19 ~~RESIDENTIAL; AND~~

20 ~~(II) 1. THE EXISTING SITE IMPERVIOUS AREA EXCEEDS~~
 21 ~~30%; OR~~

22 ~~2. THE PROPOSED DEVELOPMENT IS FOR AN~~
 23 ~~AFFORDABLE HOUSING OR A TRANSIT-ORIENTED DEVELOPMENT.~~

24 ~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS~~
 25 ~~SUBSECTION, A REDEVELOPMENT PROJECT DESIGN SHALL:~~

26 ~~(i) REDUCE EXISTING IMPERVIOUS AREA WITHIN THE~~
 27 ~~LIMIT OF DISTURBANCE, AS DETERMINED BY THE MARYLAND STORMWATER~~
 28 ~~DESIGN MANUAL, BY AT LEAST 20% AND UP TO 50%, TO BE DETERMINED BY A~~
 29 ~~LOCAL GOVERNMENT AFTER A CONSIDERATION OF:~~

30 ~~1. THE TOTAL SQUARE FOOTAGE OF THE PROPOSED~~
 31 ~~DEVELOPMENT PROJECT; AND~~

1 ~~2. THE COST AND FEASIBILITY OF THE PROPOSED~~
2 ~~REDUCTION;~~

3 ~~(H) PROVIDE WATER QUALITY TREATMENT USING~~
4 ~~ENVIRONMENTAL SITE DESIGN, ALTERNATIVE STORMWATER MANAGEMENT~~
5 ~~MEASURES, OR OTHER MEASURES APPROVED BY A LOCAL GOVERNMENT~~
6 ~~EQUIVALENT TO A REDUCTION OF AT LEAST 20% AND UP TO 50% OF THE~~
7 ~~EXISTING IMPERVIOUS AREA WITHIN THE LIMIT OF DISTURBANCE, TO BE~~
8 ~~DETERMINED BY A LOCAL GOVERNMENT AFTER A CONSIDERATION OF;~~

9 ~~1. THE TOTAL SQUARE FOOTAGE OF THE PROPOSED~~
10 ~~DEVELOPMENT PROJECT; AND~~

11 ~~2. THE COST AND FEASIBILITY OF THE PROPOSED~~
12 ~~REDUCTION; OR~~

13 ~~(HH) USE A COMBINATION OF THE STORMWATER~~
14 ~~MANAGEMENT STRATEGIES UNDER ITEMS (I) AND (H) OF THIS PARAGRAPH.~~

15 ~~(3) (I) A DEVELOPER MAY MAKE A FEE-IN-LIEU PAYMENT TO A~~
16 ~~LOCAL GOVERNMENT TO OFFSET THE REQUIREMENTS IN PARAGRAPH (2) OF~~
17 ~~THIS SUBSECTION.~~

18 ~~(H) A FEE-IN-LIEU PAYMENT COLLECTED UNDER THIS~~
19 ~~PARAGRAPH SHALL BE:~~

20 ~~1. IN AN AMOUNT DETERMINED BY A LOCAL~~
21 ~~GOVERNMENT; AND~~

22 ~~2. USED BY A LOCAL GOVERNMENT TO CREATE OR~~
23 ~~ENHANCE STORMWATER MANAGEMENT PROJECTS.~~

24 ~~4-204.~~

25 ~~(a) (1) [After July 1, 1984, unless exempted,] UNLESS OTHERWISE~~
26 ~~EXEMPTED FROM THE REQUIREMENTS OF THIS SECTION AND SUBJECT TO~~
27 ~~SUBSECTION (B) OF THIS SECTION, a person may not develop any land for~~
28 ~~residential, commercial, industrial, or institutional use without [submitting];~~

29 ~~(I) SUBMITTING a stormwater management plan to the county~~
30 ~~or municipality that has jurisdiction[,]; and~~

31 ~~(H) [obtaining] OBTAINING approval of the plan from the~~
32 ~~county or municipality.~~

~~(2) A grading or building permit may not be issued for a property unless a stormwater management plan has been approved that is consistent with this subtitle.~~

~~(B) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(ii) "DEVELOPMENT PROJECT" INCLUDES:~~

~~1. A DEVELOPMENT OR REDEVELOPMENT PROJECT;~~

~~OR~~

~~2. ANY PHASE OF A DEVELOPMENT OR REDEVELOPMENT PROJECT.~~

~~(iii) "PRELIMINARY PLAN APPROVAL" INCLUDES:~~

~~1. AN APPROVAL OF:~~

~~A. A DEVELOPMENT PLAN;~~

~~B. A PROJECT PLAN;~~

~~C. A SKETCH PLAN;~~

~~D. A CONCEPT PLAN; OR~~

~~E. A SITE PLAN; OR~~

~~2. AN ADEQUATE PUBLIC FACILITIES APPROVAL; OR~~

~~3. ANY OTHER EQUIVALENT APPROVAL UNDER THE LOCAL LAWS OR REGULATIONS OF THE JURISDICTION IN WHICH THE DEVELOPMENT PROJECT IS SITUATED.~~

~~(2) IF A DEVELOPMENT PROJECT RECEIVES PRELIMINARY PLAN APPROVAL BEFORE MAY 4, 2010, A PERSON MAY SUBMIT A STORMWATER MANAGEMENT PLAN, IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, THAT COMPLIES WITH THE LAWS AND REGULATIONS IN EFFECT AT THE TIME THE PERSON RECEIVED PRELIMINARY PLAN APPROVAL FOR THE DEVELOPMENT PROJECT.~~

~~[(b)](c) The developer shall certify that all land clearing, construction, development, and drainage will be done according to the plan.~~

1 ~~[(e)] (D)~~ Each county or municipality may provide by ordinance for the
 2 review and approval of stormwater management plans by the local soil conservation
 3 district.

4 ~~[(d)] (E)~~ (1) Each governing body of a county or municipality may adopt
 5 a system of charges to fund the implementation of stormwater management programs,
 6 including the following:

7 (i) ~~Reviewing stormwater management plans;~~

8 (ii) ~~Inspection and enforcement activities;~~

9 (iii) ~~Watershed planning;~~

10 (iv) ~~Planning, design, land acquisition, and construction of~~
 11 ~~stormwater management systems and structures;~~

12 (v) ~~Retrofitting developed areas for pollution control;~~

13 (vi) ~~Water quality monitoring and water quality programs;~~

14 (vii) ~~Operation and maintenance of facilities; and~~

15 (viii) ~~Program development of these activities.~~

16 (2) ~~The charges shall take effect upon enactment by the local~~
 17 ~~governing body.~~

18 (3) ~~The charges may be collected in the same manner as county and~~
 19 ~~municipal property taxes, have the same priority, and bear the same interest and~~
 20 ~~penalties.~~

21 4-201.1.

22 (a) In this subtitle the following words have the meanings indicated.

23 **(B) (1) “ADMINISTRATIVE WAIVER” MEANS A DECISION BY AN**
 24 **APPROVING BODY TO ALLOW THE CONSTRUCTION OF A DEVELOPMENT PROJECT**
 25 **TO BE GOVERNED BY THE STORMWATER MANAGEMENT ORDINANCE IN EFFECT**
 26 **AS OF MAY 4, 2009, IN THE LOCAL JURISDICTION WHERE THE DEVELOPMENT**
 27 **PROJECT WILL BE LOCATED.**

28 **(2) “ADMINISTRATIVE WAIVER” DOES NOT INCLUDE A**
 29 **QUANTITATIVE OR QUALITATIVE CONTROL WAIVER ISSUED IN ACCORDANCE**
 30 **WITH § 4-203.2 OF THIS SUBTITLE OR IN ACCORDANCE WITH REGULATIONS**
 31 **ADOPTED BY THE DEPARTMENT.**

1 **(C) (1) “APPROVAL” MEANS A DOCUMENTED ACTION BY AN**
2 **APPROVING BODY THAT FOLLOWS A REVIEW AND DETERMINATION BY AN**
3 **APPROVING BODY THAT THE MATERIAL SUBMITTED BY A DEVELOPER IS**
4 **SUFFICIENT TO MEET THE REQUIREMENTS OF A SPECIFIED STAGE IN A LOCAL**
5 **DEVELOPMENT REVIEW PROCESS.**

6 **(2) “APPROVAL” DOES NOT INCLUDE AN ACKNOWLEDGEMENT BY**
7 **AN APPROVING BODY THAT MATERIAL SUBMITTED BY A DEVELOPER HAS BEEN**
8 **RECEIVED FOR REVIEW.**

9 **(D) “APPROVING BODY” MEANS A COUNTY, MUNICIPALITY, OR OTHER**
10 **UNIT OF GOVERNMENT THAT EXERCISES FINAL PROJECT APPROVAL OR**
11 **PRELIMINARY PROJECT APPROVAL AUTHORITY.**

12 **[(b)] (E) “Environmental site design” means using small-scale stormwater**
13 **management practices, nonstructural techniques, and better site planning to mimic**
14 **natural hydrologic runoff characteristics and minimize the impact of land development**
15 **on water resources.**

16 **[(c)] (F) “Environmental site design” includes:**

17 **(1) Optimizing conservation of natural features, such as drainage**
18 **patterns, soils, and vegetation;**

19 **(2) Minimizing use of impervious surfaces, such as paved surfaces,**
20 **concrete channels, roofs, and pipes;**

21 **(3) Slowing down runoff to maintain discharge timing and to increase**
22 **infiltration and evapotranspiration; and**

23 **(4) Using other nonstructural practices or innovative stormwater**
24 **management technologies approved by the Department.**

25 **(G) “FINAL PROJECT APPROVAL” MEANS:**

26 **(1) FINAL APPROVAL BY AN APPROVING BODY OF A STORMWATER**
27 **MANAGEMENT PLAN AND EROSION AND SEDIMENT CONTROL PLAN REQUIRED**
28 **TO CONSTRUCT A DEVELOPMENT PROJECT’S STORMWATER MANAGEMENT**
29 **FACILITIES; AND**

30 **(2) BONDING OR OTHER FINANCING HAS BEEN SECURED BASED**
31 **ON A FINAL PLAN FOR THE DEVELOPMENT PROJECT IF REQUIRED AS A**
32 **CONDITION OF APPROVAL.**

1 **(H) “PRELIMINARY PROJECT APPROVAL” MEANS PRELIMINARY**
2 **APPROVAL BY AN APPROVING BODY MADE AS PART OF A LOCAL PRELIMINARY**
3 **DEVELOPMENT OR PLANNING REVIEW PROCESS THAT INCLUDES:**

4 **(1) THE PROPOSED:**

5 **(I) NUMBER OF DWELLING UNITS OR LOTS;**

6 **(II) PROJECT DENSITY; AND**

7 **(III) SIZE AND LOCATION OF ALL PLANNED USES OF THE**
8 **DEVELOPMENT PROJECT;**

9 **(2) PLANS THAT IDENTIFY:**

10 **(I) PROPOSED SITE DRAINAGE PATTERNS;**

11 **(II) THE LOCATION OF ALL POINTS OF DISCHARGE FROM**
12 **THE SITE; AND**

13 **(III) THE TYPE, LOCATION, AND SIZE OF ALL STORMWATER**
14 **MANAGEMENT MEASURES BASED ON SITE-SPECIFIC STORMWATER**
15 **MANAGEMENT CALCULATIONS; AND**

16 **(3) ANY OTHER INFORMATION REQUIRED BY THE APPROVING**
17 **BODY, INCLUDING:**

18 **(I) THE PROPOSED ALIGNMENT, LOCATION, AND**
19 **CONSTRUCTION TYPE AND STANDARD FOR ALL ROADS, ACCESS WAYS, AND**
20 **AREAS OF VEHICULAR TRAFFIC;**

21 **(II) A DEMONSTRATION THAT THE METHODS FOR**
22 **DELIVERING WATER AND WASTEWATER SERVICE TO THE DEVELOPMENT**
23 **PROJECT ARE ADEQUATE; OR**

24 **(III) THE SIZE, TYPE, AND GENERAL LOCATION OF ALL**
25 **PROPOSED WASTEWATER AND WATER SYSTEM INFRASTRUCTURE.**

26 **(I) “QUALITATIVE CONTROL” MEANS A SYSTEM OF VEGETATIVE,**
27 **STRUCTURAL, AND OTHER MEASURES THAT REDUCES OR ELIMINATES**
28 **POLLUTANTS THAT MIGHT OTHERWISE BE CARRIED BY SURFACE RUNOFF.**

29 **(J) “QUANTITATIVE CONTROL” MEANS A STORMWATER MANAGEMENT**
30 **SYSTEM OF VEGETATIVE AND STRUCTURAL MEASURES THAT CONTROL THE**

1 INCREASED VOLUME AND RATE OF SURFACE RUNOFF CAUSED BY MAN-MADE
2 CHANGES TO THE LAND.

3 (K) "REDEVELOPMENT" MEANS:

4 (1) ANY CONSTRUCTION, ALTERATION, OR IMPROVEMENT
5 PERFORMED ON A SITE IN WHICH EXISTING LAND USE IS COMMERCIAL,
6 INDUSTRIAL, INSTITUTIONAL, OR MULTIFAMILY RESIDENTIAL; AND

7 (2) THE EXISTING IMPERVIOUS AREA OF THE SITE EXCEEDS 40%.

8 4-203.

9 (b) [The] SUBJECT TO §§ 4-203.1, 4-203.2, AND 4-203.3 OF THIS
10 SUBTITLE, THE Department shall adopt rules and regulations which establish criteria
11 and procedures for stormwater management in Maryland. The rules and regulations
12 shall:

13 (1) Indicate that the primary goal of the State and local programs will
14 be to maintain after development, as nearly as possible, the predevelopment runoff
15 characteristics;

16 (2) Make allowance for the difference in hydrologic characteristics and
17 stormwater management needs of different parts of the State;

18 (3) Specify that watershed-wide analyses may be necessary to prevent
19 undesirable downstream effects of increased stormwater runoff;

20 (4) Specify the exemptions a county or municipality may grant from
21 the requirements of submitting a stormwater management plan;

22 (5) (i) Specify the minimum content of the local ordinances or the
23 rules and regulations of the affected county governing body to be adopted which may
24 be done by inclusion of a model ordinance or model rules and regulations; and

25 (ii) Establish regulations and a model ordinance that require:

26 1. The implementation of environmental site design to
27 the maximum extent practicable;

28 2. The review and modification, if necessary, of planning
29 and zoning or public works ordinances to remove impediments to environmental site
30 design implementation; and

31 3. A developer to demonstrate that:

1 A. Environmental site design has been implemented to
2 the maximum extent practicable; and

3 B. Standard best management practices have been used
4 only where absolutely necessary;

5 (6) Indicate that water quality practices may be required for any
6 redevelopment, even when predevelopment runoff characteristics are maintained;

7 (7) Specify the minimum requirements for inspection and
8 maintenance of stormwater practices;

9 (8) Specify all stormwater management plans shall be designed to:

10 (i) Prevent soil erosion from any development project;

11 (ii) Prevent, to the maximum extent practicable, an increase in
12 nonpoint pollution;

13 (iii) Maintain the integrity of stream channels for their biological
14 function, as well as for drainage;

15 (iv) Minimize pollutants in stormwater runoff from new
16 development and redevelopment in order to:

17 1. Restore, enhance and maintain the chemical,
18 physical, and biological integrity of the waters of the State;

19 2. Protect public health;

20 3. Safeguard fish and aquatic life and scenic and
21 ecological values; and

22 4. Enhance the domestic, municipal, recreational,
23 industrial, and other uses of water as specified by the Department;

24 (v) Protect public safety through the proper design and
25 operation of stormwater management facilities;

26 (vi) Maintain 100% of average annual predevelopment
27 groundwater recharge volume for the site;

28 (vii) Capture and treat stormwater runoff to remove pollutants
29 and enhance water quality;

30 (viii) Implement a channel protection strategy to reduce
31 downstream erosion in receiving streams; and

1 (ix) Implement quantity control strategies to prevent increases
2 in the frequency and magnitude of out-of-bank flooding from large, less frequent
3 storm events;

4 (9) (i) Establish a comprehensive process for approving grading
5 and sediment control plans and stormwater management plans; and

6 (ii) Specify that the comprehensive process established under
7 subparagraph (i) of this paragraph takes into account the cumulative impacts of both
8 plans.

9 **4-203.1.**

10 **(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS**
11 **SECTION, AN APPROVING BODY SHALL REQUIRE A REDEVELOPMENT PROJECT**
12 **DESIGN TO:**

13 **(1) REDUCE EXISTING IMPERVIOUS AREA WITHIN THE LIMIT OF**
14 **DISTURBANCE BY AT LEAST 50% AS DETERMINED BY THE 2000 MARYLAND**
15 **STORMWATER DESIGN MANUAL, VOLUMES I AND II;**

16 **(2) IMPLEMENT ENVIRONMENTAL SITE DESIGN TO THE MAXIMUM**
17 **EXTENT PRACTICABLE TO PROVIDE WATER QUALITY TREATMENT FOR AT LEAST**
18 **50% OF THE EXISTING IMPERVIOUS AREA WITHIN THE LIMIT OF DISTURBANCE,**
19 **AS DETERMINED BY THE 2000 MARYLAND STORMWATER DESIGN MANUAL,**
20 **VOLUMES I AND II; OR**

21 **(3) USE A COMBINATION OF THE STORMWATER STRATEGIES**
22 **UNDER ITEMS (1) AND (2) OF THIS SUBSECTION FOR AT LEAST 50% OF THE**
23 **EXISTING SITE IMPERVIOUS AREA.**

24 **(B) (1) AN APPROVING BODY MAY AUTHORIZE ALTERNATIVE**
25 **STORMWATER MANAGEMENT MEASURES FOR REDEVELOPMENT PROJECTS IF**
26 **THE DEVELOPER DEMONSTRATES TO THE SATISFACTION OF THE APPROVING**
27 **BODY THAT IMPERVIOUS AREA REDUCTION AND ENVIRONMENTAL SITE DESIGN**
28 **HAVE BEEN IMPLEMENTED TO THE MAXIMUM EXTENT PRACTICABLE, AND STILL**
29 **THE REQUIREMENT OF SUBSECTION (A) OF THIS SECTION CANNOT BE MET.**

30 **(2) ALTERNATIVE STORMWATER MANAGEMENT MEASURES**
31 **UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY INCLUDE:**

32 **(I) ON-SITE STRUCTURAL BEST MANAGEMENT PRACTICES;**

1 **(II) OFF-SITE STRUCTURAL BEST MANAGEMENT PRACTICES**
2 **TO PROVIDE WATER QUALITY TREATMENT FOR AN AREA GREATER THAN OR**
3 **EQUAL TO 50% OF THE EXISTING SITE IMPERVIOUS AREA; OR**

4 **(III) A COMBINATION OF IMPERVIOUS AREA REDUCTION,**
5 **ENVIRONMENTAL SITE DESIGN, AND ON-SITE OR OFF-SITE STRUCTURAL BEST**
6 **MANAGEMENT PRACTICES FOR AN AREA GREATER THAN OR EQUAL TO 50% OF**
7 **THE EXISTING SITE IMPERVIOUS AREA WITHIN THE LIMIT OF DISTURBANCE, AS**
8 **DETERMINED BY THE 2000 MARYLAND STORMWATER DESIGN MANUAL,**
9 **VOLUMES I AND II.**

10 **(C) (1) AN APPROVING BODY MAY AUTHORIZE ALTERNATIVE**
11 **STORMWATER MANAGEMENT MEASURES FOR REDEVELOPMENT PROJECTS IF**
12 **THE DEVELOPER DEMONSTRATES TO THE SATISFACTION OF THE APPROVING**
13 **BODY THAT THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION**
14 **CANNOT BE MET.**

15 **(2) ALTERNATIVE STORMWATER MANAGEMENT MEASURES**
16 **AUTHORIZED BY THE APPROVING BODY UNDER PARAGRAPH (1) OF THIS**
17 **SUBSECTION MAY INCLUDE, IN ORDER OF PRIORITY:**

18 **(I) A COMBINATION OF IMPERVIOUS AREA REDUCTION,**
19 **ENVIRONMENTAL SITE DESIGN, AND ON-SITE OR OFF-SITE STRUCTURAL BEST**
20 **MANAGEMENT PRACTICES;**

21 **(II) RETROFITTING, INCLUDING EXISTING BEST**
22 **MANAGEMENT PRACTICE UPGRADES, FILTERING PRACTICES, AND**
23 **IMPLEMENTATION OF OFF-SITE ENVIRONMENTAL SITE DESIGN;**

24 **(III) PARTICIPATION IN A STREAM RESTORATION PROJECT;**

25 **(IV) POLLUTION TRADING WITH ANOTHER ENTITY;**

26 **(V) DESIGN CRITERIA BASED ON WATERSHED**
27 **MANAGEMENT PLANS DEVELOPED IN ACCORDANCE WITH REGULATIONS**
28 **ADOPTED BY THE DEPARTMENT;**

29 **(VI) PAYMENT OF A FEE-IN-LIEU; OR**

30 **(VII) A PARTIAL WAIVER OF THE TREATMENT**
31 **REQUIREMENTS IF ENVIRONMENTAL SITE DESIGN IS NOT PRACTICABLE.**

32 **(3) WHEN DETERMINING WHICH ALTERNATIVE MEASURES TO**
33 **AUTHORIZE UNDER THIS SUBSECTION, THE APPROVING BODY:**

1 (I) SHALL, AFTER IT HAS BEEN DETERMINED THAT
2 ENVIRONMENTAL SITE DESIGN HAS BEEN IMPLEMENTED TO THE MAXIMUM
3 EXTENT PRACTICABLE, CONSIDER THE ORDER OF PRIORITY OF THE
4 ALTERNATIVE MEASURES IN PARAGRAPH (2) OF THIS SUBSECTION; AND

5 (II) MAY CONSIDER WHETHER:

6 1. THE REDEVELOPMENT PROJECT IS LOCATED IN
7 AN AREA DESIGNATED AS:

8 A. A PRIORITY FUNDING AREA UNDER TITLE 5,
9 SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

10 B. A TRANSIT ORIENTED DEVELOPMENT AREA
11 UNDER TITLE 7, SUBTITLE 1 OF THE TRANSPORTATION ARTICLE; OR

12 C. A BASE REALIGNMENT AND CLOSURE
13 REVITALIZATION AND INCENTIVE ZONE UNDER TITLE 5, SUBTITLE 13 OF THE
14 ECONOMIC DEVELOPMENT ARTICLE;

15 2. THE REDEVELOPMENT PROJECT IS NECESSARY
16 TO ACCOMMODATE GROWTH CONSISTENT WITH THE COMPREHENSIVE PLAN
17 FOR THE AREA WHERE THE DEVELOPMENT PROJECT WILL BE LOCATED; OR

18 3. BONDING AND FINANCING HAVE BEEN SECURED
19 BASED ON AN APPROVAL OF A REDEVELOPMENT PLAN BY THE APPROVING
20 BODY.

21 4-203.2.

22 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
23 QUANTITATIVE CONTROL WAIVER MAY BE GRANTED TO A DEVELOPMENT
24 PROJECT THAT IS LOCATED IN AN AREA WHERE A WATERSHED MANAGEMENT
25 PLAN HAS NOT BEEN DEVELOPED IN ACCORDANCE WITH REGULATIONS
26 ADOPTED BY THE DEPARTMENT IF:

27 (1) THE DEVELOPMENT PROJECT DISCHARGES DIRECTLY INTO
28 TIDALLY INFLUENCED RECEIVING WATERS; OR

29 (2) THE DEVELOPMENT PROJECT IS AN INFILL DEVELOPMENT
30 LOCATED IN AN AREA DESIGNATED AS A PRIORITY FUNDING AREA UNDER
31 TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE
32 WHERE:

1 **(I) THE ECONOMIC FEASIBILITY OF THE PROJECT IS TIED**
2 **TO THE PLANNED DENSITY OF THE DEVELOPMENT PROJECT;**

3 **(II) IMPLEMENTATION OF THE STORMWATER MANAGEMENT**
4 **REGULATORY REQUIREMENTS ADOPTED BY THE DEPARTMENT IN 2009 WOULD**
5 **RESULT IN A LOSS OF PLANNED DEVELOPMENT DENSITY; AND**

6 **(III) THE FOLLOWING CONDITIONS ARE MET:**

7 **1. PUBLIC WATER, SEWER, AND STORMWATER**
8 **CONVEYANCE EXISTS;**

9 **2. THE QUANTITATIVE WAIVER IS APPLIED ONLY TO**
10 **THE EXISTING IMPERVIOUS COVER ON THE SITE OF THE DEVELOPMENT**
11 **PROJECT;**

12 **3. ENVIRONMENTAL SITE DESIGN IS USED TO THE**
13 **MAXIMUM EXTENT PRACTICABLE TO MEET THE FULL WATER QUALITY**
14 **TREATMENT REQUIREMENTS OF THE ENTIRE DEVELOPMENT PROJECT; AND**

15 **4. ENVIRONMENTAL SITE DESIGN IS USED TO THE**
16 **MAXIMUM EXTENT PRACTICABLE TO PROVIDE FOR FULL QUANTITY CONTROL**
17 **FOR ALL NEW IMPERVIOUS SURFACES.**

18 **(B) (1) A QUANTITATIVE AND QUALITATIVE CONTROL WAIVER MAY**
19 **BE GRANTED FOR PHASED DEVELOPMENT PROJECTS IF, BY MAY 4, 2010, A**
20 **STORMWATER SYSTEM HAS BEEN CONSTRUCTED THAT IS DESIGNED TO MEET:**

21 **(i) THE REGULATORY REQUIREMENTS FOR STORMWATER**
22 **ADOPTED BY THE DEPARTMENT IN 2000; AND**

23 **(ii) THE LOCAL ORDINANCE REQUIREMENTS IN EFFECT**
24 **FOR PHASED DEVELOPMENT AT THE TIME THE STORMWATER SYSTEM WAS**
25 **CONSTRUCTED.**

26 **(2) (i) THIS PARAGRAPH APPLIES TO A PHASED**
27 **DEVELOPMENT PROJECT THAT HAS RECEIVED A WAIVER UNDER PARAGRAPH**
28 **(1) OF THIS SUBSECTION.**

29 **(ii) IF THE REGULATORY REQUIREMENTS FOR**
30 **STORMWATER ADOPTED BY THE DEPARTMENT IN 2009 CANNOT BE MET FOR**
31 **FUTURE PHASES OF A PHASED DEVELOPMENT PROJECT THAT ARE**
32 **CONSTRUCTED AFTER MAY 4, 2010, THE DEVELOPER SHALL DEMONSTRATE TO**
33 **AN APPROVING BODY THAT ALL REASONABLE EFFORTS WERE MADE TO**

1 INCORPORATE ENVIRONMENTAL SITE DESIGN INTO THESE PHASES OF
2 DEVELOPMENT.

3 4-203.3.

4 (A) AN APPROVING BODY MAY GRANT AN ADMINISTRATIVE WAIVER TO
5 A DEVELOPMENT PROJECT THAT RECEIVED PRELIMINARY PROJECT APPROVAL
6 FROM THE APPROVING BODY ON OR BEFORE MAY 4, 2010.

7 (B) EXCEPT AS PROVIDED BY SUBSECTION (C) OF THIS SECTION, AN
8 ADMINISTRATIVE WAIVER GRANTED UNDER SUBSECTION (A) OF THIS SECTION
9 SHALL EXPIRE ON:

10 (1) MAY 4, 2013, IF THE DEVELOPMENT PROJECT DOES NOT
11 RECEIVE FINAL PROJECT APPROVAL ON OR BEFORE THAT DATE; OR

12 (2) MAY 4, 2017, IF THE DEVELOPMENT PROJECT RECEIVES
13 FINAL PROJECT APPROVAL ON OR BEFORE MAY 4, 2013.

14 (C) (1) AN APPROVING BODY MAY GRANT AN EXTENSION TO AN
15 ADMINISTRATIVE WAIVER IF, BY MAY 4, 2010, A DEVELOPMENT PROJECT:

16 (I) HAS RECEIVED PRELIMINARY PROJECT APPROVAL; AND

17 (II) WAS SUBJECT TO:

18 1. A DEVELOPMENT RIGHTS AND RESPONSIBILITIES
19 AGREEMENT;

20 2. A TAX INCREMENT FINANCING APPROVAL; OR

21 3. AN ANNEXATION AGREEMENT.

22 (2) AN ADMINISTRATIVE WAIVER THAT IS EXTENDED UNDER THIS
23 SUBSECTION EXPIRES WHEN AN AGREEMENT OR APPROVAL UNDER PARAGRAPH
24 (1)(II) OF THIS SUBSECTION TERMINATES.

25 (D) CONSTRUCTION AUTHORIZED BY AN ADMINISTRATIVE WAIVER
26 GRANTED UNDER THIS SECTION SHALL BE COMPLETED:

27 (1) ON OR BEFORE MAY 4, 2017; OR

28 (2) BY THE EXPIRATION DATE OF THE EXTENSION TO AN
29 ADMINISTRATIVE WAIVER GRANTED UNDER SUBSECTION (C) OF THIS SECTION.

1 4-204.

2 (a) (1) [After July 1, 1984, unless] UNLESS OTHERWISE exempted
3 FROM THE REQUIREMENTS OF THIS SECTION, AND SUBJECT TO §§ 4-203.1 AND
4 4-203.2 OF THIS SUBTITLE, a person may not develop any land for residential,
5 commercial, industrial, or institutional use without [submitting]:

6 (I) SUBMITTING a stormwater management plan to the
7 [county or municipality] APPROVING BODY that has jurisdiction[.]; and

8 (II) [obtaining] OBTAINING approval of the plan from the
9 [county or municipality] APPROVING BODY.

10 (2) A grading or building permit may not be issued for a property
11 unless a stormwater management plan has been approved that is consistent with this
12 subtitle.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
14 construed to affect the requirements for a development project located in an intensely
15 developed area of the Chesapeake and Atlantic Coastal Bays Critical Area to comply
16 with the 10 percent pollution reduction requirement, as required by regulations
17 adopted in accordance with Title 8, Subtitle 18 of the Natural Resources Article.

18 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an
19 emergency measure, is necessary for the immediate preservation of the public health
20 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
21 members elected to each of the two Houses of the General Assembly, and shall take
22 effect from the date it is enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.