

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2010 Legislative Session**

Bill No. CB-79-2010

Chapter No. \_\_\_\_\_

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by \_\_\_\_\_

Co-Sponsors \_\_\_\_\_

Date of Introduction \_\_\_\_\_

**BILL**

1 AN ACT concerning

2 Water Quality Resources and Grading Code

3 For the purpose of enacting Subtitle 32, the Water Quality Resources and Grading Code,  
4 concerning grading, drainage and pollution control; erosion and sediment control; stormwater  
5 management; and accessibility for the disabled; and for the purpose of repealing certain  
6 provisions of Subtitle 4, the Building Code, and codifying them within Subtitle 32.

7 BY repealing and reenacting with amendments:

8 SUBTITLE 4. BUILDING.

9 Sections 4-111 and 4-352,

10 The Prince George's County Code

11 (2007 Edition, 2009 Supplement, as amended).

12 BY repealing:

13 SUBTITLE 4. BUILDING.

14 DIVISION 2. FLOODPLAIN ORDINANCE.

15 Sections 4-256 through 4-266,

16 DIVISION 3. GRADING, DRAINAGE, AND

17 POLLUTION CONTROL.

18 Sections 4-270 through 4-312,

19 DIVISION 4. STORMWATER MANAGEMENT.

20 SUBDIVISION 1. GENERAL PROVISIONS.

21 Sections 4-316 through 4-321.01,

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SUBDIVISION 2. STORMWATER CONCEPT  
AND DESIGN PLANS.  
Sections 4-322 through 4-329.02,  
SUBDIVISION 3. INSPECTION, MAINTENANCE,  
AND ENFORCEMENT.  
Sections 4-330 through 4-341, and  
DIVISION 6. NONTIDAL WETLAND  
PROTECTION ORDINANCE.  
Sections 4-356 through 4-379,  
The Prince George's County Code  
(2007 Edition, 2009 Supplement, as amended).

BY adding:

SUBTITLE 32. WATER RESOURCES  
PROTECTION AND GRADING CODE.  
DIVISION 1. ADMINISTRATIVE PROVISIONS.  
SUBDIVISION 1. ADOPTION BY REFERENCE.  
Sections 32-101 and 32-102,  
SUBDIVISION 2. GENERAL PROVISIONS.  
Sections 32-103 through 32-120,  
DIVISION 2. GRADING, DRAINAGE AND  
POLLUTION.  
Sections 32-124 through 32-166,  
DIVISION 3. STORMWATER MANAGEMENT.  
SUBDIVISION 1. GENERAL PROVISIONS.  
Sections 32-170 through 32-200,  
DIVISION 4. FLOODPLAIN ORDINANCE.  
Sections 32-202 through 32-212, and  
DIVISION 5. NONTIDAL WETLAND  
PROTECTION ORDINANCE.  
Sections 32-216 through 32-241,  
The Prince George's County Code

(2007 Edition, 2009 Supplement, as amended).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 4-111 and 4-352 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

**SUBTITLE 4. BUILDING.**

**DIVISION 1. BUILDING CODE.**

**Subdivision 2. Amendments to the International Building Code.**

**Sec. 4-111. Administration; Section 105, Permits.**

(a) Section 105.2 is amended to read as follows: "Work Exempt from Permit." Notwithstanding the foregoing, except for classified historic sites and property located within Chesapeake Bay Critical Area Overlay Zones, permits shall not be required for the following, provided that the construction does not result in any violation of this Subtitle: a one- story detached accessory structure on one- and two-family dwelling properties with less than one hundred fifty (150) square feet of floor space not designed or intended for occupation or habitation and limited to one (1) accessory structure only per property; all forms of paving less than five hundred (500) square feet except for parking surfaces; a retaining wall not greater than two (2) feet in height unless supporting a structure; fence not greater than four (4) feet in height; and satellite dishes not greater than two (2) feet in diameter in height; and satellite dishes not greater than two (2) feet in diameter. Except for classified Historic Sites, permits shall not be required for installation of siding, roofing, storm doors or windows, or retrofit insulations, provided that no construction is involved.

\* \* \* \* \*

[(g) Section 105.4.1 is added to read as follows: "Chesapeake Bay Critical Area." Where the property is located within a Chesapeake Bay Critical Area Overlay Zone, a Conservation Plan and a Conservation Agreement prepared in accordance with the Conservation Manual shall be submitted for approval and, wherever grading or construction are proposed, shall include an approved technical erosion and sediment control plan and an approved stormwater design plan. Where the Subdivision Review Committee has not reviewed and the Planning Board has not approved the Conservation Plan and Conservation Agreement, these shall be transmitted in accordance with the Conservation Manual to the Subdivision Review Committee for its review

1 and to the Planning Board for approval. The Planning Board shall approve the Conservation  
2 Plan and Conservation Agreement prior to the issuance of a building and/or grading permit,  
3 unless waived in accordance with the Conservation Manual. Where an approved Conservation  
4 Plan and Conservation Agreement includes an approved technical erosion and sediment control  
5 plan and stormwater design plan, the Building Official shall ensure that permits issued are  
6 consistent with the approved Conservation Plan and Conservation Agreement. If an approved  
7 Conservation Plan and Conservation Agreement do not include a technical erosion and sediment  
8 control plan and a stormwater design plan, the Conservation Plan and Conservation Agreement  
9 shall be revised to include these approved plans prior to the issuance of a building or grading  
10 permit.]

11 [(1) Development of land which is the subject of a Detailed Site Plan approved by the  
12 Planning Board between June 1, 1984, and January 15, 1988, does not require a Conservation  
13 Plan prior to the issuance of grading and building permits. In these instances, the Building  
14 Official shall only approve technical sediment and erosion control plans and stormwater design  
15 plans which are consistent with the approved Detailed Site Plan. Other than minor revisions, as  
16 defined in the Conservation Manual, deviations from the approved Detailed Site Plan necessitate  
17 the approval of a Conservation Plan and Conservation Agreement.]

18 [(2) If an approved Conservation Plan and Conservation Agreement are required prior  
19 to the issuance of a building or grading permit, then a copy of the fully executed Conservation  
20 Agreement shall be recorded among the land records of Prince George's County prior to the  
21 issuance of the applicable permit.]

22 [(3) No permit for building within a Chesapeake Bay Critical Area Overlay Zone shall  
23 be issued until the applicant has posted a cash deposit or bond in the amount of Two Hundred  
24 Dollars (\$200.00) plus forty cents (\$0.40) per square foot of the total area to be disturbed, to  
25 guarantee and assure the implementation of the Conservation Plan and Conservation Agreement.  
26 This cash deposit or bond shall be required for work performed in any such Overlay Zone,  
27 regardless of the area of disturbance.]

28 [(4) In the event that the entire amount of the cash deposit or bond is expended prior to  
29 the implementation of the Conservation Plan and Conservation Agreement, the applicant is  
30 responsible for all additional monies required to fully implement the Conservation Plan and  
31 Conservation Agreement. There is created a tax lien on the real property for monies expended

1 by the County for the implementation of the Conservation Plan and the Conservation Agreement.  
2 Upon certification from the County Attorney that a tax lien has been created, the amount of such  
3 lien shall be collected by the Director of Finance in the same manner as other County real estate  
4 taxes.]

5 [(5) Where building occurs within a Chesapeake Bay Critical Area Overlay Zone  
6 without, or in violation of, an approved permit, Conservation Agreement, or Conservation Plan,  
7 the owner of the real property and/or the contractor shall be liable for a penalty of up to One  
8 Dollar and twenty cents (\$1.20) per square foot for the area cleared, graded, and/or constructed,  
9 and shall be subject to the mitigation requirements contained in the Conservation Manual.]

10 [(6) Minor revisions of an approved Conservation Plan are defined in the  
11 Conservation Manual and may be made in accordance with the procedures set forth therein.]

12 [(h)] (g) Section 105.5 is amended to read as follows: "Expiration." Every permit issued  
13 shall become invalid unless the work on the site authorized by such permit is commenced within  
14 one hundred eighty (180) days after the issuance, or if the work authorized on the site by such  
15 permit is suspended or abandoned for a period of one hundred eighty (180) days after the time  
16 the work is commenced. The Code Official is authorized to grant, in writing, one or more  
17 extensions of time, for periods not more than one hundred eighty (180) days each. The extension  
18 shall be requested in writing and justifiable cause shall be demonstrated. Any permit issued for  
19 property within the area of a pending Sectional Map Amendment (as provided for in the County  
20 Zoning Ordinance) that is rezoned to a less intense zone, shall expire on its own terms upon  
21 approval of the Sectional Map Amendment by the District Council if a completed building  
22 foundation for a use not permitted in the less intense zone has not been completed. The Building  
23 Official shall notify the permit holder of the expiration of the permit.

24 [(i)] (h) Section 105.5.1 is added to read as follows: "Expiration of Permit and Correction  
25 of Code Violations." Any permit issued for residential property to correct a building code or  
26 housing code violation issued pursuant to Subtitle 4 or Subtitle 13 of the County Code shall be  
27 issued only for a period of time reasonably necessary to correct the violation, not to exceed  
28 ninety (90) days. The initial period of the permit shall be established by the Building Official  
29 based upon the extent of the work required to correct the violation. The permit may be extended  
30 or renewed for an additional period of one hundred eighty (180) days if, in the opinion of the  
31 Building Official, the applicant has demonstrated substantial progress to complete the work in

1 accordance with the permit and has demonstrated substantial justification for failure to complete  
2 the work within the period of the permit. The Board of Administrative Appeals shall have no  
3 authority to grant an extension to the period of the permit.

4 [(j)] (i) Section 105.8 is added to read as follows: "Rural Tier." Where the property is  
5 located in the Rural Tier, as delineated in the Approved General Plan, the validity period of  
6 building permits and the requirements for granting extensions to the validity periods of expired  
7 building permits shall conform to Subtitle 27, Part 18 of the County Code (Interim Development  
8 Ordinance).

9 [(k)] (j) Section 105.9 is added to read as follows: "Building Location." No permit for  
10 building shall be issued for a structure that overlaps the County line. Location of the County line  
11 on the site plan shall be certified by a Professional Land Surveyor.

12 [(l)] (k) Section 105.10 is added to read as follows: "Date and Hours of Operation  
13 Limits." All permits shall be issued with date and hours of operation limits listed as determined  
14 by the Building Official. All permits shall be issued indicating that no work shall be performed  
15 during the hours of 9:00 p.m. to 7:00 a.m., unless work is performed pursuant to Section 4-120 of  
16 this Subtitle.

17 \* \* \* \* \*

18 **DIVISION 5. ADMINISTRATIVE PROVISIONS.**

19 **Sec. 4-352. Fee Schedule.**

20 (a) General: No permit to begin work for new construction, alteration, removal,  
21 demolition, or other building operation shall be issued until the fees prescribed by this Section  
22 have been paid to Prince George's County, nor shall an amendment or revision to a permit  
23 necessitating an additional fee be approved until the additional fee has been paid. The fee for  
24 each building permit shall be based on the total construction cost of the building, structure,  
25 and/or any other improvement of the property for which such building permit is obtained.

26 \* \* \* \* \*

27 [(j) Grading, drainage, erosion control: Fees for permits for grading, drainage, erosion  
28 control, and other site work controlled by Division 3 of this Subtitle shall be based upon that area  
29 (A), in square feet, remaining from the area of the entire site, (A1), after deducting the resistant  
30 ground cover or surface, and in an amount as determined by the following table:]

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[From	But Less Than	Fee Rate
0 Acres	1 Acre	\$.006 per Square Foot or fraction thereof
1 Acre	2 Acres	Additional \$230.00 per Acre or fraction thereof
2 Acres	10 Acres	Additional \$160.00 per Acre or fraction thereof
10 Acres	50 Acres	Additional \$90.00 per Acre or fraction thereof
50 Acres	200 Acres	Additional \$50.00 per Acre or fraction thereof
200 Acres	600 Acres	Additional \$30.00 per Acre or fraction thereof
600 Acres or Greater		Additional \$24.00 per Acre or fraction thereof]

1 [(k) Fee for Sediment Control Site Plan Review by Soil Conservation District for Area to  
 2 be Disturbed in Excess of 15,000 Square Feet -- Initial application fee shall be Fifteen Dollars  
 3 (\$15.00). There is no fee required for plan review if the land shown in the submitted site plan to  
 4 be disturbed is 15,000 square feet or less.

5 (1) Certification by Soil Conservation District (SCD) of field review in conjunction  
 6 with SCD plan review: There is no certification fee required if the land to be disturbed is 15,000  
 7 square feet or less. Certification fee shall be Seventy-five Dollars (\$75.00) for the first acre or  
 8 portion thereof of land, in excess of 15,000 square feet, proposed to be disturbed in the submitted  
 9 plan.

10 (2) Certification by SCD of field review in conjunction with SCD plan review:  
 11 Certification fee shall be Fifty Dollars (\$50.00) for each additional acre not to exceed five (5)  
 12 acres proposed to be disturbed in the submitted plan.

13 (3) Certification by SCD of field review in conjunction with SCD plan review:  
 14 Certification fee for acreage in excess of five (5) acres shall be Fifteen Dollars (\$15.00) for each  
 15 additional acre.

16 (4) Certification by SCD of field review in conjunction with SCD plan review:  
 17 Certification fee for acreage in excess of 200 acres shall be prorated based on actual costs of

1 review by SCD in excess of the revenue received from the sediment control fees imposed for the  
2 first 200 acres of the subject site.

3 (5) The fee system imposed in this Subsection shall conform to the provisions of  
4 Section 8-1103(c) of the Natural Resources Article, Annotated Code of Maryland.]

5 [(l) Bond Reduction Fee: A Two Hundred Fifty Dollar (\$250.00) nonrefundable fee for  
6 administrative expenses shall be paid for each request for a partial release of the monies posted  
7 as a guarantee pursuant to Section 4-281 of this Code.]

8 [(m)Bond Recall Fee: Whenever the Building Official requests payment of monies posted  
9 as guarantee pursuant to Section 4-281 of this Code, a Two Hundred Fifty Dollar (\$250.00)  
10 nonrefundable fee for administrative expenses shall be paid.]

11 [(n)] (j) Boilers and vessels. The fee for inspection of boilers and vessels shall be as  
12 follows:

Heating Boilers	FEES
Water	
0-1000 MBH	\$20.00
1000-2000 MBH	\$30.00
over 2000 MBH	\$40.00
Steam	
0-1000 P/H	\$30.00
1000-2000 P/H	\$40.00
2000-4000 P/H	\$50.00
over 4000 P/H	\$60.00
Power Boilers	
0-100 HP	\$40.00
100-500 HP	\$50.00
500-1000 HP	\$60.00
Domestic Hot-Water Supply Boilers	\$20.00
Miniature Boilers	\$20.00
Unfired pressure vessels without manhole	\$20.00
Unfired pressure vessels with manhole	\$40.00

1 The fee for the inspection certificate for boilers and pressure vessels shall be Twenty Dollars  
2 (\$20.00).

3 [(o)] (k) Certificates. For a certificate of compliance, the fee payable by the owner on or  
4 before the expiration of the certificate shall be as follows:  
5

Passenger elevator -- power driven	\$30.00
Passenger elevator -- hand driven	\$10.00
Freight elevator -- power driven	\$30.00
Sidewalk elevator -- power driven	\$12.00
Sidewalk elevator -- hand driven	\$ 7.00
Dumbwaiter -- power driven	\$15.00
Dumbwaiter -- hand driven	\$ 7.00
Escalator -- per floor	\$12.00
Man lift -- power driven	\$12.00
Material hoists	\$20.00

6 [(p) Stormwater Management Facility Plan Review Fees: The fee for review of stormwater  
7 management concept plans shall be One Hundred Dollars (\$100.00) for a single residential lot  
8 and Two Hundred Fifty Dollars (\$250.00) for all other plans. The fee for review of a public  
9 storm drain system shall be Three Dollars (\$3.00) per linear foot of public storm drain pipe or  
10 Two Hundred Fifty Dollars (\$250.00), whichever is greater. The fee for review of a private  
11 storm drain system shall be One Dollar fifty cents (\$1.50) per linear foot of private storm drain  
12 pipe or One Hundred Twenty-Five Dollars (\$125.00), whichever is greater. The fee for special  
13 drain permits shall be One Hundred Dollars (\$100.00) per connection. The fee for major  
14 revisions shall be One Hundred Dollars (\$100.00) or 25% of the original review fees, whichever  
15 is greater. If a storm drain permit is not obtained within a twenty-four (24) month period after  
16 technical approval of the plans, a fee of One Hundred Dollars (\$100.00) shall be charged for  
17 updating the plans. The fee for as-built plan submittals shall be Two Hundred Fifty Dollars  
18 (\$250.00). The review charge for tax-exempt properties, including non-profit organizations,  
19 churches, chartered cities and municipalities, shall be one half of the fees recited in this  
20 subsection. In addition, all Prince George's County affiliated public services will be charged.]

1 [(q)] (l) Stormwater Management Fee-In-Lieu: The fees-in-lieu authorized in Section  
 2 4-324 (b) of this Code shall be as follows:

3 (1) The standard fee shall be as set forth in the table below, which is based upon the  
 4 percentage of area which typically becomes impervious to infiltration when the property is  
 5 developed as zoned, multiplied by \$8,000.

Zone	Percentage of Impervious	Fee/Dwelling Unit	Fee/Acre (Special Exceptions)
O-S	1.0	--	\$ 160
R-A	1.5	--	240
R-E	12.0	\$ 750	1920
R-R	18.0	750	2880
R-80	22.0	750	3520
R-55	26.0	750	4160
R-35	40.0	750	6400
R-T	50.0	750	8000
R-20	50.0	750	8000
R-30	50.0	750	8000
R-18	55.0	750	8800
R-H	75.0	250	12,000
R-10	75.0	250	12,000
I-1	80.0	--	12,800
I-2	80.0	--	12,800
I-3	75.0	--	12,000
I-4	70.0	--	11,200
C (All)	90.0	--	14,400

6 (2) Fees for Comprehensive Design Zones or any other zones not included in this  
 7 schedule will be the fees for the zone(s) that most closely approximates the proposed land use.

8 (3) Fee Reductions and Credits

9 (A) A one-third reduction in the assessed fee will be made for each of the  
 10 following on-site stormwater measures that the applicant is required to provide:

11 (i) Water quality management or LID;

- (ii) One year extended detention or LID; or
- (iii) Flood control facilities (10-year or 100-year stormwater management).

(B) The Director may reduce the fee:

(i) To an amount based on the actual impervious area if the site plan approved by the Planning Board provides that the impervious area of the development will be less than the maximum allowed under the County's zoning regulation, and the applicant demonstrates that future increases in the impervious area are unlikely. For residential zones, the fee reduction will be proportioned on a dwelling unit basis at a maximum of Seven Hundred Fifty Dollars (\$750.00) per dwelling unit. The fee reduction will be calculated using a formula of Actual Impervious Acreage x \$16, 0000.00;

(ii) To reflect the cost of land which the applicant agrees to provide for a regional stormwater facility;

(iii) To exclude undevelopable area (i.e., floodplains) or areas requiring a subsequent stormwater management concept plan from the fee computation for industrial and commercial developments; or

(iv) To the actual cost of providing on-site controls to the extent that the applicant can demonstrate such actual costs to the satisfaction of the Director.

[(r)] (m) Woodland Conservation Threshold:

(1) Woodland replacement amount for forest cover removed during development is based on the net tract area of the site and the Conservation Threshold value found in Table 1. In addition, forest cover saved above the Conservation Threshold value is credited toward the replacement amount.

Table 1: Woodland Conservation requirements by zone for all zones

Zone2	Conservation Threshold	Zone2	Conservation Threshold
O-S	50%	C-A	15%
R-A	50%	C-O	15%
R-E	25%	C-S-C	15%
R-R	20%	C-1	15%
R-80	20%	C-C	15%
R-55	20%	C-G	15%
R-35	20%	C-2	15%
R-20	20%	C-W	15%

R-T	20%	C-M	15%
R-30	20%	C-H	15%
R-30C	20%	C-R-C	15%
R-18	20%	I-1	15%
R-18C	20%	I-2	15%
R-10	20%	I-3	15%
R-10A	20%	I-4	15%
R-H	20%	M-X-T	15%
R-M-H	20%	E-I-A	15%
R-U	20%	V-M	20%
R-M	20%	V-L	25%
R-L	25%	R-S	20%
M-A-C	15%	T-D-O1	
L-A-C	15%	L-A-C1	

1 In the T-D-O and the R-P-C Zones, the Conservation Threshold is  
determined by the underlying zone.

2 The Conservation Threshold for any zone included in Subtitle 27 of  
the Prince George's County Code which is not specifically listed  
herein shall be established based upon the criteria contained in  
Natural Resources Article, Sec. 5-1601 through 5-1613 Forest  
Conservation Act.

1 (2) In the O-S and R-A Zones, the District Council may reduce the Conservation

2 Threshold to a minimum of 25% for the following active recreation uses: ball fields, golf  
3 courses, community recreation centers, playgrounds, tennis courts, and basketball courts; or, if a  
4 reduction is necessary to protect or enhance a specific ecological system or to prevent or  
5 eliminate a public health hazard, on a lot or parcel on which activity occurred prior to November  
6 21, 1989, and continues to occur, that materially affected the condition and use of the land, based  
7 on a recommendation from the Director of the Department of Environmental Resources.

8 [(s)] (n) Reforestation Fee-in-Lieu:

9 (1) In cases where on-site or off-site reforestation for forest cover removed from a  
10 site above the Conservation Threshold is not feasible, a fee-in-lieu of woodland replacement may  
11 be assessed. This fee shall be assessed at a rate of thirty cents (\$0.30) per square foot multiplied  
12 by the area in square feet of forest removal, down to the Conservation Threshold, and that  
13 product multiplied by one-quarter (0.25). The fee system, instead of on-site or off-site  
14 reforestation, will be at the discretion of the approving authority. These funds shall be used only

1 for the costs associated with afforestation/reforestation, woodland site acquisition, and site  
 2 preparation on public or private lands for establishing woodlands. Fees will be collected by the  
 3 Department of Environmental Resources prior to the issuance of a permit.

4 [(t)] (o) School Facilities Surcharges:

5 (1) Upon the issuance of a building permit for new residential construction for which  
 6 a building permit application has been made on or after July 1, 1996, the applicant shall pay a  
 7 school facilities surcharge, with the exception of a permit for the construction of:

8 (A) Dwellings for the elderly which are operated in accordance with State and  
 9 Federal fair housing laws within an apartment house for the elderly, an assisted living facility, a  
 10 congregate living facility, a mixed residential development, or planned retirement community;

11 (B) A single-family detached dwelling to be built or subcontracted by an  
 12 individual owner in a minor subdivision and intended as the owner's personal residence;

13 (C) Improvements on property in an infrastructure finance district approved  
 14 before January 1, 2000; or

15 (D) Multifamily housing designated as student housing within one and one half  
 16 (11/2) miles of the University of Maryland, College Park Campus, under the following  
 17 conditions:

18 (i) A multifamily project that includes the following features:

19 (aa) A minimum of one (1) bathroom per two (2) beds;

20 (bb) Appropriate locks will be provided on every bedroom door as  
 21 permitted by the Life Safety Code;

22 (cc) At least seventy percent (70%) of bedrooms shall not exceed one  
 23 hundred and forty-five (145) square feet or be smaller than standard market units (exclusive of  
 24 the closet and bathroom);

25 (dd) Balconies shall not be permitted, but enclosed decks and patios  
 26 shall be permitted on the ground floor;

27 (ee) At least ninety percent (90%) of dwelling units shall be furnished  
 28 with a single or full bed and desk in each bedroom and appropriate seating for each resident in  
 29 the living and dining areas;

30 (ff) Design of amenities shall be geared toward college students such  
 31 as study rooms, computer rooms, club rooms and game rooms; and

1 (gg) Written evidence of a relationship with an institution of higher  
 2 education in terms of one or more of the following: resident life services, shuttle bus services,  
 3 coordinated permit parking policies and telecommunications wiring.

4 (ii) A multifamily project that is exempt pursuant to subsection (D)(1) shall  
 5 be assessed a school facilities surcharge at the time a building permit is issued for the conversion  
 6 of a multifamily dwelling to standard market units.

7 (2) The amount of the school facilities surcharge for a building permit issued on or  
 8 after July 1, 2003 shall be:

9 (A) Seven Thousand Dollars (\$7,000) if the building is located between  
 10 Interstate Highway 495 and the District of Columbia;

11 (B) Seven Thousand Dollars (\$7,000) if the building is included within a basic  
 12 plan or conceptual site plan that abuts an existing or planned mass transit rail station site  
 13 operated by the Washington Metropolitan Area Transit Authority; or

14 (C) Twelve Thousand Dollars (\$12,000) for all other buildings.

15 (3) School Facility Surcharge in Municipal Corporations: Prior to the issuance of a  
 16 building permit for new residential construction in a municipality with zoning authority and the  
 17 authority to issue building permits, the applicant shall pay to the County a school facilities  
 18 surcharge in the amount of:

19 (A) Seven Thousand Dollars (\$7,000) if the building is located between  
 20 Interstate Highway 495 and the District of Columbia;

21 (B) Seven Thousand Dollars (\$7,000) if the building is included within a basic  
 22 plan or conceptual site plan that abuts an existing or planned mass transit rail station site  
 23 operated by the Washington Metropolitan Area Transit Authority; or

24 (C) Twelve Thousand Dollars (\$12,000) for all other buildings.

25 [(u)] (p) Public Safety Surcharge:

26 (1) Upon the issuance of a building permit for new residential construction for which  
 27 a building permit application has been made on or after July 1, 2005, the applicant shall pay a  
 28 public safety surcharge, with the exception of a permit for the construction of:

29 (A) New residential construction for which a preliminary plan has been approved  
 30 prior to July 1, 2005; or

1 (B) A single-family detached dwelling to be built or subcontracted by an  
2 individual owner in a minor subdivision and that is intended to be used as the owner's personal  
3 residence.

4 (2) The amount of the public safety surcharge for a building permit issued on or after  
5 July 1, 2005 shall be:

6 (A) Two thousand dollars (\$2,000) if the building is located in the developed  
7 tier, as defined by the Maryland-National Capital Park and Planning Commission in the 2002  
8 Prince George's County approved General Plan;

9 (B) Six thousand dollars (\$6,000) for all other buildings.

10 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,  
11 Maryland, that Division 2. FloodPlain Ordinance, Sections 4-256 through 4-266; Division 3.  
12 Grading, Drainage, And Pollution, Sections 4-270 through 4-312; Division 4. Stormwater  
13 Management, Subdivision 1. General Provisions, Sections 4-316 through 4-321.01, Subdivision  
14 2. Stormwater Concept And Design Plans, Sections 4-322 through 4-329.02, Subdivision 3.  
15 Inspection, Maintenance, And Enforcement, Sections 4-330 through 4-342; and Division 6.  
16 Nontidal Wetland Protection Ordinance, Sections 4-356 through 4-379 of Subtitle 4 of the Prince  
17 George's County Code be and the same are hereby repealed:

18 [Sec. 4-267. through Sec. 4-269. Reserved.]

19 [Sec. 4-313. through Sec. 4-315. Reserved.]

20 Sec. [4-342]4-256. through Sec. 4-344. Reserved.

21 \* \* \* \* \*

22 Sec. 4-353. through Sec. [4-355]4-379. Reserved.

23 SECTION 3. BE IT ENACTED by the County Council of Prince George's County,  
24 Maryland, that Subtitle 32, Division 1. Administrative Provisions, Subdivision 1. Adoption by  
25 Reference, Sections 32-101 and 32-102; Subdivision 2. General Provisions, Sections 32-103  
26 through 32-120; Division 2. Grading, Drainage and Pollution; Sections 32-124 through 32-166;  
27 Division 3. Stormwater Management; Subdivision 1. General Provisions, Sections 32-170  
28 through 32-200; Division 4. Floodplain Ordinance, Sections 32-202 through 32-212; and  
29 Division 5. Nontidal Wetland Protection Ordinance, Sections 32-216 through 32-241 of the  
30 Prince George's County Code be and the same is hereby added:

31 **SUBTITLE 32. WATER RESOURCES PROTECTION AND GRADING CODE.**

**DIVISION 1. ADMINISTRATIVE PROVISIONS.**

**Subdivision 1. Adoption by Reference.**

**Sec. 32-101. Code – Adopted by Reference.**

The following codes and standards are hereby adopted by reference and made part of this Subtitle with the same force and effect as those set out in full herein as the official Water Resources Protection and Grading Code of Prince George’s County, together with the changes, deletions or modifications prescribed in this Subtitle:

- COMAR 26.17.01 – Erosion and Sediment Control
- COMAR 26.17.02 – Stormwater Management
- COMAR 05.02.02 – Maryland Accessibility Code

**Sec. 32-102. Public Inspection.**

A copy of the COMAR Regulations adopted by this Subtitle shall be marked as a master copy and maintained by the Clerk of the Council.

**SUBDIVISION 2. GENERAL PROVISIONS.**

**Sec. 32-103. Administration; Applicability.**

(a) The regulations as embodied in Divisions 2 of this Subtitle shall control and establish minimum requirements for grading, drainage, surface structures, erosion control of land and stormwater management within Prince George’s County, Maryland and shall establish procedures by which such requirements are to be administered and enforced.

(b) Where existing standards or requirements adopted herein have been updated or superseded by the promulgating authority, such revised standard or requirement shall be deemed as prima facie evidence of compliance with the intent of this Subtitle.

**Sec. 32-104. Administration; Duties and Powers of the Director.**

(a) The Director of the Department of Public Works and Transportation hereinafter referred to as “the Director, or the Director’s authorized representative(s) shall enforce all provisions of this Code.

(b) The Director shall keep official records of applications received, permits and certificates issued, fees collected and reports of inspection hours. Construction Documents shall be retained in accordance with the Department’s retention policy procedures.

(c) The Director shall have the authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulations, to interpret and implement

1 the provisions of this Code to secure the intent thereof, and to designate requirements applicable  
2 because of local climate or other conditions. Such rules shall not have the effect of waiving the  
3 COMAR Regulations specifically provided for in this Code, nor shall such rules violate  
4 engineering practice involving public safety.

5 **Sec. 32-105. Administration; Permits; Expiration of Permits; Correction of Code Violations**  
6 **and Suspension or Revocation and Reissuance of Permits.**

7 (a) Any permit issued for grading pursuant to Subtitle 32 of this Code shall be issued only  
8 for a period of time reasonably necessary to perform the work, a period not to exceed 5 years.  
9 Where a permit is issued to correct a violation, the permit shall not exceed ninety (90) days. The  
10 initial period of the permit shall be established by the Director based upon the extent of the work  
11 required to correct the violation. The permit may be extended or renewed for an additional  
12 period of one hundred eighty (180) days if, in the opinion of the Director, the applicant has  
13 demonstrated substantial progress to complete the work in accordance with the permit and has  
14 demonstrated substantial justification for failure to complete the work within the period of the  
15 permit. The Board of Appeals shall have no authority to grant an extension to the period of the  
16 permit.

17 (b) The Director may refuse to accept an application for a permit from any applicant, as  
18 principal, who is or was in default on a previously issued permit or who is the permittee listed on  
19 an expired permit which is not currently in the process of being extended by the County  
20 administrative action.

21 (c) A permit under which no work is commenced within one hundred eighty (180) days  
22 after issuance shall expire and become null and void; provided, however, that the Director may  
23 extend the time herein not to exceed an additional one hundred eighty (180) days upon sufficient  
24 justification shown.

25 (d) A permit under which work has been started and later suspended or discontinued shall  
26 expire and become null and void six (6) months after the work has stopped. Work will be  
27 considered suspended or discontinued when the permittee fails to prosecute the work so as to  
28 ensure completion within a reasonable period of time.

29 (e) A permit issued in error or not in compliance with the County Code at the time of  
30 issuance may be suspended by the Director.

31 (f) When a permit has expired for failure to commence work, it may be renewed with-in a

1 period of thirty (30) days from the date of expiration, if the conditions under which the permit  
 2 was originally issued have remained unchanged and there has been no change in law or  
 3 ordinance that would adversely affect the permit. A fee shall be collected for each renewal;  
 4 provided, however, that no permit may be renewed more than two (2) times.

5 (g) The Director may reissue a permit subject to all applicable laws and regulations in  
 6 effect at the time the permit was originally issued, for a period not to exceed one (1) year after  
 7 expiration provided that:

8 (1) The County Executive by Executive Order, has made a finding of severe  
 9 economic factors adversely affecting real estate development and construction in the County  
 10 during a specified period and the County Council has been notified by the County Executive of  
 11 such finding at least seven (7) days prior to issuance of the Executive Order;

12 (2) There is a reasonable showing that these economic factors contributed to the  
 13 expiration of the permit;

14 (3) There has been no change in the zoning of the property which would affect the  
 15 issuance of the permit; and

16 (4) A processing fee has been paid in an amount equal to the amount that would be  
 17 required if the permit was renewed.

18 (h) Permits suspended for failure to comply with the County Code or ordinances may be  
 19 reinstated by the Director upon compliance or approved validation.

20 **Sec. 32-106. Administration; Construction Documents.**

21 (a) "Location of Underground Utility Lines prior to Commencement of Work". For all  
 22 work that requires excavation deeper than twelve (12) inches, the permittee accepting the permit  
 23 agrees to contact the Utility Service Protection Center, "Miss Utility", and non-member utility  
 24 companies, as known, in due time prior to beginning any excavation work for the purpose of  
 25 having each utility company locate its lines on site. In the event that the permittee fails to obtain  
 26 the services of the utilities, then in such event, and irrespective of whether or not a utility line is  
 27 ruptured, the Director may revoke the grading permit. In such event, all fees paid to the County  
 28 shall be forfeited and, in order to continue work, a new application with requisite fee for a permit  
 29 shall be filed. Drawings shall be reexamined to determine that all utilities have been located and  
 30 verified by the utility companies having knowledge of the location of such underground utilities.  
 31 However, in the event any or all of the respective utility companies fail to furnish the requisite

1 information to the permittee within a reasonable period of time as determined by the Director  
 2 under all circumstances, then, in such event, the foregoing revocation provisions shall not apply.

3 (b) Builders and permittee shall place on record with each utility company a written  
 4 acknowledgment that final grade has been achieved to within six (6) inches. Utility lines shall  
 5 not be installed until such acknowledgement has been received by the utilities.

6 **Sec. 32-107. Administration; Violations.**

7 Any person, firm, association, partnership corporation, or combination thereof, who shall  
 8 violate a provision of the COMAR Regulations or of this Subtitle, or fail to comply with any of  
 9 the requirements thereof, violates a lawful order issued hereunder, shall be guilty of a  
 10 misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or by  
 11 imprisonment for six (6) months, or both. Each day that a violation continues shall be deemed a  
 12 separate offense.

13 **Sec. 32-108. Administration; Emergency Measures; Abatement of Unsafe Conditions; Tax**  
 14 **Lien.**

15 (a) When, in the opinion of the Director, there is an imminent danger to human life or the  
 16 public welfare due to an unsafe condition, the Director shall cause the necessary work to be done  
 17 to render the unsafe condition temporarily safe, whether or not the legal procedure herein  
 18 described has been instituted. At the time the unsafe condition has been rendered temporarily  
 19 safe, the Director shall notify the owner/permittee that the temporary measures have been taken  
 20 and the owner/permittee is required to restore the area within thirty (30) days and that the  
 21 owner/permittee is subject to a violation being issued directing that the work be completed by  
 22 that time. If the area is not restored within thirty (30) days, the owner/permittee shall be fined up  
 23 to One Thousand Dollars (\$1,000.00) each day the violation exists.

24 (b) When necessary for public safety, the Director shall temporarily close sidewalks,  
 25 streets, public ways or other public access means adjacent to the unsafe condition and prohibit  
 26 the same from being used.

27 (c) For the purpose of this Section, the Director shall employ the necessary labor and  
 28 materials to perform the required work as expeditiously as possible.

29 (d) Costs incurred in the performance of emergency work shall be paid from the treasury  
 30 of the local upon issuance of a jurisdiction by certificate of the Director. The legal counsel of the  
 31 jurisdiction shall institute appropriate action against the owner/permittee of the property where

1 the unsafe condition was located from recovery of such costs, including, but not limited to,  
 2 certification for a tax lien.

3 (e) A tax lien shall be created on real property for monies expended by the County to make  
 4 safe a property and/or abatement of other nuisances or conditions that constitute a danger to  
 5 public health and safety. Upon certification by the County Attorney that a tax lien has been  
 6 created, the amount of such lien shall be collected by the Director of Finance in the same manner  
 7 as other County real estate taxes.

8 **Section 32-109. Accessibility.**

9 (a) The Department of Public Works and Transportation hereby adopts the Maryland  
 10 Accessibility Code as set forth in the Code of Regulations (COMAR) Section .05.02.02. Exit-  
 11 way ramps shall have a width of not less than five (5) feet.

12 (b) The Department of Public Works and Transportation shall be responsible for enforcing  
 13 the Maryland Accessibility Code requirements pertaining only to exterior issues outside of any  
 14 building or structure, except for any project that has one (1) building on (1) parcel, which shall  
 15 be the responsibility of the Department of Environmental Resources, who shall also be  
 16 responsible for the enforcement of the handicap code requirements pertaining to the interior of  
 17 all buildings and structures, including exterior stairways, balconies, etc.

18 **Section 32-110. Soils and Foundations.**

19 Except when erected upon solid rock or otherwise protected from frost, foundations, walls,  
 20 piers and other permanent supports of structures shall extend thirty (30) inches below finished  
 21 grade, and spread footings of adequate size shall be provided when necessary to properly  
 22 distribute the load within the allowable bearing value of the soil, or such structures shall be  
 23 supported on piles when solid earth to rock is not available. Footings shall not be founded on  
 24 frozen soils unless such frozen condition is of a permanent character.

25 **Section 32-111. Structural Tests and Special Inspections.**

26 The special inspections for existing soil conditions, fill placement and load bearing  
 27 requirements shall follow Division 2 of this Subtitle.

28 **32-112. Requirements for Grading, Removal, etc., Generally**

29 (a) The regulations contained in this Subtitle and the provisions of its Divisions jointly  
 30 construed shall control all matters concerning grading, drainage and erosion control, except such  
 31 matters as are otherwise provided for in the Prince George's County Code, in the rules and

1 regulations pertaining to the Washington Suburban Sanitary District as lawfully adopted by the  
2 Washington Suburban Sanitary Commission pursuant to the authorities contained in its organic  
3 statute, as the same may from time to time be amended and all laws having general application in  
4 the County under the public general and public laws of the State, as well as rules and regulations  
5 of Maryland State Departments or agencies.

6 (b) All work done under any grading permit issued under this Subtitle shall be in full  
7 compliance with this Code; the regulations of Subtitle 23 and Subtitle 25 and any other  
8 applicable provisions of the Prince George's County Code; or any other statute, ordinance or  
9 regulation officially and lawfully adopted by State, Bi-County or County agencies that are  
10 applicable in the County.

11 (c) The Director is hereby authorized and directed to assist in the enforcement of such  
12 statutes, ordinances and regulations to the full extent of the powers delegated to him in this  
13 Subtitle.

14 (d) In the Chesapeake Bay Critical Area Overlay Zones, trees removed pursuant to an  
15 approved Conservation Plan and Conservation Agreement shall be replaced in accordance with  
16 Subtitle 5B by reforestation or afforestation, or a fee in lieu of reforestation or afforestation may  
17 be paid prior to the issuance of any permits pursuant to this Subtitle. All fees in lieu shall be  
18 maintained in a specially created fund under the administration of the Director and shall be used  
19 solely for reforestation or afforestation of land located in the Chesapeake Bay Critical Area  
20 Overlay Zones.

### 21 **32-113. Issuance of Certificates of Occupancy.**

22 (a) No certificates of occupancy or temporary occupancy for any building or structure shall  
23 be issued until the grading permit, if required, is in substantial compliance with the provisions of  
24 this Code and other provisions of State and local laws, ordinances and regulations.

25 (b) An adequate ground stabilization shall be established and all of the requirements of the  
26 approved Tree Conservation Plan, including plantings shall be completed prior to the issuance of  
27 the certificates of occupancy.

### 28 **Sec. 32-114. Exemptions to Subtitle.**

29 (a) Procedure. The County Council may exempt, upon specific request, from the  
30 requirements of this Subtitle, all grading within the corporate limits of a Prince George's County  
31 municipality, with planning and zoning authority, when ever the County Council determines, by

1 resolution, that the grading regulations and administrative procedures of said municipality and  
 2 the enforcement thereof are as adequate and equally effective as the County's grading  
 3 regulations, any other applicable regulations and administrative procedures presently or hereafter  
 4 enacted. Said exempting resolution may include any conditions, restrictions or requirements  
 5 deemed necessary by the County Council.

6 (b) Referral. Whenever any municipality, delegated authority under the provisions of this  
 7 exemption, determines that it lacks the necessary expertise to review an application and issue a  
 8 permit subsequent thereto, said application shall be referred to the Director for appropriate  
 9 action. If so referred, compliance shall be had with all applicable provisions of this Subtitle  
 10 including fee requirements. Administration and enforcement shall be pursuant to this Subtitle.

11 **Sec. 32-115. Exemption from Review Fees.**

12 (a) Upon certification by the Superintendent of Schools that a construction project is a part  
 13 of an educational program of the Prince George's County Public Schools, the Director shall  
 14 waive any fees that would be otherwise required by this Subtitle.

15 (b) The Director shall waive any review fees that would be otherwise required by this  
 16 Subtitle for any construction project that is undertaken by the Prince George's County Public  
 17 Schools and any public affiliated agencies.

18 **Sec. 32-116. Administration and Enforcement of Subtitle – Generally.**

19 (a) Administration and enforcement of this Subtitle shall be by the Director of the  
 20 Department of Public Works and Transportation.

21 (b) The Director shall be a classified employee under Subtitle 16, Personnel, of this Code.  
 22 The Director shall designate such number of officers, technical assistants, inspectors and other  
 23 employees as shall be necessary for the administration of this Subtitle. The Director may  
 24 designate an employee as his Deputy who shall exercise all the powers of the Director during the  
 25 temporary absence or disability of the Director.

26 (c) The Director shall have the power and the duty to enforce the provisions of this  
 27 Subtitle and all fees provided in this Subtitle shall be paid to the order of Prince George's  
 28 County. All permits shall be issued by the Director in the name of Prince George's County.

29 **Sec. 32-117. Interpretations, etc., by Director.**

30 Whenever in the regulations provided for in this Subtitle it is provided that anything shall  
 31 be done to the approval of or subject to the direction of the Director, this shall be construed to

1 give the Director only the discretion of determining whether the rules and standards established  
 2 by this Subtitle have been complied with, and no such provision shall be construed as giving any  
 3 officer discretionary powers to establish such regulations or standards or power to require  
 4 conditions nor prescribed by this Subtitle or any other ordinance of the County or to enforce any  
 5 provisions of this Subtitle in an arbitrary or discriminatory manner.

6 **Sec. 32-118. Stop Work Orders.**

7 (a) Whenever any work is being done in violation of the provisions of this Subtitle or is  
 8 not in conformance with the term of any permit issued for such work, the Director or his duly  
 9 authorized representative may order all or part of the work on the job stopped until such violation  
 10 or nonconformance is eliminated and any work or installation made in violation of this Subtitle is  
 11 corrected. Such "Stop Work Order;" if oral, shall be followed by a written "stop order" within  
 12 twenty-four (24) hours (excluding Saturday, Sunday or holidays).

13 (b) It shall be unlawful to do or perform any work on a permit following the issuance of a  
 14 "Stop Work Order," except as may be necessary to comply with the corrective action ordered by  
 15 the "Stop Work Order" or otherwise prevent injury or damage to persons or property.

16 (c) The "Stop Work Order" shall contain, or be accompanied by; a written notice  
 17 indicating that there is a right to a hearing before the Director or his designee. Such request for a  
 18 hearing may be filed in writing or in person at the Office of the Director. The owner/permittee  
 19 affected by a "Stop Work Order" shall be entitled to such hearing as quickly as feasible, within  
 20 twenty-four (24) hours of receipt of a request for a hearing by the Director. The Director, or a  
 21 designated impartial member of his staff who has or is delegated authority to act, shall afford the  
 22 owner/permittee a fair hearing with an opportunity to present evidence or testimony that is  
 23 relevant to the "Stop Work Order." The owner/permittee shall be afforded reasonable notice of  
 24 the time and place of the hearing at the time of the request in person, or by telephone or other  
 25 appropriate means if the request is forwarded in writing.

26 **Sec. 32-119. Unlawful Continuance.**

27 Any person, firm, association, partnership, corporation or combination thereof,  
 28 who shall continue work in violation of the provisions of a "Stop Work Order", or shall remove  
 29 or cause to be removed a "Stop Work Order" sign still in effect and operation, shall be guilty of a  
 30 misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000.00), or  
 31 imprisonment for six (6) months.

**Sec. 32-120. Fee Schedule.**

(a) The fee schedule for work performed in connection with the Grading, Drainage and Erosion Control Code shall be as follows:

(1) General. No permit to begin work for new grading shall be issued until the fees prescribed by this Section have been paid to Prince George’s County, nor shall an amendment or revision to a permit necessitating an additional fee be approved until the additional fee has been paid. The minimum fee for a grading permit shall not be less than \$20.00. A nonrefundable filing fee for grading shall be a minimum of fifty percent (50%) of the estimated cost of the permit, and shall be applied to the permit fee if the permit is actually issued within six (6) months of the date of the application; otherwise, the permit application shall expire and the filing fee shall be forfeited.

(2) Grading, Drainage, Erosion Control: Fees for permits for grading, drainage, erosion control and other site work shall be based upon that area (A), in square feet, remaining from the area of the entire site, (A1), after deducting the remaining ground cover or surface, and in an amount as determined by the following table:

**TABLE 1**

<b>From</b>	<b>But Less Than</b>	<b>Fee Rate</b>
0 Acres	1 Acre	\$.006 per Square Foot or fraction thereof
1 Acre	2 Acres	Additional \$230.00 per Acre or fraction thereof
2 Acres	10 Acres	Additional \$160.00 per Acre or fraction thereof
10 Acres	50 Acres	Additional \$90.00 per Acre or fraction thereof
50 Acres	200 Acres	Additional \$50.00 per Acre or fraction thereof
200 Acres	600 Acres	Additional \$30.00 per Acre or fraction thereof
600 Acres or Greater		Additional \$24.00 per Acre or fraction

		thereof
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1           (3) Fee for Sediment Control Site Plan Review by Soil Conservation District for  
 2 Area to be Disturbed in Excess of 15,000 Square Feet – Initial application fee shall be Fifteen  
 3 Dollars (\$15.00). There is no fee required for plan review if the land shown in the submitted site  
 4 plan to be disturbed is 15,000 square feet or less.

5           (A) Certification by Soil Conservation District (SCD) of field review in  
 6 conjunction with SCD plan review: There is no certification fee required if the land to be  
 7 disturbed is 15,000 square feet or less. Certification fee shall be Seventy-Five Dollars (\$75.00)  
 8 for the first acre or portion thereof of land, in excess of 15,000 square feet, pro-posed to be  
 9 disturbed in the submitted plan.

10           (B) Certification by SCD of field review in conjunction with SCD plan review:  
 11 Certification fee shall be Fifty Dollars (\$50.00) for each additional acre not to exceed five (5)  
 12 acres proposed to be disturbed in the submitted plan.

13           (C) Certification by SCD of field review in conjunction with SCD plan review:  
 14 Certification fee for acreage in excess of five (5) acres shall be Fifteen Dollars (\$15.00) for each  
 15 additional acre.

16           (D) Certification by SCD of field review in conjunction with SCD plan review:  
 17 Certification fee for acreage in excess of 200 acres shall be prorated based on actual costs of  
 18 review by SCD in excess of the revenue received from the sediment control fees imposed for the  
 19 first 200 acres of the subject site.

20           (E) The fee system imposed in this Subsection shall conform to the provisions of  
 21 Section 8-1103(c) of the Natural Resources Article, Annotated Code of Maryland.

22           (4) Bond Reduction Fee. A Two Hundred Fifty Dollar (\$250.00) nonrefundable fee  
 23 for administrative expenses shall be paid for each request for a partial release of the monies  
 24 posted as guarantee pursuant to Section 32-135 of this Code.

25           (5) Bond Recall Fee. Whenever the Director requests payment of monies posted as  
 26 guarantee pursuant to Section 32-135 of this Code, a Two Hundred Fifty Dollar (\$250.00)  
 27 nonrefundable fee for administrative expenses shall be paid.

28           (6) Fee for Modification of Permit. Except for stormwater management facilities, the  
 29 fee for modifying a permit or application shall be a minimum of Ten Dollars (\$10.00). If an  
 30 extensive plan review is required, the fee shall be sufficient to offset the cost of plan review and

1 services as determined by the Director.

2 (7) Refunds. Except for stormwater management facilities, in any case where permits  
 3 have been issued and no work has begun hereunder, the person who has paid the fee for said  
 4 permit may return said permit for cancellation, and, upon the cancellation thereof, there will be  
 5 refunded to him/her the amount of said fees less the actual expenses (not to exceed fifty percent  
 6 (50%) of the fee paid, but not less than the filing fee) incident to the issuance of said permit as  
 7 determined by the Director; provided the application for such refund shall be made within six (6)  
 8 months after the issuance of said permit, after which time no refund may be made. No filing fee  
 9 of any kind shall be refunded.

10 (8) Stormwater Management Facility Plan Review Fees. The fee for review of  
 11 stormwater management concept plans shall be One Hundred Dollars (\$100.00) for a single  
 12 residential lot and Two Hundred Fifty Dollars (\$250.00) for all other plans. The fee for review  
 13 of public storm drain system shall be Three Dollars (\$3.00) per linear foot of public storm drain  
 14 pipe or Two Hundred Fifty Dollars (\$250.00), whichever is greater. The fee for review of a  
 15 private storm drain system shall be One Dollar fifty cents (\$1.50) per linear foot of private storm  
 16 drain pipe or One Hundred Twenty-Five Dollars (\$125.00), whichever is greater. The fee for  
 17 special drain permits shall be One Hundred Dollars (\$100.00) per connection. The fee for major  
 18 revisions shall be One Hundred Dollars (\$100.00) or 25% of the original review fees, whichever  
 19 is greater. If a storm drain permit is not obtained within a twenty-four (24) month period after  
 20 technical approval of the plans, a fee of One Hundred Dollars (\$100.00) shall be charged for  
 21 updating the plans. The fee for as-built submittals shall be Two Hundred Fifty Dollars  
 22 (\$250.00). The review fee charge for tax-exempt properties, including non-profit organizations,  
 23 and churches shall be one half of the fees recited in this subsection. All Prince George's County  
 24 affiliated public services, chartered cities and municipalities will not be charged.

25 (9) Stormwater Management Fee-In-Lieu. The fees-in-lieu authorized in Section 32-  
 26 179(b) of this Code shall be as follows:

27 (A) The standard fee shall be as set forth in the table below, which is based upon  
 28 the percentage area which typically becomes impervious to infiltration when the property is  
 29 developed as zoned, multiplied by \$16,000.

30 **TABLE 2**

Zone	Percentage of	Fee/Dwelling	Fee/Acre
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	<b>Impervious</b>	<b>Unit</b>	<b>(Special Exceptions)</b>
O-S	1.0	-----	\$160
R-A	1.5	-----	240
R-E	12.0	\$750	1920
R-R	18.0	750	2880
R-80	22.0	750	3520
R-55	26.0	750	4160
R-35	40.0	750	6400
R-T	50.0	750	8000
R-20	50.0	750	8000
R-30	50.0	750	8000
R-18	55.0	750	8800
R-H	75.0	250	12,000
R-10	75.0	250	12,000
I-1	80.0	-----	12,800
I-2	80.0	-----	12,800
I-3	75.0	-----	12,000
I-4	70.0	-----	11,200
C (All)	90.0	-----	14,400

1                    (B) Fees for Comprehensive Design Zones or any other zones not included in  
2 this schedule will be the fees for the zone(s) that most closely approximates the proposed land  
3 use.

4                    (C) Fee Reduction and Credits.

5                    (i) A one-third reduction in the assessed fee will be made for each of the  
6 following on-site stormwater measures that the applicant is required to provide:

- 7                    (aa) Water quality management; or
- 8                    (bb) One year extended detention; or
- 9                    (cc) Flood control facilities (10-year or 100-year stormwater

10 management).

11                    (ii) The Director may adjust the fee:

1                    (aa) To an amount based on the actual impervious area if the site plan  
 2 approved by the Planning Board and/or District Council provides that the impervious area of the  
 3 development will be less than the maximum allowed under the County’s zoning regulation and  
 4 the applicant demonstrates that future increases in the impervious area are unlikely. For  
 5 residential zones, the fee reduction will be proportioned on a dwelling unit basis at a maximum  
 6 of Seven Hundred Fifty Dollars (\$750.00) per dwelling unit. The fee reduction will be  
 7 calculated using the formula of Actual Impervious Acreage x \$16,000.00;

8                    (bb) To reflect the cost of land which the applicant agrees to provide  
 9 for a regional stormwater facility;

10                   (cc) To exclude undeveloped area (i.e., floodplains) or areas requiring  
 11 a subsequent stormwater management concept plan from the fee computation for industrial and  
 12 commercial developments; or

13                   (dd) To the actual cost of providing on-site controls to the extent that  
 14 the applicant can demonstrate such actual costs to the satisfaction of the Director.

15                   (10) Woodland Conservation Fee-in- Lieu: If required by an approved Type 2 Tree  
 16 Conservation Plan, the woodland conservation fee-in-lieu as provided for in Subtitle 25 shall be  
 17 collected by the County prior to the issuance of the first permit. Fees will be collected by the  
 18 Department of Public Works and Transportation prior to the issuance of a permit.

19                   (11) Floodplain Review and Service Fee: Review of floodplain study performed by  
 20 Engineer / Consultant shall be \$0.50 per linear foot of stream within the property plus \$200.00  
 21 per structure and \$50 for setting floodplain elevation with no study. For conducting the  
 22 floodplain study using the County’s GIS based floodplain models and providing floodplain  
 23 information to the public shall be \$2,500.00 for existing channel condition only, \$3,500.00 for  
 24 both existing and proposed channel conditions, \$250.00 for a single lot and \$50.00 for any  
 25 floodplain inquiry.

26 **Sec. 32-121. through Sec. 32-123. Reserved.**

27 **DIVISION 2. GRADING, DRAINAGE AND POLLUTION CONTROL.**

28 **Sec. 32-124. Purpose.**

29                   The purpose of this Division is to prevent property damage, protect living resources and  
 30 prevent environmental degradation to safeguard the public’s health, safety, welfare and  
 31 economic well-being by establishing minimum requirements for grading, reforestation,

1 woodland conservation, drainage, erosion control and pollution discharge and control on land  
 2 and to watercourses within Prince George's County, Maryland, and to establish procedures by  
 3 which these requirements are to be administered and enforced. It is the further purpose of this  
 4 Division to implement the provisions of the Environment Article-Title 4, Subtitle 1 of the  
 5 Annotated Code of Maryland, so as to safeguard the natural resources of the County and of the  
 6 State of Maryland by controlling erosion and sediment deposition on lands and in waters within  
 7 the watersheds of the State and to prevent their pollution.

8 **Sec. 32-125. Definitions.**

9 (a) Wherever the following words are used in, or in conjunction with, the administration of  
 10 this Division, they shall have the meaning ascribed to them in this Section.

11 (1) **Afforestation.** The establishment of a biological community of perpetual  
 12 woodlands either through the planting of trees an area from which trees have always or very long  
 13 been absent, or planting of open areas which are not presently in forest cover.

14 (1.1) **Agricultural land Management Practices.** Those methods and procedures used  
 15 in the cultivation of land in order to further crop livestock production and conservation of related  
 16 soil and water resources. Logging and/or timber harvesting operations shall not be considered a  
 17 part of this definition.

18 (2) **Architect.** A person duly registered or authorized to practice landscape  
 19 architecture in the State of Maryland and qualified to prepare grading plans and specifications.

20 (3) **ASTM.** The American Society for Testing Materials.

21 (4) **Bedrock.** The solid undisturbed rock in place either at the ground surface or  
 22 beneath surficial soil deposits.

23 (5) **Borrow Pit.** The source of earth or bank-run sand and gravel from below the  
 24 ground surface by open pit excavation as a single incident on a site for use at a single  
 25 construction site elsewhere, otherwise, the excavation will be classed as open-pit mining.

26 (6) **Building Pad.** The immediate site for a building including the area actually  
 27 covered, plus the adjacent peripheral fringe area having a reasonable slope away from the  
 28 building.

29 (7) **Certification or to Certify.** A signed written statement that specific plans and  
 30 specifications, construction, inspections, or tests have been prepared and performed, and that  
 31 such comply with the requirements of this Division.

1           (8) **Chesapeake Bay Critical Area.** All lands and waters defined in §8-1807 of the  
2 Natural Resources Article, Annotated Code of Maryland. This includes (a) all waters of and  
3 lands under the Chesapeake Bay and its tributaries to the head of tide, and as indicated on the  
4 State wetlands maps; and all State and private wetlands designated under the Title 16 of the  
5 Environment Article; (b) all land and water areas within one thousand (1,000) feet beyond the  
6 resources identified in (a); and (c) Modification to these areas through inclusions or exclusions  
7 proposed by local jurisdictions and approved by the Critical Area Commission as specified in §8-  
8 1807 of the Natural Resources Article, Annotated Code of Maryland.

9           (9) **Class I Fill.** Load-bearing fills proposed for support of buildings, walls and other  
10 structures, the function thereof which would be especially impaired by settlement.

11           (10) **Class 2 Fill.** Load-bearing fills proposed for support of roadways, pavements,  
12 rigid utilities lines, house connections, and structures which would not be especially impaired by  
13 moderate settlement.

14           (11) **Class 3 Fill.** Common fills proposed for landscaping or for other non-load-  
15 bearing usage.

16           (12) **Compaction.** Densification of a soil or rock fills by mechanical or other  
17 acceptable procedures.

18           (13) **Conservation Agreement.** A formal agreement which commits a grading or  
19 building permit applicant to the execution of various approved elements of a Conservation Plan,  
20 including a stormwater management concept plan, an erosion and sedimentation concept plan, a  
21 vegetation management plan, and other plans which may be required by the Department of  
22 Public Works and Transportation or the Prince George's County Planning Board.

23           (14) **Conservation Plan.** A plan developed in accordance with Subtitle 5B, which  
24 demonstrates how a project has been designed to meet the specific Chesapeake Bay Critical Area  
25 criteria. The Conservation Plan consists of a stormwater management concept plan, an  
26 erosion/sedimentation concept plan, a vegetation management plan, and such other plans relating  
27 to environmental systems as may be required by the Washington Suburban Sanitary  
28 Commission, the Maryland-National Capital Park and Planning Commission, the Prince  
29 George's County Health Department, the Prince George's County Department of Public Works  
30 and Transportation or the Prince George's Soil Conservation District.

31           (15) **Control Measures.** Structural or nonstructural devices or practices, or a

1 combination thereof, which reduce pollutant discharges through control, treatment, prevention,  
2 management or monitoring measures and processes.

3 (16) **Cultivation.** Plowing, dicing, harrowing and tilling of existing farm fields for the  
4 production of crops and livestock.

5 (17) **Director.** The Director of Public Works and Transportation or the Director's  
6 designee.

7 (18) **Discharge.** Any dumping, pumping, placement, storage, use, draining, handling,  
8 washing, tracking, spilling, leaking, transportation, conveyance or disposal practice or any other  
9 mechanism which may result in or may allow pollutants to enter onto land or within the  
10 watercourses of the County.

11 (19) **Drainage.** Stormwater runoff, snow melt runoff, surface runoff or ground water  
12 flows.

13 (20) **Drainage System.** Any natural system or man-made device, mechanism or  
14 measure used in any manner for the collection, conveyance, management, treatment, disposition  
15 or disposal of drainage.

16 (21) **Dust Free Surface.** A ground composed of rolled and compacted cinders,  
17 gravels or other approved nonabsorbent materials to prevent rising of dust on road, access ways,  
18 driveways and parking lots.

19 (22) **Embankment of Fill.** A deposit of soil, rock or other materials placed by man.

20 (23) **Engineering Geology.** The application of geological data and principles to  
21 engineering problems dealing with naturally occurring rock and soil, for the purpose of assuring  
22 that geological factors are recognized and adequately interpreted in engineering practice.

23 (24) **Erosion.** The process by which the ground surface is worn away by the action of  
24 wind and/or water.

25 (25) **Erosion and Sediment Control Plan.** An erosion and sediment control strategy  
26 or plan, to minimize erosion and prevent off-site sedimentation by containing sediment on site or  
27 by passing sediment laden runoff through a sediment control measure, prepared and approved in  
28 accordance with the specific requirements of the Prince George's Soil Conservation District and  
29 this Subtitle, and designed in accordance with the Standards and Specifications.

30 (26) **Excavation or Cut.** An act, by which soil or rock is cut into, dug, quarried,  
31 uncovered, removed, displaced or relocated and shall include the conditions resulting there from.

1           (27) **Existing grade.** The vertical location of the existing ground surface prior to  
2 excavating or filling.

3           (28) **Finished or Proposed Grade.** The final grade or elevation of the ground,  
4 drainage or other structures conforming to the proposed design.

5           (29) **Forest Stand Delineation (FSD).** A detailed accounting of woody vegetation  
6 prepared in plan and document form, as required by Subtitle 25.

7           (30) **Grading.** Any stripping, removal of topsoil, excavating, filling, stockpiling or  
8 any combination thereof, including the condition resulting there from.

9           (31) **Grading Permit.** A permit issued to authorize work to be performed under this  
10 Division. The permit for grading and/or site development intended as an incident to building  
11 construction may be included as part of the building permit.

12           (32) **Landscape Architect.** A person duly registered or authorized to practice  
13 landscape architecture in the State of Maryland and qualified to prepare grading plans and  
14 specifications.

15           (33) **Load-Bearing Fill.** Fill placed in a controlled manner to support structure  
16 foundations, vehicular traffic, or any earthwork which the instability thereof would constitute a  
17 public hazard or nuisance.

18           (34) **Mitigation.** The offsetting of forest values lost due to the destruction of  
19 woodlands without a permit or contrary to an approved Tree Conservation Plan by replanting  
20 woodlands or agrees upon means.

21           (35) **Natural Ground Surface.** The ground surface in its original state before any  
22 grading, excavation or filling.

23           (36) **Net Tract Area.** For the purposes of woodland conservation, the gross tract area  
24 minus the approved one hundred (100) year floodplain and areas previously dedicated for public  
25 use.

26           (37) **One Hundred (100) Year Floodplain.** That area which would be inundated by a  
27 flood that has a one percent (1%) chance of being equaled or exceeded in any given year.

28           (38) **Open-Pit Mining.** The continuing or reoccurring removal of material from below  
29 the ground surface by open excavation on a site for immediate or ultimate use at the same or  
30 other site in processing and manufacture of building and construction materials or any other  
31 products, or at various locations elsewhere in its natural state.

1           (39) **Permittee.** Any person to whom a permit is issued pursuant to this Division.

2           (40) **Pollutant.** Sediment runoff due to erosion.

3           (41) **Ponding.** Water that remains on the ground surface in a single area larger than  
 4 sixteen (16) square feet for more than forty-eight (48) hours after a rain event where cold  
 5 weather conditions (such as, but not limited to, frozen ground or combined ice, snow or rain  
 6 event) are not a contributing factor in water remaining on the ground surface.

7           (42) **Prince George's Soil Conservation District.** One (1) of twenty four (24) soil  
 8 conservation districts created pursuant to Subtitle 3 of the Agricultural Article of the Annotated  
 9 Code of Maryland.

10           (43) **Professional Engineer.** A person duly registered or otherwise authorized by the  
 11 State of Maryland to practice in the field of engineering.

12           (44) **Reforestation.** The re-establishment of a biological community of perpetual  
 13 woodlands through the planting of trees on area from which trees were recently removed.

14           (45) **Refuse.** See "solid wastes (refuse)."

15           (46) **Sediment.** Soils or other surficial materials transported by surface water as a  
 16 product of erosion.

17           (47) **Significant Drainage.** Surface drainage rates that exceed three (3) cubic feet per  
 18 second based on the ten (10) year storm event as calculated by the Rational Method.

19           (48) **Site.** Any lot or parcel of land combination of contiguous lots or parcels of land.

20           (49) **Site Development.** The resulting condition of land improvements through the  
 21 constructing, installing, placing or planting of: open and closed storm drainage facilities,  
 22 stormwater management facilities, supporting foundations for utility lines and service (house)  
 23 connections, parking lots, driveways, curbs, pavements, steps, sidewalks, bike paths, recreational  
 24 facilities, patios, ground planters, ground covers, plantings, landscaping and logging and timber  
 25 harvesting operations.

26           (50) **Slope.** The inclined exposed surface of a fill, excavation or natural terrain.

27           (51) **Soil.** All earth material of whatever origin that overlies bedrock and may include  
 28 the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

29           (52) **Soil engineer.** A professional engineer who is qualified by education and  
 30 experience to practice applied soil mechanics and foundation engineering.

31           (53) **Solid wastes (refuse).** The same as defined in Section 21-101 of this Code.

1           (54) **Standards and Specifications.** The current version of the “Maryland Standards  
 2 and Specifications for Soil Erosion and Sediment Control” as adopted by the Prince George’s  
 3 Soil Conservation District.

4           (55) **Stripping.** Any activity which removes or significantly disturbs the vegetation  
 5 surface cover including clearing, grubbing of stumps and root mat and top soil removal.

6           (56) **Structural Rock Fills.** Fills including limited amounts of rubble, broken asphalt,  
 7 brick or concrete.

8           (57) **Surveyor.** A registered land surveyor licensed to practice land surveying in the  
 9 State of Maryland and qualified to prepare grading plans and specifications.

10           (58) **Timber Harvesting (logging).** The severing of any size tree above ground level  
 11 leaving the root system and all stumps intact, except for the purpose of providing a temporary  
 12 access for some other use, or for the removal of a dead, dying or hazardous tree. A Tree  
 13 Conservation Plan may be required for the timber harvesting activities to be conducted in  
 14 conformance with Subtitle 25.

15           (59) **Topsoil.** Soil to be used as topsoil, and the placement of topsoil over a prepared  
 16 subsoil prior to the establishment of permanent vegetation, shall meet the specifications of, and  
 17 be in accordance with, Maryland Department of the Environment, Standards and Specifications  
 18 for Soil Erosion and Sediment Control, 21.0 Standards and Specifications for Topsoil or  
 19 approved subsequent revisions thereof.

20           (60) **Tree Conservation Plan (TCP).** A site map that delineates woodland  
 21 conservation areas and the associated text that details requirements, penalties, and mitigation as  
 22 described in Subtitle 25.

23           (61) **Watercourse.** Any natural or improved stream, river, creek, ditch, channel,  
 24 canal, conduit, culvert, drain, gully, swale or wash in which waters flow either continuously or  
 25 intermittently.

26 **Sec. 32-126. Permits Required.**

27           (a) **Grading Permit.** Except as exempted in Section 32-127, no person shall do, nor shall  
 28 the property owner permit any site development or grading of land for any purpose without the  
 29 owner/permittee of the said land first having obtained a grading permit from the Director.

30           (b) **Drainage System Connection Permit.** A permit is required to connect or discharge to  
 31 any drainage system or watercourse within the County. This permit is to ensure that all drainage

1 systems are to be used primarily for the control, disposition and management of drainage,  
2 prohibit illegal discharge of pollutants and to safeguard water quality, living resources, public  
3 health and prevent damage to the drainage system.

4 (c) At the option of the applicant, a permit may cover the grading and other site  
5 development on a single lot, or on a combination of contiguous lots in a single block, or in  
6 contiguous blocks.

7 (d) The grading and other site development required on a single lot or parcel where one  
8 building permit is being issued shall conform to the provisions of this Division and may be  
9 included as part of the building permit, in which case no separate grading permit is required.

10 (e) With the exception of single family detached dwellings, a single grading permit is  
11 required for grading and other site development work on a single lot or parcel where two or more  
12 building permits are issued.

13 (f) The information reflected in the permit shall be maintained factual and current by the  
14 permittee.

15 **Sec. 32-127. Exceptions to Grading Permit.**

16 (a) Provided all other provisions of this Division are met and excluding the property  
17 located within the Chesapeake Bay Critical Area Overlay Zone, no grading or storm drain  
18 connection permit will be required under the following conditions:

19 (1) Agricultural land management practices and construction of agricultural  
20 structures; and removal of cultivated sod, shrubs and trees for transplant as part of a regular  
21 commercial activity.

22 (2) The stockpiling, with slopes at a natural angle of repose, of raw or processed  
23 sand, stone and gravel at concrete, asphalt and material processing plants and storage yards not  
24 associated with a development application.

25 (3) Refuse disposal areas or sanitary landfills operated and conducted in accordance  
26 with the requirements, rules and ordinances adopted by Prince George's County.

27 (4) Grading for or by, and on land owned by, the United States of America or the  
28 State of Maryland when used exclusively for purposes originally acquired or consistent with  
29 constitutional and statutory authorizations and limitations; or for , by or under permit from a  
30 municipality authority, State Highway Administration or the County Department of Public  
31 Works and Transportation to the extent such grading is within public right-of-way and adjacent

1 slope easements or minimum slope areas only, and specifically exclusive of the remainder of the  
 2 lot.

3 (5) Grading and trenching by privately or publicly-owned and operated public utility  
 4 companies or commissions for open channel improvements and underground utility installations  
 5 and maintenance in:

6 (A) Public right-of-ways and Washington Suburban Sanitary Commission  
 7 easements; and

8 (B) Utility easements immediately adjacent to public right-of-ways or in the  
 9 space on abutting lot(s) needed to accommodate the respective house connections; provided,  
 10 however, that all grading and trenching involved is included in a current site grading permit or as  
 11 part of a current building permit.

12 (6) Grading, as a maintenance measure, or for landscaping purposes on existing  
 13 developed lots or parcels, provided:

14 (A) The aggregate of area(s) affected or bare-earthed at any one (1) time does  
 15 not exceed five thousand (5,000) square feet;

16 (B) The grade change does not exceed twelve (12) inches at any point and does  
 17 not alter the drainage pattern;

18 (C) All bare earth is promptly seeded, sodded or otherwise effectively protected  
 19 from erosive actions.

20 (D) Does not require a Tree Conservation Plan per Subtitle 25.

21 (7) Grading and related earthwork, incidental to individual water wells and sewage  
 22 disposal (septic) systems installed pursuant to a valid permit from the appropriate authority.

23 (8) Logging or timber harvesting operations.

24 **Sec. 32-128. Same; Other Permits Required.**

25 Permits issued pursuant to this Division do not relieve the owner/permittee of responsibility  
 26 for securing required permits for work to be done which is regulated by any other applicable  
 27 code, act or ordinance. The provisions of this Division shall not preclude the inclusion in such  
 28 other permit of more stringent regulation or requirements concerning the grading of land.

29 **Sec. 32-129. Application.**

30 A written application from the owner of the site or the owner's authorized representative, in  
 31 the form prescribed by the Director, shall be required for each permit. Grading and site

1 development plans and specifications shall be submitted with each application for a grading  
 2 permit, unless because of remoteness from adjacent properties and/or self-evidence of the ease of  
 3 compliance with this and other requirements of this Subtitle, the Director specifically determines  
 4 that none are required. These plans shall be prepared or approved and signed and sealed by a  
 5 professional engineer, surveyor, architect or landscape architect. The Director may waive the  
 6 preparation or approval and signature by the professional engineer, surveyor, architect or  
 7 landscape architect only when it is self-evident that the work is simple, clearly shown, and  
 8 entails no hazard or nuisance potential to adjacent property and does not include the construction  
 9 of a fill upon which a structure may be erected.

10 Application for a drainage connection permit shall be filed in conjunction with, and  
 11 pursuant to, the Concept plan application as in Section 32-177 of this Division or as directed by  
 12 the Director as part of an enforcement action under Section 32-116 of this Subtitle.

13 **Sec. 32-130. Contents of Grading/Site Development Plan.**

14 (a) In addition to the requirements in Section 32-129, plans and specifications  
 15 accompanying the grading permit application shall meet the requirements and show data as  
 16 follows:

17 (1) Additional sets of prints shall be submitted in quantity as determined by the  
 18 Director to coordinate the applied for permit issuance with collateral activities of all other  
 19 County agencies. The paper size for plans shall not exceed 30”x 42”.

20 (2) Date, name, address and telephone number of preparer of plans, or each discipline  
 21 and owner of site.

22 (3) Certification from preparer of the plan, or each discipline (surveying existing  
 23 conditions, proposed surface grade establishments, load-bearing fills and slope stabilities, storm  
 24 drainage, retaining walls, etc.), as might have participated in the finished form, attesting to the  
 25 completeness and correctness of existing conditions as shown and to the compliance of all  
 26 proposed grading and other work with all of the requirements of this Subtitle, except for specific  
 27 waivers or modifications as listed.

28 (4) A clear and definite delineation of limits of disturbance and areas where  
 29 vegetation is to remain, in conformance with the approved tree conservation plan if one is  
 30 required, along with a calculation of the disturbed area in square feet of the total site minus that  
 31 area to remain undisturbed and currently having an effective erosion resistant ground cover or

1 surface.

2 (5) For all applications, other than those for surplus earth disposed on sites ten (10)  
3 acres or larger existing-topography, proposed grading and site development with contours at one  
4 (1) or two (2) foot intervals, and drawn at a scale no smaller than one (1) inch equals fifty (50)  
5 feet of the entire site, plus a minimum twenty (20) foot adjacent peripheral strip; or as might  
6 otherwise clearly reflect existing conditions and proposed grading and other work, provided that  
7 such other interval and scale has the Director's approval in advance of plan preparation.

8 (6) For surplus earth disposal on sites ten (10) acres or larger existing topography and  
9 proposed grading and site development for restoration to a condition meeting the minimum  
10 design and construction standards provided for elsewhere herein, with contours at no greater than  
11 five (5) foot interval and drawn at a scale no smaller than one (1) inch equals two hundred (200)  
12 feet; provided, however, that for work to be performed within fifty (50) feet of any property line  
13 plans shall conform to the requirements of Paragraph (5) of this Subsection.

14 (7) A clear and definite delineation with dimensions for sizing and locating areas for  
15 each class of fill proposed.

16 (8) Established, or in the case of new subdivisions being processed, approved  
17 tentative street grades (elevations), including Maryland-National Capital Park and Planning  
18 Commission and/or Department of Public Works and Transportation file number(s).

19 (9) Basement, first floor and ground elevations at corners of all buildings, spot  
20 elevations at critical points on the proposed grading plan, and on all other structures; and profiles  
21 and/or cross sections showing the proposed and finished grade or driveways, access lanes, walks,  
22 watercourses, as needed to demonstrate compliance with this Subtitle.

23 (10) Size, location and construction details of all proposed site development.

24 (11) Drainage area map and study including computations covering the entire area  
25 tributary to the site, and showing calculated runoff to all structures, lines and open channel  
26 facilities.

27 (12) A clear and definite delineation of the proposed subdivision of the site for the  
28 purpose of staging, to minimize time of exposure to erosive actions, along with the construction  
29 of the sequential order for the working of each, and a statement of their respective areas, minus  
30 the area therein to remain undisturbed, in square feet.

31 (13) Soil type as shown on the USDA Soil Survey of Prince George's County or soil

1 type as determined by a professional engineer at the location of each proposed residential  
 2 building. For each proposed residential building lot on which a basement is proposed to be  
 3 constructed, the hydrological characteristics of the lot to a depth of six (6) feet below the finished  
 4 floor level of the basement and the depth of the closest aquifer to the proposed final grade of the  
 5 basement.

6 (14) Time required performing and completing all work on the site, with anticipated  
 7 starting and completion dates for each subdivision thereof, as staged to minimize exposure to  
 8 erosive actions.

9 (15) An approved Type 2 Tree Conservation Plan or valid letter of exemption from the  
 10 Woodland Conservation Ordinance in conformance with the provisions of Subtitle 25.

### 11 **Sec. 32-131. Soils Investigation Report.**

12 The Director shall require a soils investigation report prepared and certified by a  
 13 professional engineer duly registered in the State of Maryland to correlate surface and subsurface  
 14 conditions with the proposed grading, site and building plans. The Director may require a soils  
 15 investigation report depending upon slopes, anticipated characteristics of soil, drainage  
 16 characteristics and the like. The results of the investigation shall be presented in a report by a  
 17 professional engineer which shall include, but need not be limited to, data regarding the nature,  
 18 distribution and supporting ability of existing soils and rock on the site and include conclusions  
 19 and recommendations for grading requirements and erosion control including recommendations  
 20 to insure stable soil conditions and groundwater control applicable. The Director may require  
 21 supplemental reports and data by an engineering geologist as might be deemed necessary.  
 22 Recommendations included in such reports and approved by the Director shall be incorporated in  
 23 the grading plan or specifications.

### 24 **Sec. 32-132. Waiver.**

25 (a) The Director may waive or modify requirements of this Division on such conditions  
 26 and subject to submission of such reports deemed necessary to insure compliance with the intent  
 27 of this Subtitle. No waiver or modification will be considered, granted or approved unless;

28 (1) Specifically requested in writing; and

29 (2) Each such waiver or modification is specifically and separately approved in  
 30 writing by the Director. Approval of the plans, per se, will not constitute approval of any waiver  
 31 or modification of any requirement of this Subtitle that might otherwise be shown on the plans.

1        (b) The Prince George's Soil Conservation District may grant a written waiver from the  
2 requirements of the Standards and Specifications if strict adherence to the specifications will  
3 result in unnecessary hardship and not fulfill the intent of the Subtitle. The applicant shall  
4 submit a written request for a waiver to the Prince George's Soil Conservation District. The  
5 request shall state the specific waiver sought and reasons for requesting the variance. The Prince  
6 George's Soil Conservation District shall not grant a waiver unless and until sufficient specific  
7 reasons justifying the waiver are provided by the applicant.

8 **Sec. 32-133. Denial of Permit.**

9        (a) General. Grading permits shall not be issued where the proposed grading would cause  
10 hazards adverse to public safety and welfare or violate the Code. If it can be  
11 shown to the satisfaction of the Director that any hazards caused can be essentially eliminated by  
12 the construction of retaining structures, buttress fills, drainage facilities, including furnishing of  
13 the necessary easements, the Director may issue the grading permit on the requirement that such  
14 construction work is performed and after secured easements are granted and recorded.

15        (b) Hazardous grading. The Director shall not issue a grading permit where he finds that  
16 the work as proposed by the applicant will damage any private or public property, or interfere  
17 with any existing drainage course in such manner as to cause damage to any adjacent property or  
18 result in the deposition of debris or sediment on any public way or into any waterway, or create  
19 an unreasonable hazard to persons or property.

20        (c) Geological hazard. If, in the opinion of the Director, the land area for which grading is  
21 proposed is subject to geological hazard to the extent that no reasonable amount of corrective  
22 work can eliminate or sufficiently reduce settlement, slope instability or any other such hazard to  
23 persons or property, the grading permit shall be denied.

24        (d) Floodplain Hazard. Grading within the one hundred year floodplain is subject to the  
25 controls and requirements of this Code and, if permitted pursuant thereto, must also comply with  
26 this and other Sections of this Code.

27        (e) Woodland Conservation. The Director shall not issue a grading permit:

28                (1) Where the work proposed would violate an approved Tree Conservation Plan; or  
29 if a valid Letter of Exemption has not been obtained; or

30                (2) Within five (5) years of timber harvest unless mitigation is provided that is  
31 consistent with the woodland conservation requirements of the underlying zone.

1        (f) The denial of a grading permit application for the reasons stated in Subsection (e),  
 2 above, may only be appealed to the Prince George's County Board of Administrative Appeals, in  
 3 accordance with its established Rules and Procedures.

4        (g) No drainage system connection permit for a connection to any watercourse or public  
 5 drainage system shall be issued to discharge pollutants without applicable Federal, State or local  
 6 pollution discharge permits, or other applicable permits such as a wetland permit.

7        (h) Any permittee or property owner shall notify the Director of any Federal or State  
 8 pollution discharge permit or conditions thereof to any drainage system or watercourse issued  
 9 within the County. Failure to obtain a pollution discharge permit from the Director of a state or  
 10 federal agency shall result in the denial or revocation of any permit issued by the Department of  
 11 Public Works and Transportation and shall subject the permittee, operator or property owner to  
 12 the provisions of Section 32-150(a), 32-196, 32-197 of this Code and 28-261 of the County Code.

13 **Sec. 32-134. Permit Fees.**

14        No permit shall be issued for grading and other work covered within this Division until the  
 15 fee established in Section 32-120 has been paid.

16 **Sec. 32-135. Development Bonds.**

17        (a) In the evaluation of development sites, no permit for grading and/or site development  
 18 disturbing more than one acre of the site shall be issued until the applicant (excepting County  
 19 Governmental Departments and agencies, municipalities and/or municipal corporations for  
 20 municipal-owned property), as principle, has posted a cash deposit or bond from an approved  
 21 corporate surety or other collateral, including a certificate of guarantee pursuant to Section 2-  
 22 463, if determined acceptable by the Director and by the County Attorney, to guarantee and  
 23 assure that all work will be completed in accordance with the approved plans and the provisions  
 24 of this Division.

25        (b) Except as otherwise provided, the amount of any bond required to be posted under this  
 26 section shall be equal to or greater than the total cost of the project, as estimated by the  
 27 Department, including an additional twenty-five percent (25%) of the estimated cost for  
 28 contingencies, plus the current unit price per square foot of the area to be afforested or  
 29 reforested.

30        (c) No deposit or bond is required for a single permit for grading and other work  
 31 disturbing less than one acre. However, a cash deposit or bond is required for simultaneously

1 applied for, or sequentially numbered permits for, work on contiguous lots or parcels with an  
2 aggregate disturbed area of more than one acre, or in those instances, in the determination of the  
3 Director, where individual permit applications necessitate the need for the posting of a bond.  
4 This exception to the bond requirement shall not be construed as an exception to the  
5 requirements for a permit.

6 (d) If all work authorized by the permit is not completed within the time specified therein  
7 or as otherwise provided for in Section 32-143 or violates any other term or condition of the  
8 permit it shall be defaulted. A cash deposit shall be forfeited or, if a bond has been posted,  
9 action will be taken as follows:

10 (1) Where the Director determines that a permit is in default and the work is guar-  
11 anteed by a surety bond, the Department shall immediately notify the bonding institution or  
12 agent to undertake and complete the work in accordance with the permit.

13 (2) Where the Director has determined that a permit is in default and the work is  
14 guaranteed by a form of bond other than a surety bond, and the bonding institution or agent fails  
15 to commit to undertake completion of the work within thirty (30) days of having been given  
16 notice by the Department, the Director shall immediately move to collect all bonds which have  
17 been posted.

18 (3) Upon a decision to collect the bonds, the Director shall evaluate the work  
19 remaining to be performed and determine whether,

20 (A) the work covered by the permit should be completed;

21 (B) the work site should be restored to its original condition; or

22 (C) other modifications to the permitted work site should be made. The Director  
23 shall then determine whether the bonds posted are sufficient to carry out the required completion,  
24 restoration or modified work.

25 (4) After evaluating the work performed as specified above, the Director shall  
26 develop an estimate of the costs for said work, to include an amount equal to twenty-five percent  
27 (25%) of the anticipated construction cost as contingency, and compare the estimated amount to  
28 the amount of the bond posted by the permittee,

29 (A) if the amount of the bond posted is in excess of the estimate, the Department  
30 shall immediately move to collect the bonds and carry out the necessary work. The entire  
31 amount of the bonds posted may be used either in or near the permit site as may be determined

1 by the Director to be necessary.

2 (B) If the bonds posted are not sufficient, the Department shall develop and  
3 implement a course of action as determined by the Director. The Department shall immediately  
4 move to collect all of the bonds which have been posted.

5 (5) If the bonds which have been posted are in excess of the amount required to  
6 complete the permitted work, any necessary restoration work or modified work as determined  
7 necessary by the Director to be necessary, the excess amount shall be released to the payer after  
8 all work has been finished by the Department and all costs of same have been accounted for.

9 (6) Upon notification that a bond has been forfeited in accordance with this Subtitle,  
10 the bonding institution or agent providing the bond shall have thirty (30) days to issue payment  
11 to the County. If the bonding institution or agent fails to render payment within thirty (30) days  
12 of the notice from the Director to make payment, the bonding institution or agent may be barred  
13 from issuing any subsequent bonds for any other work within the County for a period of five (5)  
14 years. The right to reissue bonds after having been previously barred shall be allowed only after  
15 all outstanding amounts have been paid, plus an amount equal to ten (10%) a year, compounded  
16 annually.

17 (e) All funds received from defaulted permits will be used by the County to defray the cost  
18 of contracting, including engineering and administration and for the completion of all work  
19 authorized by the permit per the approved plans, but no less than restoring the site to meet the  
20 minimum requirements of this Division with particular emphasis on stability, safety, drainage,  
21 vegetative cover and erosion control. Any unused portion of monies forfeited will be returned.  
22 In the event that the entire amount of cash deposit or bond is expended, the permittee has a  
23 continuing obligation for payment of all additional monies expended by the County for the  
24 implementation of the plan. Upon certification from the County Attorney that a tax lien has been  
25 created, the amount of such lien shall be collected by the Director of Finance in the same manner  
26 as other County real estate taxes.

27 (f) Before acceptance, all bonds shall be approved by the Director and the County  
28 Attorney. If a corporate bond is offered, it shall be executed by a surety or guaranty company  
29 qualified to transact business in the State of Maryland. If a cash bond is offered, it shall be  
30 deposited with the Office of Finance, Treasury Division, which shall give an official receipt  
31 therefore, stipulating that said cash has been deposited in compliance with, and subject to the

1 provisions of, this Section.

2 (g) Cash deposits shall be returned and surety bonds cancelled upon compliance of all  
3 work authorized by the permit and the issuance of a certificate of completion by the Director.

4 (h) Upon completion and acceptance of the various stages of grading and/or site  
5 development, the permittee may request, in writing to the Director, partial release of the monies  
6 posted as a guarantee pursuant to Section 32-135 of this Code. A Two Hundred Fifty Dollar  
7 (\$250.00) nonrefundable fee (Section 32-120) for administrative expenses shall be paid for each  
8 request.

9 (i) Whenever the Director requests payment of the monies posted as a guarantee pursuant  
10 to Section 32-135 of this Code, the permittee shall pay a Two Hundred Fifty Dollar (\$250.00)  
11 nonrefundable fee (Section 32-120) for administrative expenses.

12 (j) Where a site requires afforestation or reforestation, no grading permit, building permit,  
13 or combination thereof, shall be issued until the applicant has posted a cash deposit or bond from  
14 an approved corporate surety or other collateral, including a certificate of guarantee pursuant to  
15 Section 2-463, if determined acceptable by the Director and by the County attorney, to guarantee  
16 and assure that all work will be completed in accordance with the approved plans and the  
17 provisions of this Division and Subtitle 25.

18 **Sec. 32-136. Conditions of Approval.**

19 (a) In granting a permit pursuant to this Division, the Director may impose such conditions  
20 as may be reasonably necessary to prevent water quality degradation by the discharge of  
21 pollutants, or creation of a nuisance or unreasonable hazard to persons, or unnecessary  
22 destruction of living resources or damage to property. Such conditions shall include (even if not  
23 specifically written in the permit), but need not be limited to:

24 (1) The granting (or securing from others) and recordation in County land records of  
25 easements for drainage facilities, including the acceptance of their discharge on the property of  
26 others, and for the maintenance of slopes or erosion control facilities.

27 (2) Adequate control of dust by watering, or other control methods that is in  
28 conformance with applicable air pollution ordinances.

29 (3) Improvements of any existing grading, ground surface, or drainage condition on  
30 the site (not to exceed the area as proposed for work or development in the application) to meet  
31 the standards required under this Division for new grading, drainage and erosion control.

1           (4) Sediment traps and basins located within a densely populated area or in the  
2 proximity of an elementary school, playground or other area where small children may  
3 congregate without adult supervision shall be enclosed with a minimum forty-two (42) inch high  
4 safety fence.

5           (5) Protection of water quality through the implementation and maintenance of  
6 drainage treatment devices or the use of control measures.

7 **Sec. 32-137. Liability.**

8           Neither the issuance of a permit under the provisions of this Division nor compliance with  
9 the provisions hereto or with any condition imposed by the Director hereunder shall relieve any  
10 person from responsibility for damage to persons, property, drainage systems, living resources,  
11 or the general environment nor impose any liability upon the County for damages to persons and  
12 property.

13 **Sec. 32-138. Responsibility of Permittee.**

14           (a) Notwithstanding other conditions or provisions of a permit or the minimum standards  
15 set forth in this Division, the permittee is responsible for the abatement of pollutant discharges,  
16 damage to adjacent property, and the maintenance of water quality. No person shall perform  
17 grading on land in any manner or so close to the property line as to endanger or damage any  
18 adjoining public street, sidewalk, alley or any other public or private property without supporting  
19 and protecting such property from settling, cracking, erosion, sedimentation, or other damage or  
20 personal injury which might result.

21           (b) The permittee shall be responsible for the prompt removal of, and damages resulting  
22 from, any soil, miscellaneous debris, any pollutant discharge, or other materials washed, spilled,  
23 tracked, dumped, or otherwise deposited on public or private streets, highways, sidewalks,  
24 watercourses or other public thoroughfares as an incident to the construction activity, or during  
25 transit to and from the construction site where, in the opinion of the Director, such deposition  
26 constitutes a public nuisance or hazard.

27           (c) During grading operations, the permittee shall be responsible for the prevention of  
28 damage to any public utilities or services. This responsibility applies within the limits of grading  
29 and along any routes of travel of equipment.

30 **Sec. 32-139. Permit Authorization.**

31           (a) The issuance of a grading permit shall constitute an authorization to do only that work

1 described in the permit and shown on the approved site plans and specifications, in strict  
2 compliance with the requirements of this Division, unless each and every modification or waiver  
3 is specifically listed and given specific approval by the Director pursuant to Section 32-132.

4 (b) The issuance of any drainage connection permit shall constitute an authorization to  
5 discharge subject to continued compliance with of any covenants, stipulations, and agreements  
6 and the provisions of the connection permit and any maintenance agreement, in full compliance  
7 with any other Federal, State or local water quality protection laws.

8 **Sec. 32-140. Compliance.**

9 The permittee, his agent, contractors and employees shall carry out the proposed work in  
10 accordance with the approved plans and specifications, and in compliance with all the  
11 requirements of the permit and this Subtitle.

12 **Sec. 32-141. Action Upon Noncompliance.**

13 (a) In the event work does not conform to the permit or to the plans and specifications or  
14 to any instructions of the Director, notice to comply shall be given to the permittee in writing.  
15 After notice to comply is given, a maximum period of up to ten (10) days, in the determination of  
16 the Director, shall be allowed for the permittee or his contractor to begin to make the corrections.  
17 If an imminent hazard exists, the Director may require that the corrective work begin  
18 immediately. In the event of a failure to comply as directed or to satisfactorily complete all work  
19 required, the Director is hereby authorized to use the monies posted as guarantee pursuant to  
20 Section 32-135 of this Code to complete the work by contract or to order its completion by  
21 County personnel.

22 (b) If the Director finds any existing conditions to be other than as stated in the application  
23 or approved plans, he may stop the work until a revised plan is submitted conforming to the  
24 existing conditions.

25 (c) Failure of the permittee to comply with the directives of this Section will constitute a  
26 violation to Section 32-141, and the Director may cancel the permit and proceed with the  
27 necessary restoration of the site using the Development Bond funds provided under Section 32-  
28 135.

29 (d) Any discharge or connection to a drainage system or watercourse which is not  
30 permitted subject to the provisions of this Division or not permitted under other Division of this  
31 Code which is found to contain pollutants shall be considered illegal and in noncompliance, and

1 subject to enforcement and permitting actions set forth in this Code.

2 **Sec. 32-142. Changes to Plans.**

3 (a) All changes or modifications to the approved grading plans must be submitted to and  
4 approved by the Director. All necessary substantiating reports shall be submitted with any  
5 proposal to modify the approved grading plans. No grading or other work in connection with  
6 any proposed modification shall be permitted without the prior written approval of the Director.

7 (b) When inspection of a site indicates that the approved erosion and sediment control plan  
8 needs change, the change shall be in compliance with the erosion and sediment control criteria  
9 contained in the Standards and Specifications as follows:

10 (1) The permittee shall submit requests for major revisions to approved erosion and  
11 sediment control plans, such as the addition or deletion of a sediment basin, to the Prince  
12 George's Soil Conservation District to be processed appropriately. This processing includes  
13 revisions due to plan and site discrepancies and inadequacies controlling erosion and sediment as  
14 revealed through inspection; major revisions affecting the limits of disturbance shall require a  
15 revised tree conservation plan and

16 (2) The Director may approve minor modifications to approved erosion and sediment  
17 control plans in the field if documented on a field inspection report. The modification shall be  
18 noted on the approved plans, signed by an inspector and dated. The Prince George's Soil  
19 Conservation District, shall in conjunction with the Department of Public Works and  
20 Transportation, develop a list of allowable field modifications for use by field inspection  
21 personnel; minor revisions resulting in less than 5,000 square feet of vegetation removal per site  
22 may be verified.

23 **Sec. 32-143. Time Limits.**

24 (a) Generally. No grading or drainage system connection permits shall be issued for a  
25 period to exceed 5 years. The permittee shall fully perform and complete all of the work shown  
26 on the plans within the time limit specified in the permit.

27 (b) Extension. Prior to the expiration of a grading permit, the permittee may present a  
28 written request for an extension to the Director. If, in the opinion of the Director, an extension is  
29 warranted, a one-time extension, not to exceed one (1) year may be granted. Extension fees shall  
30 be calculated at the same rate as permit fees, and based on the amount of site area that has not  
31 received final inspection approval. The applicability of bonding requirements shall be adjusted

1 accordingly.

2 **Sec. 32-144. Inspection and Supervision.**

3 (a) The Director shall inspect all work and shall require that the permittee furnish adequate  
4 supervision, documentation of satisfactory testing and compaction prepared and certified by a  
5 professional engineer duly registered in the State of Maryland for all class 1 and class 2 fills and  
6 class 3 fills as deemed necessary.

7 (b) Prior to the issuance of a grading permit, the permittee, the contractor and/or their  
8 agents shall attend a preconstruction meeting on-site with the Director on each site requiring an  
9 approved sediment and erosion control plan.

10 (c) After obtaining the initial site grading permit(s), the permittee shall obtain written  
11 inspection approvals by the Director at the following stages in the development of the site or of  
12 each phase of development thereof:

13 (1) Upon completion of installation of tree protection devices, followed by the  
14 installation of perimeter erosion and sediment controls, prior to proceeding with any  
15 other earth disturbance or grading. Other building or grading inspection approvals may not be  
16 authorized until initial approval of the tree protection devices and perimeter erosion and  
17 sediment controls has been obtained.

18 (2) Upon completion of stripping, the stockpiling of top soil, the construction of  
19 temporary sediment and erosion control facilities, disposal of all waste material and preparation  
20 of the ground;

21 (3) Upon completion of rough grading, but prior to placing top soil, permanent  
22 drainage, or other site development improvements and ground covers;

23 (4) Upon completion of final grading, permanent drainage and erosion control  
24 facilities including established ground covers and planting, and all other work required by the  
25 permit. The Director may make additional inspections as might be deemed appropriate.

26 (d) Work shall not proceed beyond the stages outlined above until the Director inspects the  
27 site and approves the work previously completed. Requests for inspections shall be made at least  
28 twenty-four (24) hours in advance (exclusive of Saturdays, Sundays and holidays) of the time the  
29 inspection is desired.

30 (e) For inspection and enforcement of the woodland conservation program and the erosion  
31 and sediment control program, the following shall be required:

1           (1) Ensure that approved tree conservation plans and approved Erosion and Sediment  
2 Control plans and permits are on the site and are complied with;

3           (2) Ensure that every active site having an erosion and sediment control plan is  
4 inspected for compliance with the approved plan on the average of once every two weeks; and

5           (3) Prepare written reports after every inspection that describe:

6                 (A) The date and location of this site inspection;

7                 (B) Whether the approved plan has been properly implemented and maintained;

8                 (C) Practical deficiencies or erosion and sediment control plan deficiencies; and

9                 (D) If a violation exists, the type enforcement action that is taken.

10 **Sec. 32-145. Reports.**

11           (a) Periodic reports of land grading activities and the supervision, testing and compaction  
12 control documenting the compaction of fill and certifying the acceptability and location of all  
13 fills shall be submitted to the Director. Where so directed, an as-built plan and the reports shall  
14 include certification of the adequacy of:

15                 (1) Stripped areas and benched or keyed surfaces prepared to receive fills;

16                 (2) Removal of unsuitable materials;

17                 (3) Fill placement locations and depths;

18                 (4) Construction of erosion control facilities, drainage devices, buttress fills,  
19 subdrains, retaining walls and other grading appurtenances; and

20                 (5) Elevations of all rough grading completed.

21 **Sec. 32-146. Change of Ownership.**

22           The transfer of ownership of a site or any portion thereof by a permittee shall not relieve  
23 such permittee from any obligations under this Division.

24 **Sec. 32-147. Final Reports.**

25           Upon completion of the work, the Director shall require a report from a registered  
26 professional engineer, surveyor or architect certifying that all site work and facilities have been  
27 completed in accordance with the conditions of the permit, the approved plans and  
28 specifications, with the minimum standards of this Division, with a specific listing of all waivers  
29 as might have been approved.

30 **Sec. 32-148. Certification of Completion.**

31           Upon receipt and approval of the final reports, if required by Section 32-147 and/or upon

1 otherwise determining that all permitted work has been satisfactorily completed in conformance  
2 with this Subtitle, the Director will issue a certification of completion, the same being  
3 prerequisite to the return of the cash deposit or release of bond in whole or part pursuant to  
4 Section 32-135.

5 **Sec. 32-149. Maintenance.**

6 On any property on which grading or other work has been performed pursuant to a permit  
7 granted under the provisions of this Division, the permittee or owner, or the agent, contractor and  
8 employees of the permittee or owner shall continuously maintain and repair all graded surfaces  
9 and erosion control facilities, drainage structures or means and other protective devices,  
10 plantings and ground cover installed and completed.

11 **Sec. 32-150. Existing Conditions.**

12 (a) Remedy of Defects. Deficiencies, Discharges, Connections and Maintenance.

13 Whenever and wherever the Director finds that any existing grading, drainage, ground condition,  
14 discharge or drainage connection is defective, deficient or illegal under the requirements of this  
15 Division and constitutes or creates a public nuisance or hazard, or will result in adverse impacts  
16 to water quality or may cause damage to property, drainage system, or a watercourse, then and in  
17 such event the owner/permittee of the property upon which condition is located, or the person  
18 responsible for the condition, upon receipt of notice in writing from the Director, shall within the  
19 period specified therein, secure the required permit, perform or cause to be performed the  
20 required remedial work, repairs or maintenance so as to correct and remedy the defect or  
21 condition, and to be in conformance with the requirements of this Division and other  
22 requirements of this Subtitle.

23 (b) Disregard of Notice to Remedy Condition; Penalty or Enforcement. Failure to  
24 complete or undertake the required remedial work within the period specified shall constitute a  
25 violation(s) pursuant to Sections 32-107 and 32-118 of this Code. If an act, omission or  
26 condition constituting a violation is of a continuing nature, each day that a violation continues  
27 shall be deemed a separate offense. The actual application of the penalty provisions of these  
28 Sections, or the possible prospective application thereof shall not preclude the enforced removal,  
29 correction or abatement of prohibited conditions or use through appropriate proceedings in a  
30 court of law. The notice provisions of Sections 32-107 and 32-118 and as amended herein shall  
31 not be applicable when, in the determination of the Director, there is an unsafe condition of soil

1 or premises, or both, which constitutes a violation of one or more of the provisions of this  
2 Division and is a serious, immediate threat to the health or safety of the general public or  
3 adjacent property.

4 (c) Emergency Measures. The application of such penalty shall not preclude the enforced  
5 removal, abatement or correction of the conditions which were found to be in noncompliance,  
6 through appropriate proceedings in a court of law. In addition, the County may take those  
7 actions necessary to correct the situation, and all cost incurred therefore shall be billed to the  
8 responsible person in accordance with the provisions of Section 32-108(e), or be recovered  
9 through legal recourse.

10 **Sec. 32-151. Site Grades.**

11 (a) Site grades shall be adapted to establish street grades and topography, preserving to the  
12 extent feasible the natural contours, existing woodlands, specimen trees and terrain features.

13 (b) Concentrated surface drainage from each lot or parcel shall discharge directly, or  
14 through no more than one (1) adjacent lot unless suitable easements are granted, to accommodate  
15 its flow into a publicly maintained drainage system, street or continuously flowing natural  
16 watercourse. Easements may not be required if, in the opinion of the Director, it can be  
17 demonstrated by a Maryland registered professional engineer that the concentrated surface  
18 drainage is insignificant and/or will not adversely affect adjacent properties.

19 (1) Slope Limitations. In effecting the foregoing objectives, the slope limitations  
20 specified in Table 4 herein and elsewhere in this Division shall be followed. The exact value  
21 shall be as determined by the preparer of the plan to suit each specified site.

22 **TABLE 4 – SITE SLOPE LIMITATIONS**

FEATURE	MAXIMUM	MINIMUM
Setback of Building from edge Building Pad or Shelf	-----	10 ft. *
Slope of Pad or Shelf Away from Building, Residential	30'' in 10'	10'' in 10'
Slope of Pad or Shelf Away from Building, All Others	-----	10'' in 10'

Yards or Lawns	3:1	2 ½%
Slope of Terraces, Slopes or Banks, Residential	3:1	-----
Slope of Terraces, Slopes or Banks, all others	2:1	-----
Side Slope of Swale or Ditch	3:1	10:1
Longitudinal Gradient of Sodded Swale or Ditch	4% or **	2%
Slope patios-longitudinal pitch (end to end) and Lateral pitch (side to side) away from the Building	¼” in 12”	1/8” in 12”
Driveways – lateral pitch (side to side) away from Building	½” in 12”	1/8” in 12”
Sidewalks and leadwalks – lateral pitch	48:1	-----
Driveways – longitudinal pitch (end to end) away from the Building	12.5%	1%
Sidewalks and leadwalks - longitudinal	12:1	-----
Parking Lots and Areas	7%	1%
<p>* Minimum from sides of single-family residences and from ends of a townhouse complex is four (4) feet.</p> <p>** The slope that will yield a velocity no greater than four (4) feet per second.</p>		

- 1           (2) Exception. Slopes steeper than 3:1 may remain undisturbed and undeveloped
- 2 when preserving a forested area; however, a soils analysis may be required by the Director if the
- 3 long term stability of the slope is in question.
- 4           (3) Building Types and Designs. Selection of building types and designs shall be
- 5 coordinated with, and shall be considered secondary to, conformance of the site grading to the
- 6 foregoing objectives, the preferred slope limitations, and other requirements of this Division.
- 7           (4) Factor of Safety. All slopes shall have a factor of safety of 1.5
- 8 **Sec. 32-152. Ground Stabilization.**
- 9           (a) All graded surfaces shall have suitable soil for permanent vegetative growth; free of
- 10 any rocks, stones or other nonirreducible/nonorganic matter larger than one and one-half (1 ½)
- 11 inches in diameter; diced and raked; and shall be limed, fertilized, seeded, mulched with tack or

1 sodded, planted or otherwise protected from erosion; and shall be watered, tended and  
 2 maintained until growth is well established.

3 (1) Topsoil shall be in accordance with the Maryland Department of the  
 4 Environment, Standards and Specifications for Soil Erosion and Sediment Control, 21.0 Standard  
 5 and Specifications for Topsoil, or approved subsequent revisions thereof.

6 (2) Stabilization methods and materials shall be in accordance with the Maryland  
 7 Department of the Environment, Standards and Specifications for Erosion and Sediment Control,  
 8 20.0, Standards and Specifications for Vegetative Stabilization, or approved subsequent revisions  
 9 thereof.

10 (3) Upon completion of the work, a vegetative ground cover certification from a  
 11 registered professional engineer, surveyor, or landscape architect shall be provided certifying  
 12 that all disturbed or graded surfaces on the project site, with exception of areas shown on the  
 13 plan that do not apply, have permanent vegetative growth and that the vegetative materials were  
 14 placed in accordance with Section 32-152 and have been completed in accordance with the  
 15 conditions of the permit, the approved plans and specifications, and with the minimum standards  
 16 of this Division, with specific listing of all waivers as might have been approved.

17 **Sec. 32-153. Contents of the Erosion and Sediment Control Plan.**

18 (a) No grading permit shall be issued for areas to be disturbed in excess of five thousand  
 19 (5,000) square feet or one hundred (100) cubic yards of earth moved without an approved  
 20 erosion and sediment control plan which meets the requirements of the Prince  
 21 George's Soil Conservation District, this Division, the State Sediment Control Regulations,  
 22 COMAR 26.17.01, and the Standards and Specifications. The plan shall include sufficient  
 23 information to evaluate the environmental characteristics of the affected areas, the potential  
 24 impacts of the proposed grading on water resources, and the effectiveness and acceptability of  
 25 measures proposed to minimize soil erosion and off-site sedimentation. This plan shall serve as  
 26 a basis for all subsequent grading and stabilization. The applicant shall certify on the plan that  
 27 all clearing, grading, drainage, construction and development shall be conducted in strict  
 28 accordance with the plan.

29 (b) Applicants shall submit the following information to the Prince George's Soil  
 30 Conservation District:

31 (1) A letter of transmittal;

- 1           (2) A vicinity sketch indicating north arrow, scale and other information necessary to  
 2 easily locate the property;
- 3           (3) A plan at an appropriate scale indicating at least:
- 4               (A) Name, address and telephone number of:
- 5                   (i) The owner of the property where the grading is proposed;
- 6                       (aa) The applicant;
- 7               (B) The existing and proposed topography;
- 8               (C) The proposed grading and earth disturbance including:
- 9                   (i) Surface area involved;
- 10                  (ii) Excess spoil material;
- 11                  (iii) Use of borrow material;
- 12                  (iv) Specific limits of disturbance consistent to that shown on an approved  
 13 Type 2 Tree Conservation Plan; and
- 14                   (v) A clear and definite delineation of all woodland conservation areas and  
 15 areas to remain undisturbed consistent with the approved Type 2 Tree Conservation Plan;
- 16               (D) Storm drainage provisions, including:
- 17                   (i) Velocities and quantities of flow at outfalls; and
- 18                   (ii) Site conditions around points of all surface water discharge from the  
 19 site;
- 20               (E) Erosion and sediment control provisions to minimize on-site erosion and  
 21 prevent off-site sedimentation including:
- 22                   (i) Provisions to preserve top soil and limit disturbance;
- 23                   (ii) Details of grading practices;
- 24           (4) Design details for structural controls;
- 25           (5) Details of temporary and permanent stabilization measures including placement  
 26 of the statement on the plan that following initial soil disturbance or redisturbance, permanent or  
 27 temporary stabilization shall be completed within seven (7) calendar days for the surface of all  
 28 perimeter dikes, swales, ditches, perimeter slopes and all slope greater than 3 horizontal to 1  
 29 vertical (3:1), and for all embankments of ponds, basins and traps; and fourteen (14) days for all  
 30 other disturbed or graded areas on the project site provided that the requirements of this Section  
 31 do not apply to those areas which are shown on the plan and are currently being used for material

1 storage or for those areas on which actual construction activities are currently being performed or  
 2 to interior areas of a surface mine site where the stabilization material would contaminate the  
 3 recoverable resource;

4 (6) Sequence of construction describing the relationship between the implementation  
 5 and maintenance of controls, including permanent and temporary stabilization and the various  
 6 stages or phases of earth disturbance and construction. The sequence of construction shall, as a  
 7 minimum, include a schedule and time frame for the following activities:

8 (A) Clearing and grubbing for those areas necessary for installation of perimeter  
 9 controls;

10 (B) Construction of perimeter controls;

11 (C) Remaining clearing and grubbing;

12 (D) Road grading;

13 (E) Grading for the remainder of the site;

14 (F) Utility installation and whether storm drains will be used or blocked after  
 15 construction;

16 (G) Final grading, landscaping or stabilization; and

17 (H) Removal of controls;

18 (7) A statement placed on the plan indicating that the permittee shall request that the  
 19 Department of Public Works and Transportation approve work completed in accordance with the  
 20 approved erosion and sediment control plan, the grading or building permit, and this Division,  
 21 and that the permittee shall obtain written inspection approvals by the Director at the following  
 22 stages in the development of the site, or of each subdivision thereof:

23 (A) Upon completion of installation of tree protection devices, followed by the  
 24 installation of perimeter erosion and sediment controls, prior to proceeding with any other earth  
 25 disturbance or grading. Other building or grading inspection approvals may not be authorized  
 26 until initial approval by the inspection agency is made;

27 (B) Upon completion of stripping, the stockpiling of top soil, the construction of  
 28 temporary sediment and erosion control facilities, disposal of all waste material and preparation  
 29 of the ground;

30 (C) Upon completion of rough grading, but prior to placing top soil, permanent  
 31 drainage or other site development improvements and ground covers;

1           (D) Upon completion of final grading, reforestation, permanent drainage, and  
 2 erosion control facilities including established ground covers and planting, and all other work of  
 3 the building permit;

4           (8) Certification by the owner or permittee that any clearing, grading, construction or  
 5 development, or all of these, will be done pursuant to this plan and that responsible personnel  
 6 involved in the construction project will have a Certification of Training at a State of Maryland  
 7 Department of the Environment approved training program (i.e. Green Card Certification) for the  
 8 control of sediment and erosion before beginning the project. The Certification of Training for  
 9 Responsible Personnel requirement may be waived by the Prince George's Soil Conservation  
 10 District on any project involving four (4) or fewer residential units; and

11           (9) In approving the plan, the Prince George's Soil Conservation District may require  
 12 any additional information or data deemed appropriate and/or may impose such conditions  
 13 thereto as may be deemed necessary to ensure compliance with the provisions of this Division,  
 14 the State Sediment Control Regulations, COMAR 26.17.01, the Standards and Specifications, or  
 15 the preservation of public health and safety.

16 **Sec. 32-154. Preparation of Ground.**

17           (a) The entire area, or each subdivision thereof, included within the limits of proposed cut  
 18 and fill shall be stripped with particular emphasis on the removal of all root mat, trash, organic  
 19 matter, and otherwise objectionable, noncomplying and unsuitable materials and soils. All  
 20 previously placed uncontrolled fill shall be removed from areas to receive class I fill for a  
 21 building or structure that is to be erected. No building or structure shall be erected on class III  
 22 fill material.

23           (1) Prior to placing class 1 fill, the ground surface, if within five (5) feet of finished  
 24 grade, or foundation base elevation, shall be compacted so that the top six (6) inches achieves a  
 25 density of not less than ninety (90%) of maximum density as defined in Section 32-158.

26           (2) No class 1 or 2 load-bearing fill shall be placed on frozen ground. Class 3 may be  
 27 placed on frozen ground.

28           (3) Natural and/or existing slopes steeper than five (5) horizontal to one (1) vertical  
 29 shall be benched or continuously stepped into competent materials prior to placing fill of any  
 30 class. Fills toeing out on natural slopes steeper than four (4) horizontal to one (1) vertical shall  
 31 not be made unless approved by the Director after receipt of a report by a soil engineer certifying

1 that he has investigated the property, made soil tests, and that, in his opinion, such steeper slopes  
 2 will safely support the proposed fill.

3 (4) All specimen trees within or adjacent to areas of proposed disturbance shall be  
 4 protected in accordance with the approved Type 2 Tree Conservation Plan. Where Type 2 Tree  
 5 Conservation Plan is not required, all specimen trees within or adjacent to areas of disturbance  
 6 shall be protected by appropriate tree protection devices placed outside the drip line of the tree.

7 **Sec. 32-155. Waste Materials.**

8 (a) All objectionable, noncomplying and unsuitable materials and soils, and surplus  
 9 complying earth encountered on the site or as developed during the construction operation, shall  
 10 be classed as waste, and shall be immediately removed and disposed of by hauling to a County  
 11 authorized refuse disposal area or sanitary landfill, or as follows:

12 (1) Combustibles, such as litter, trash, root mat, brush, trees, stumps by stockpiling,  
 13 and subsequent burning on site, as regulated by other codes, or if considered salvageable as  
 14 lumber, firewood, etc., by removal and hauling away. These materials shall not be dumped,  
 15 piled or buried on the site or at any location other than a County authorized refuse disposal area  
 16 and/or landfills.

17 (2) Brick, broken concrete and asphalt, by inclusion as part of fill material pursuant to  
 18 Section 32-157.

19 (3) Top soil – by direct placement or interim stockpiling and subsequent placement in  
 20 the uppermost layer immediately below finished grade in areas proposed for landscaping on the  
 21 site or by placement in intermittent layers in class 3 fills on the site.

22 (4) Surplus complying earth and topsoil, by hauling away, or placement at only those  
 23 sites elsewhere for which a permit has been issued. Dumping on other sites, not under permit is  
 24 not permitted.

25 (5) The general contractor or party responsible for construction shall provide a  
 26 sufficient number of covered containers at the construction site to contain litter and trash for  
 27 timely disposal at a County authorized refuse disposal facility. For the purpose of this Section,  
 28 litter and trash shall mean litter as defined by Section 13-261 of this Code, but shall not include  
 29 any building or construction wastes.

30 **Sec. 32-156. Fill -- Classes.**

31 (a) The grading plans and specifications shall specify and delineate the use and extent of

fills in accordance with the following classifications:

(1) Class 1 fill -- Load-bearing fills proposed for support of buildings, walls, and other structures, the function thereof which would be especially impaired by settlement.

(2) Class 2 fill -- Load-bearing fills proposed for support of roadways, pavements, rigid utility lines, house connections, and structures which would not be especially impaired by moderate settlement.

(3) Class 3 fill -- Common fills proposed for lawns, landscape plantings, or for other nonload-bearing usage.

**Sec. 32-157. Fill -- Materials.**

(a) All class 1 and 2 fills shall consist of readily compactable soils meeting the following minimum requirements:

(1) No inclusions of ice or snow, organic or other deleterious materials subject to decay and high shrink-swell soils shall be permitted.

(2) No rock or similar irreducible material with a maximum dimension greater than eighteen (18) inches shall be buried or placed in any portion of the fill, with the top two and one-half (2 ½) feet below finished grade, foundations and utility service connections having nothing larger than eight (8) inches in any dimension, unless permitted by the Director after receipt of a report by a soil engineer certifying that he has investigated the property and the fill materials, and that a fill including oversized materials may be constructed to meet the intent of this Division.

(b) Class 3 fills may include the more difficult to compact soils, at other than optimum moisture content; rock and similar irreducible materials without limit as to size provided no detectable voids are formed, into which overlying soils may later be displaced; and top soil, intermittently layered with nonorganic soil. In other than rock gardens, at least twelve (12) inches of top soil must cover all rock or irreducible materials with a maximum dimension greater than eight (8) inches.

(c) The material must be free of contamination levels of any pollutant which is, or may be considered to represent, a possible health hazard to the public or may be detrimental to surface or ground water quality, or may cause damage to property or the drainage system.

**Sec. 32-158. Fill - Compaction.**

(a) Each layer of Class 1 and Class 2 fills shall be compacted at optimum moisture content

1 (plus or minus two (2) percentage points), and to a minimum of ninety-five (95%) and ninety  
 2 (90%) percent, respectively, of maximum density as determined in the laboratory by the  
 3 Standard proctor Test (AASHTO T-99, ASTM D-698). Each layer of class 3 fills shall be  
 4 compacted sufficiently to support customarily used tracked spreading equipment and upon  
 5 completion to be stable and after planting to prevent erosion. Other methods of compaction that  
 6 the Director deems appropriate and result in an equal or better quality of compaction for Class 1  
 7 and 2 fills may be accepted.

8 (1) Lower degrees of compaction may be permitted by the Director after receipt of a  
 9 report by a soil engineer certifying that the soil engineer has investigated the subsoils of the site,  
 10 has tested representative fill materials and that, in the opinion of the soil engineer, such lower  
 11 degree of compaction will be adequate for the intended use of the fill.

12 (2) In-place (field) density shall be determined in accordance with the ASTM test  
 13 method D-1556-82E, D-2922-91 or AASHTO T-191-86, T-238-86.

14 (3) All fills shall be placed in approximately horizontal layers, each layer having a  
 15 loose thickness of not more than eight (8) inches for Class 1, twelve (12) inches for Class 2 and  
 16 two (2) feet for Class 3 fills. If approved by the Director, thicker lifts may be per-mitted only  
 17 upon submittal of adequate density test documentation of limited test fills.

18 **Sec. 32-159. Subgrade – Compaction.**

19 The top eight (8) inches of soil in cut, or the required Class 2 fill sections to be used as  
 20 subgrade for support of patios, building floor slabs, driveways, parking pads and lots, sidewalks  
 21 and other structures which would not be especially impaired by moderate settlement shall be  
 22 compacted, or recompacted, to at least ninety (90%) percent of maximum density as determined  
 23 by the Standard Proctor test.

24 **Sec. 32-160. Slopes.**

25 (a) Within the limitations specified in Section 32-151 and elsewhere, slopes of site  
 26 grading, drainage and other improvements and facilities shall be determined by the preparer of  
 27 the plan to suit the specific site and in accordance with accepted engineering practice.

28 (1) No fill or cut shall be made which creates an exposed surface steeper in slope than  
 29 two (2) horizontal to one (1) vertical unless specifically waived by the Director after receipt of a  
 30 report by a soil engineer certifying that the engineer has investigated the property, and that, in the  
 31 engineer's opinion, such steeper slope will be structurally stable and that the ground cover to be

1 used is of a low maintenance type and will effectively control erosion.

2 (2) The Director may require that slopes be constructed with exposed surface flatter  
3 than those shown in Section 32-151, or may require such other measures as the Director deems  
4 necessary for stability and safety.

5 (3) Sides of temporary excavations made for foundations, buildings, and utility  
6 installations shall be protected, shored, or sloped as required by regulations of the Maryland  
7 State Department of Labor and Industry.

8 **Sec. 32-161. Slope – Setbacks.**

9 (a) Cut and fill slopes steeper than four (4) horizontal and one (1) vertical shall be set back  
10 from property lines and buildings shall be set back from cut or fill slopes in accordance with  
11 Figures 1 and 2 herein.

12 (1) Fill placed above the top of an existing or proposed surface with a slope steeper  
13 than three (3) horizontal to one (1) vertical shall be set back from the top of the slope a minimum  
14 distance of six (6) feet.

15 (2) The setbacks established by this Section are minimum and may be increased by  
16 the Director, if the Director deems it necessary for safety or stability, or to prevent possible  
17 damage from water, soil or debris.

18 (3) The Director may reduce the required setback from property lines where:

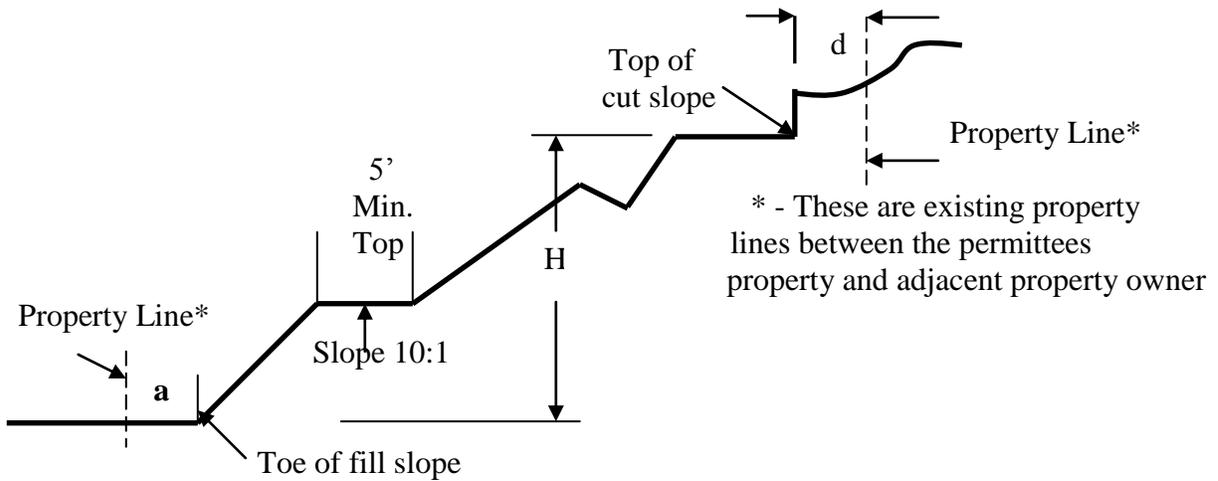
19 (A) The Director determines the necessity for the setback to be eliminated or  
20 reduced by the construction of retaining walls or because the owner/permittee has the right to  
21 extend slopes onto the adjacent property; or

22 (B) After receipt of a report by a soil engineer certifying that the soil engineer  
23 has investigated the property and that in the engineer's opinion the reduction in the set-back will  
24 not endanger any public or private property or result in the deposition of sediment or debris on  
25 any public way.

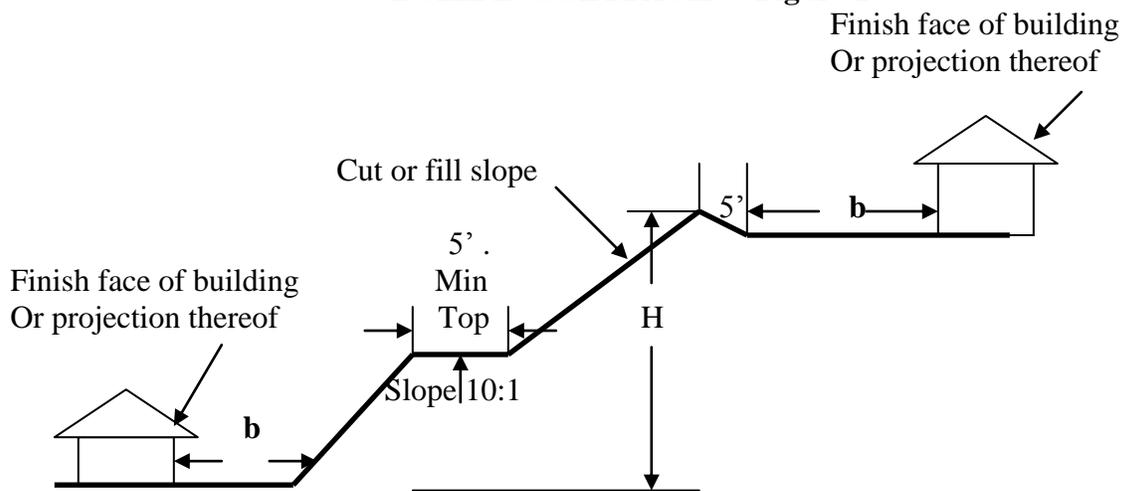
**MINIMUM SETBACK REQUIREMENTS  
for Slopes Steeper than 4:1**

<b>H in Feet</b>	<b>Toe if Fill from property line a</b>	<b>Top of cut from property line d</b>	<b>Building from toe or top of slope b</b>
0 – 10	4'	2'	10'
10 – 30	8'	4'	15'
over 30	12'	6'	20'

**SLOPE SETBACK FROM PROPERTY LINE – Figure 1**



**BUILDING SETBACK - Figure 2**



1 **Sec. 32-162. On-Site Drainage.**

2 (a) The following provisions apply to the safe conveyance and disposal of drainage to  
3 prevent erosion and property damage.

4 (1) Drainage facilities, including but not limited to sump pumps, foundation drains,  
5 trench drains and under drains, shall be provided and shall be discharged into a publicly  
6 maintained drainage system or continuously flowing natural water course to safely convey  
7 surface and ground water in such a manner to prevent detrimental erosion, overflow, ponding or  
8 nuisance of any kind in accordance with applicable design criteria, standards and procedures as  
9 contained herein and as required by approved standards and regulations of the Prince George's  
10 County Department of Public Works and Transportation.

11 (2) Unless intended by design for water quality and quantity purposes, the ponding of  
12 water shall not be permitted particularly above cut or fill slopes or on drain-age terraces, nor  
13 shall new development cause water to be impounded on adjacent property. Adequate drainage  
14 facilities shall be provided to prevent such ponding. Existing ponding (ponding not created by  
15 development) may remain in undisturbed, undeveloped, forested areas, unless it has  
16 objectionable effects.

17 (3) Cut and fill slopes shall be terraced wherever the vertical interval (height) of any  
18 2:1 slope exceeds twenty (20) feet; for 3:1 slope it shall be increased to thirty (30) feet; and for  
19 4:1 to forty (40) feet. Benches shall be located to divide the slope face as equally as possible and  
20 shall convey the water to a stable outlet. Drainage terraces shall be a minimum of six (6) feet  
21 wide with an absolute minimum invert gradient of between two percent (2%) and a maximum  
22 invert gradient of three percent (3%), unless accompanied by appropriate design and  
23 calculations, and with a ten to one (10:1) lateral slope toward the toe of the upper bank, and must  
24 convey water with minimum six (6) inch freeboard to a safe disposal area.

25 (4) The permittee and the owner shall make adequate provisions to prevent any  
26 surface waters from materially damaging the face of any and all earth surfaces, excavation or fill.  
27 All such earth surfaces shall be temporarily and/or permanently protected from surface water  
28 runoff from above by interceptor and diversion berms, swales brow or berm ditches, and shall be  
29 sodded, seeded and/or planted unless, upon the recommendation of the Prince George's Soil  
30 Conservation District, the Director determines such treatment is unnecessary and specifically  
31 waives this requirement pursuant to Section 32-132.

1           (5) All areas designed for buildings pads shall be graded to slope away from the  
2 building in conformance with the limitations in Section 32-151.

3           (6) All drainage terraces, interceptor and diversion berms, swales and ditches shall be  
4 designed and constructed in accordance with standards contained elsewhere herein and when  
5 required, shall be piped or paved or otherwise improved. In order for drainage to discharge into  
6 natural watercourses such natural ground shall be protected from erosion by an adequate amount  
7 of riprap or by other measures. Flows exceeding three (3) cubic feet per second will not be  
8 permitted in open facilities such as swales and ditches, but shall be conveyed in enclosed storm  
9 drain systems. Concentrated flow in driveways, parking lots and access lanes shall not exceed  
10 one-half (1/2) the width of paving, or ten (10) feet, whichever is less.

11           (7) Overflows from one hundred (100) year storm shall be traced through the site and  
12 intervening area to their locations of discharge into a natural stream and, at critical locations,  
13 their hydraulic gradient determined to ascertain that the pro-posed construction does not flood or  
14 damage existing and proposed buildings or structures along the trace, as required by Division 4  
15 of this Subtitle.

16           (8) Springs and surface seeps and other ground waters having objectionable effects  
17 shall be capped with stone and/or sand with interlaced tile drains or perforated pipes connecting  
18 into a piped outfall to a public storm drainage system or continuously flowing natural  
19 watercourse.

20           (9) Unless otherwise permitted by Federal, State or local regulations, or the  
21 provisions of this Division, the discharge of pollutants onto land, to a drainage system, or to a  
22 watercourse within the County is prohibited.

23           (10) All drainage system rights-of-way and easements shall be used by the County for  
24 the purposes of the administration of this Division to conduct activities related to enforcement,  
25 compliance, investigation and surveillance.

26           (11) Downspout discharge may discharge to a properly graded area provided the point  
27 of discharge at the Building Restriction Line (BRL) or ten (10) feet from any property line and  
28 conveyed by splash block oriented parallel to said line. If the downspouts are connected into an  
29 underground drainage system, a cleanout valve and air gap for blockage overflow is required.

30 **Sec. 32-163. Completion of Site Development.**

31           Site development shall be completed in accordance with the approved plans prior to the

1 Director of the Department of Environmental Resources granting occupancy of any building or  
 2 structure on the site. The site work shall be completed prior to, or at the same time as, the  
 3 completion of the buildings or structures. Adequate and acceptable completion of recreational  
 4 facilities, landscaping, parking, parking lighting, retaining walls, and other site work shall be in  
 5 compliance with the approved site plans and other conditions. The requirements of the approved  
 6 Type 2 Tree Conservation Plan shall be completed prior to the issuance of the use and occupancy  
 7 permit.

8 **Sec. 32-164. Grading, Drainage and Erosion Control Standards.**

9 (a) The design, testing, installation and maintenance of grading, drainage and erosion  
 10 control operations and facilities shall meet the minimum requirements set forth in the Standards  
 11 listed herein.

12 (1) Soils.

13 (A) ASTM Standards, Volume 0408 Titled Natural Building Stones, Soil and  
 14 Rock, by the American Society for Testing and Materials, Philadelphia.

15 (B) ASTM Designation D-1556-82E, Density of Soil in Place by the Sand-Cone  
 16 Method.

17 (C) ASTM Designation D-698-82E, Moisture-Density relations of Soils and Soil  
 18 Aggregate Mixtures Using 5.5 –lb. (2.50 kg) Rammer and 12 in. (457 MM) Drop.

19 (D) Maryland Department of the Environment, 1994 Maryland Standards and  
 20 Specifications for Soil Erosion and Sediment Control.

21 (2) Drainage. Subtitle 23 titled “Roads and Sidewalks,” the Prince George’s County  
 22 Code; Prince George’s County, Maryland, Stormwater Management Design Manual, 1984.

23 (3) Erosion Control. Soil Survey of Prince George’s County, Maryland issued April  
 24 1967 Maryland Standard and Specifications for Soil Erosion and Sediment Control. Maryland  
 25 Department of the Environment, Current Maryland Standards and Specifications for Soil and  
 26 Erosion Control.

27 (4) Subtitle 25 titled “Trees and Vegetation,” the Prince George’s County Code,  
 28 adopting by reference the “Prince George’s County Woodland Conservation and Tree  
 29 Preservation Policy Document.”

30 **Sec. 32-165. Other Plans.**

31 The application for a permit shall be accompanied by other plans required as determined by

1 the nature and type of work proposed. These plans shall reflect the various types of work or  
 2 conditions on the site which may include, but are not limited to, the following types:  
 3 landscaping, storm drain, stormwater management, tree preservation, conservation, mitigation  
 4 and sediment and erosion control. These plans shall be subject to applicable review and approval  
 5 criteria.

6 **Sec. 32-166. Building Restrictions in Drinking Water Reservoir Watersheds.**

7 (a) No grading permit may be issued for the construction of any structure within two  
 8 thousand five hundred (2,500) feet of a drinking water reservoir except as provided by this  
 9 Section.

10 (b) A grading permit for the construction of a one or two-family dwelling and associated  
 11 structures may be issued in accordance with this Division.

12 (c) A grading permit for any other structure may be issued in accordance with this  
 13 Division provided that all structures are served by public water and sewage systems.

14 **Sec. 32-167. through Sec. 32-169. Reserved.**

15 **DIVISION 3. STORMWATER MANAGEMENT.**

16 **Subdivision 1. General Provisions.**

17 **Sec. 32-170. Short Title; Purpose.**

18 (a) The provisions of this Division shall constitute and be known as the “Stormwater  
 19 Management Ordinance of Prince George’s County, Maryland.”

20 (b) The purpose of this Division is to protect, maintain and enhance the public health,  
 21 safety and general welfare by establishing minimum requirements and procedures that control  
 22 the adverse impacts with increased stormwater runoff. The goal is to manage stormwater by  
 23 using environmental site design (ESD) to the maximum extent practicable (MEP); to maintain  
 24 after development, as nearly as possible, the predevelopment runoff characteristics; and to reduce  
 25 stream channel erosion, pollution, siltation and sedimentation, and local flooding; and to use  
 26 appropriate structural best management practices (BMPs) only when absolutely necessary. This  
 27 will help to restore, as close as possible to predevelopment conditions, enhance, and maintain the  
 28 chemical, physical, and biological integrity of streams; minimize damage to public and private  
 29 property; and reduce the impacts of land development. This Division also ensures compliance  
 30 with various provisions of the Federal Clean Water Act related to the National Pollutant  
 31 Discharge Elimination System (NPDES) Permit for municipal stormwater programs and with the

1 County's current NPDES Municipal Stormwater System Permit. This Division also is consistent  
 2 with the County's various obligations and commitments to the protection and restoration of the  
 3 Chesapeake Bay, Potomac River, Anacostia River and Patuxent River. Proper management of  
 4 stormwater runoff will minimize damage to public and private property; reduce the effects of  
 5 development on land and stream channel erosion; assist in the attainment and maintenance of  
 6 water quality standards; reduce local flooding; and maintain, as nearly as possible, the  
 7 predevelopment runoff characteristics of the area.

8 (c) The provisions of this Division are adopted pursuant to Environmental Article, Title 4,  
 9 Subtitle 2 of the of the Maryland Annotated Code 2009 replacement volume, and are adopted  
 10 under the authority of Prince George's County Code and shall apply to all development  
 11 occurring within Prince George's County including within municipalities, except for those  
 12 exemptions listed under this Division. The exceptions shall be land owned by the Federal or  
 13 State governments, the City of Bowie or agricultural land management practices. The  
 14 application of this Division and the provisions expressed herein shall be the minimum  
 15 stormwater management requirements and shall not be deemed a limitation or repeal of any other  
 16 powers granted by State statute. The County Executive shall be responsible for the coordination  
 17 and enforcement of the provisions of this Division. This Ordinance applies to all new and  
 18 redevelopment projects that have not received final approval for erosion and sediment control  
 19 and stormwater management plans by May 4, 2010.

20 (d) The County may grant an administrative waiver to a development that received a  
 21 preliminary project approval prior to May 4, 2010. Administrative waivers expire according to  
 22 (1) of this Section and may be extended according to (2) of this Section.

23 (1) Expiration of Administrative Waivers.

24 (A) Except as provided in (2) of this Section, an administrative waiver shall  
 25 expire on:

26 (i) May 4, 2013, if the development does not receive final project approval  
 27 prior to that date; or

28 (ii) May 4, 2017, if the development receives final project approval prior to  
 29 May 4, 2013.

30 (B) All construction authorized pursuant to an administrative waiver must be  
 31 completed by May 4, 2017 or, if the waiver is extended as provided in (2) of this Section, by the

1 expiration date of the waiver extension.

2 (2) Extension of Administrative Waivers.

3 (A) Except as provided in 2.(b) of this Section, an administrative waiver shall  
4 not be extended.

5 (B) An administrative waiver may only be extended, if, by May 4, 2010 the  
6 development:

7 (i) Has received a preliminary project approval; and

8 (ii) Was subject to a Development Rights and Responsibilities Agreement,  
9 a Tax Increment Financing approval, or an Annexation Agreement.

10 (3) Administrative waivers extended according to 2.(b) of this Section shall expire  
11 when the Development Rights and Responsibilities Agreement, the Tax Increment Financing  
12 approval, or the Annexation Agreement expires.

13 (e) The provisions of this Division relating to the development of land within the  
14 Chesapeake Bay Critical Area are adopted pursuant to the Annotated Code of Maryland, Natural  
15 Resources Article, and Section 8-1801. et seq., and shall apply to all development within the  
16 Chesapeake Bay Critical Area Overlay Zone. The provisions of this Division may not be  
17 construed to affect the requirements for a project located in an Intense Developed Area of the  
18 Chesapeake and Atlantic Coastal Bays Critical Area to comply with the 10 percent Pollution  
19 Reduction Requirement under COMAR 27.01.02.03 D (3).

20 (f) The following referenced documents are necessary to provide appropriate technical  
21 guidance for the planning, design, construction, inspection and enforcement of the provisions of  
22 this Division. These documents are revised periodically and it is incumbent upon property  
23 owners, planners, designers and applicants to use the most current approved versions available.  
24 For purposes of this Division, the following documents are hereby adopted and incorporated by  
25 reference:

26 (1) The 2000 Maryland Stormwater Management Design Manual, Volumes I and II  
27 Maryland Department of the Environment (April 2000); and

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

30 (3) Adopted Comprehensive Watershed Management Plans:

31 (A) CR-61-1986 – Piscataway Creek

1 (B) CR-62-1986 – Henson Creek

2 **Sec. 32-171. Definitions.**

3 (a) For purposes of this Division, the following terms, phrases and words, and their  
 4 derivations shall have the meaning given herein:

5 (1) **Administration** - the Maryland Department of the Environment (MDE) Water  
 6 Management Administration (WMA).

7 (2) **Administrative Waiver** means a decision by the approving agency pursuant to  
 8 this regulation to allow the construction of a development to be governed by the stormwater  
 9 management ordinance in effect as of May 4, 2009, in the local jurisdiction where the project  
 10 will be located.

11 (3) **Adverse Impact** - any deleterious effect on waters or wetlands, including their  
 12 quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural  
 13 uses which are or may potentially be harmful or injurious to human health, welfare, safety or  
 14 property, to biological productivity, diversity, or stability or which unreasonably interfere with  
 15 the enjoyment of life, property, and including outdoor recreation.

16 (4) **Agricultural Land Management Practices** - those methods and procedures used  
 17 in the cultivation of land in order to further crop and livestock production and conservation of  
 18 related soil and water resources.

19 (5) **Alternative Practice** - an environmental site design practice or technique or  
 20 structural stormwater management measure that is not found in the Design Manual and is  
 21 proposed during concept plan approval. Alternative practices shall be designed to meet the  
 22 criteria in the Design Manual, meet the minimum requirements specified in section 32-178 of  
 23 this Division and be approved by the Administration.

24 (6) **Applicant** - any person, agent, firm or governmental agency that executes the  
 25 necessary forms to procure official approval of a project, or a permit to carry out the construction  
 26 of a project.

27 (7) **Approval**

28 (A) “Approval” means a documented action by the County following a review to  
 29 determine and acknowledge the sufficiency of submitted material to meet the requirements of a  
 30 specified state in a local development review process.

31 (B) “Approval” does not mean an acknowledgment by the approving agency that

1 submitted material has been received for review.

2 (8) **Aquifer** - porous water bearing geological formation generally restricted to  
3 materials capable of yielding an appreciable supply of water.

4 (9) **Best Management Practice (BMP)** – a structural device or nonstructural practice  
5 designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce  
6 pollution, and provide other amenities.

7 (10) **Bioretention** - a structural soil/plant device, source control, terrestrial base,  
8 filter/infiltrating device for managing stormwater runoff.

9 (11) **Channel Protection Storage Volume (Cp<sub>v</sub>)** – the volume used to design  
10 structural management practices to control stream channel erosion. Methods for calculating the  
11 channel protection storage volume are specified in the 2000 Maryland Stormwater Management  
12 Design Manual.

13 (12) **Chesapeake Bay Critical Area** - all waters of and lands under the Chesapeake  
14 Bay and its tributaries to the head of tide as indicated on the State wetlands' maps; and all State  
15 and private wetlands designated under the Annotated Code of Maryland, Natural Resources  
16 Article, Title 9; and all land and water areas within one thousand (1,000) feet beyond the  
17 landward boundaries of State or private wetlands and heads of tide designated under the  
18 Annotated Code of Maryland, Natural Resources Article Title 9, as indicated on approved  
19 Chesapeake Bay Critical Area Overlay Zoning Map Amendments.

20 (13) **Clearing** - the removal of trees and brush from land, but which does not include  
21 the ordinary mowing of grass.

22 (14) **Concept Plan** – the first of three required plan approvals plan that includes the  
23 information necessary to allow an initial evaluation of a proposed project.

24 (15) **Conservation Agreement** - a formal agreement that commits a grading or  
25 building permit applicant to the execution of various approved elements of a Conservation Plan,  
26 including a stormwater management plan, an approved sediment and erosion control plan, a  
27 vegetation management plan and other plans that may be required by the Department or the  
28 Prince George's County Planning Board.

29 (16) **Conservation Plan** - a plan developed in accordance with Subtitle 5B, which  
30 demonstrates how a project has been designed to meet the specific Critical Area Commission  
31 criteria. The Conservation Plan consists of an approved stormwater management concept plan.

1 an approved sediment and erosion control plan, a vegetation management plan, and such other  
 2 plans relating to environmental systems as may be required by the Washington Suburban  
 3 Sanitary Commission, the Maryland-National Capital Park and Planning Commission, the Prince  
 4 George's County Health Department, the Department or the Prince George's Soil Conservation  
 5 District.

6 (17) **County** - Prince George's County, Maryland.

7 (18) **County Engineer** - Department engineering staff.

8 (19) **Department** - Department of Public Works and Transportation.

9 (20) **Detention Structure** - a permanent structure for the temporary storage of runoff  
 10 designed so as not to create a permanent pool of water

11 (21) **Develop Land** – to change the runoff characteristics of a parcel of land in  
 12 conjunction with residential, commercial, industrial, or institutional construction or alteration.

13 (22) **Development** – any man-made change to improved or unimproved real estate  
 14 including, but not limited to, any construction, reconstruction, modification, extension or  
 15 expansion of buildings or other structures, placement of fill or concrete, construction of new or  
 16 replacement infrastructure, dumping, mining, dredging, grading, paving, drilling operations,  
 17 storage of materials, land excavation, land clearing, land improvement, landfill operation, or any  
 18 combination thereof.

19 (23) **Direct Discharge** - the concentrated release of stormwater to tidal waters or  
 20 vegetated tidal wetlands from new development or redevelopment projects in the Chesapeake  
 21 Bay Critical Area.

22 (24) **Director** - the Director of the Department.

23 (25) **Drainage Area** - the area contributing runoff to a study point measured in a  
 24 horizontal plane enclosed by a ridge line.

25 (26) **Easement** - a grant or reservation by the owner of land for the use of such land by  
 26 others for a specific purpose or purposes, the use of which must be included in the conveyance of  
 27 land affected by such easement.

28 (27) **Environmental Site Design (ESD)** – using small scale stormwater management  
 29 practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff  
 30 characteristics and to minimize the impact of land development on water resources (Methods for  
 31 designing ESD practices are specified in the Maryland Design Manual).

1           (28) **Exemption** - those land development activities that are not subject to the  
 2 stormwater management requirements contained in this Division.

3           (29) **Extended Detention** - a stormwater design feature that provides gradual release  
 4 of a volume of water in order to increase settling of pollutants and protect downstream channels  
 5 from frequent storm events (Methods for designing extended detention BMPs are specified in the  
 6 Maryland Design Manual).

7           (30) **Extreme Flood Volume (Qf)** - the storage volume required to control infrequent,  
 8 but large storm events in which overbank flow reaches or exceeds the boundaries of the 100-year  
 9 floodplain.

10           (31) **Filtration** - the attenuation of stormwater runoff pollutants by plant and/or  
 11 soil/sand complexes.

12           (32) **Final project approval** - approval of the final stormwater management plan and  
 13 erosion and sediment control plan required to construct a project's stormwater management  
 14 facilities includes securing bonding or financing for final development plans if either is required  
 15 as a prerequisite for approval.

16           (33) **Final Stormwater Management Plan** – the last of the three required plan  
 17 approvals that includes the information necessary to allow all approvals and permits to be issued  
 18 by the approving agency.

19           (34) **Flow Attenuation** - prolonging the flow time of runoff to reduce the peak  
 20 discharge.

21           (35) **Grading** - any act by which soil is disturbed, cleared, stripped, grubbed,  
 22 excavated, scarified, filled or any combination thereof.

23           (36) **Impervious Area** – an area that is covered with solid material or is compacted to  
 24 the point where water cannot infiltrate underlying soils (e.g., parking lots, roads, houses, patios,  
 25 swimming pools, compacted gravel areas, and so forth) and where natural hydrologic patterns  
 26 are altered.

27           (39) **Infiltration** - the passage or movement of water into the soil surface.

28           (40) **Maryland Design Manual** - the latest edition of the 2000 Maryland Stormwater  
 29 Design Manual, Volumes I and II, that serve as the State of Maryland's official guide for  
 30 stormwater management principals, methods and practices.

31           (41) **Major Watersheds** - the forty-two (42) watersheds identified in the water-shed

1 management plan for the purposes of identifying the preferred stormwater management approach  
2 within that major watershed.

3 (42) **Maximum Extent Practicable** – designing stormwater management systems so  
4 that all reasonable opportunities for using ESD planning techniques and treatment practices are  
5 exhausted and only where absolutely necessary, a structural BMP is implemented.

6 (43) **Natural Resource Inventory (NRI)**: a plan map and supporting documentation  
7 that provides all required information regarding the existing physical and environmental  
8 conditions on site and is approved by the Planning Director or designee.

9 (44) **Off-Site Stormwater Management** - the design and construction of a regional  
10 facility necessary to control stormwater from more than one development which is to be located  
11 outside the proposed area of development.

12 (45) **On-Site Stormwater Management** - the design and construction of systems  
13 necessary to control stormwater within the proposed area of development.

14 (46) **Overbank Flood Protection Volume (Qp)** - the volume controlled by structural  
15 practices to prevent an increase in the frequency of out-of-bank flooding generated by  
16 development (Methods for calculating the overbank flood protection volume are specified in the  
17 Maryland Design Manual).

18 (47) **Permittee** - the individual or corporation officer that signs the stormwater  
19 management permit and is legally responsible for all activities pertaining to the permit.

20 (48) **Person** – the federal government, the State, any county, municipal corporation, or  
21 other political subdivision of the State, or any of their units, or an individual receiver, trustee,  
22 guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership,  
23 firm, association, public or private corporation, or any other entity.

24 (49) **Planning Techniques** – a combination of strategies employed early in project  
25 design to reduce the impact from development and to incorporate natural features into a  
26 stormwater management plan.

27 (50) **Pollution Trading** - program, process, policy to be implemented to reduce  
28 pollutants and to improve water quality and clean up the water body by addressing nutrients,  
29 sediments and other pollutants from a known source. This is intended to establish incentives for  
30 voluntary reductions of pollutants on an existing development with no known stormwater  
31 management in place. These pollution control devices are to be recorded through GIS

1 watershed-data base to be used for SWM banking.

2 (51) **Pond** - any stormwater management device that meets the category definition of  
 3 MD 378-USDA Natural Resources Conservation Service: Conservation Standard Pond.

4 (52) **Preliminary Plan** -the preliminary plan of subdivision submitted pursuant to the  
 5 County's subdivision regulations.

6 (53) **Preliminary Project Approval**- an approval as part of a local preliminary  
 7 development or planning review process that includes, at a minimum:

8 (A) Number of planned dwelling units or lots;

9 (B) Proposed project density;

10 (C) Proposed size and location of all land uses for the project;

11 (D) Plan that identifies:

12 (i) Proposed drainage patterns;

13 (ii) Location of all points of discharge from the site; and

14 (iii) The type, location, and size of all stormwater management measures

15 based on site-specific stormwater management requirement computations; and

16 (E) Any other information required by the Department including, but not limited

17 to:

18 (i) Proposed alignment, location, and construction type and standard for  
 19 all roads, access ways and areas of vehicular traffic;

20 (ii) Demonstration that the methods by which the development will be  
 21 supplied with water and wastewater service are adequate; and

22 (iii) Size, type, and general location of all proposed wastewater and water  
 23 system infrastructure.

24 (54) **Recharge Volume ( $Re_v$ )** - that portion of the water quality volume used to  
 25 maintain groundwater recharge rates at development sites (Methods for calculating the recharge  
 26 volume are specified in the Maryland Design Manual).

27 (55) **Redevelopment** - any construction, alteration or improvement performed on sites  
 28 where existing land use is commercial, industrial, institutional, or multifamily residential and  
 29 existing site impervious area within the limit of disturbance exceeds 40 percent.

30 (56) **Retention Structure** - a permanent structure that provides for the storage of  
 31 runoff and is designed to maintain a permanent pool of water.

1           (57) **Retrofitting** - the implementation of ESD practices, the construction of structural  
2 BMP, or the modification of an existing structural BMP in a previously developed area to  
3 improve water quality over current conditions.

4           (58) **Sediment** - soils or other surficial materials transported or deposited by the action  
5 of wind, water, ice or gravity as a product of erosion.

6           (59) **Site** - for new development, any tract, lot, or parcel of land or combination of  
7 tracts, lots, parcels of land that are in one ownership or are contiguous and in diverse ownership,  
8 where development is to be performed as a part of a unit, subdivision or project.

9           (60) **Site Development Plan** – the second of three required plan approvals that  
10 includes the information necessary to allow a detailed evaluation of a proposed project.

11           (61) **Stabilization** - the prevention of soil movement by any of various vegetative  
12 and/or structural means.

13           (62) **Stormwater** – water that originates from a precipitation event.

14           (63) **Stormwater Management (SWM)** – using ESD for the collection, conveyance,  
15 storage, treatment and disposal of stormwater runoff in a manner to prevent accelerated channel  
16 erosion, increased flood damage and/or degradation of water quality.

17           (64) **Stormwater Management Design Plan** – the set of drawings and other  
18 documents that comprise all of the information and specifications for the systems, structures,  
19 concepts, and techniques that will be used to control stormwater as required by the approved  
20 concept plan and the Maryland Design Manual.

21           (65) **Stormwater Management System** – natural areas, ESD practices, stormwater  
22 management measures, and any other structure through which stormwater flows, infiltrates or  
23 discharges from a site.

24           (66) **Stormwater Variance** – the modification of the minimum stormwater  
25 management requirements for specific circumstances such that strict adherence to the  
26 requirements would result in unnecessary hardship and not fulfill the intent of this Division.

27           (67) **Stream Restoration** - restoration and reconstruction of existing waterways to  
28 maintain the ecological features of the stream, to mitigate stream bed incision and stream wall  
29 erosion, to preserve the capacity and to enhance the water quality of the stream. Stream  
30 restoration shall address the following including, but not limited to intervention and installation  
31 of measures to repair damages to the stream corridors, hydrology, hydraulics, sediment transport,

1 | geomorphology, aquatic ecology, fisheries and riparian ecology.

2 | (68) **Stripping** – any activity that removes the vegetation surface cover including tree  
 3 | removal, clearing, grubbing and storage or removal of topsoil.

4 | (69) **Subdivision** - the division of a lot, tract or parcel of land into two or more lots,  
 5 | plots, sites, parcels or other divisions by plat or deed.

6 | (70) **Watercourse** – any natural or artificial stream, river, creek, ditch, channel, canal,  
 7 | conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that  
 8 | is subject to inundation from overflow or flood water.

9 | (71) **Water Quality Volume (WQv)** - the volume needed to capture and treat 90  
 10 | percent of the average annual rainfall at a development site. Methods for calculating the water  
 11 | quality volume are specified in the Maryland Design Manual.

12 | (72) **Watershed** – the total drainage area contributing runoff to a single point.

13 | **Sec. 32-172. Watershed Management Planning.**

14 | (a) The County Executive shall submit for approval by resolution of the County  
 15 | Council, a plan for the control of water quantity, the restoration and maintenance of water  
 16 | quality, and protection of aquatic living resources of each major watershed in the County. The  
 17 | County Executive also shall provide for the periodic updating of the plans, projects or studies.  
 18 | Such plans, projects and studies shall be known as the major watershed management plans.

19 | (b) If a major watershed management plan is amended by the County Council, the County  
 20 | Executive shall be given an opportunity to provide comments on such amendments for the  
 21 | County Council’s consideration before the major watershed management plan becomes final.

22 | (c) Each watershed plan shall contain stormwater management policies and  
 23 | recommendations for the implementation of these policies and shall be approved by the  
 24 | Administration.

25 | (d) Where the watershed is located within the Chesapeake Bay Critical Area Overlay  
 26 | Zone, the watershed plan shall comply with the requirements of Subtitle 5B.

27 | (e) A watershed management plan developed for the purpose of implementing different  
 28 | stormwater management policies for waivers and redevelopment shall:

29 | (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph  
 30 | timing;

31 | (2) Evaluate both quantity and quality management and opportunities for ESD

1 implementation;

2 (3) Include a cumulative impact assessment of current and proposed watershed

3 development;

4 (4) Identify existing flooding and receiving stream channel conditions;

5 (5) Be conducted at a reasonable scale;

6 (6) Specify where on-site or off-site quantitative and qualitative stormwater  
 7 management practices are to be implemented;

8 (7) Be consistent with the General Performance Standards for Stormwater  
 9 Management in Maryland as found in the Maryland Design Manual; and

10 (8) Be approved by the Administration.

11 **Sec. 32-173. Scope of Ordinance.**

12 No person shall develop or redevelop any land without having met the provisions of this  
 13 Division by providing appropriate stormwater management measures that control or manage  
 14 runoff, except as provided within Section 32-174 of this Division.

15 **Sec. 32-174. Exemptions from Requirements.**

16 (a) Except as provided in Subsection (b), the following development activities are exempt  
 17 from the provisions of this Division and the requirements of providing stormwater management:

18 (1) Agricultural land management practices;

19 (2) Additions or modifications to existing detached one-family dwellings provided  
 20 that they comply with item (3) of this Subsection; and the subject site does not exceed the  
 21 maximum allowable lot coverage allowed in Section 27-442 (a) (1) (c) Table II – Lot coverage  
 22 or Section 27-445.12 (a) (3) Table 2A Maximum net lot coverage, which ever applies.

23 (3) Any developments that do not disturb more than five thousand (5,000) square feet  
 24 of land area;

25 (4) Developments within the City of Bowie where the city has approved stormwater  
 26 management design plans for a development either on or off the development site, which  
 27 otherwise meet or exceed the provisions of this Division;

28 (5) Land development activities which the Administration determines will be  
 29 regulated under specific state laws that provide for managing stormwater runoff; and

30 (b) Where the property is located within a Chesapeake Bay Critical Area Overlay Zone,  
 31 the development activities in Subsection (a), above, except for agricultural land management

1 activities, shall comply with the stormwater management requirements of this Division and  
 2 conform with the requirements of Subtitle 5B, and a Conservation Plan shall be required relating  
 3 to the stormwater management activities. In all cases, the development activities located within  
 4 the Chesapeake Bay Critical Area Overlay Zone, and are required to comply with stormwater  
 5 management requirements, shall meet the requirements of this division and conform to the  
 6 requirements of Subtitle 5.

7 **Sec. 32-175. Redevelopment.**

8 (a) Stormwater management plans are required by the Department for all redevelopment,  
 9 unless otherwise specified by watershed management plans developed according to this Division.  
 10 Stormwater management measures must be consistent with the Maryland Design Manual.

11 (b) All redevelopment designs shall:

12 (1) Reduce impervious area within the limit of disturbance (LOD) by at least 50  
 13 percent according to the Maryland Design Manual; or

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

16 (3) Use a combination of section (b) (1) and (2) of this Division for at least 50 percent  
 17 of the existing site impervious area within the LOD; and

18 (4) Infiltrate into the ground 100 percent of the annual average predevelopment  
 19 groundwater recharge volume.

20 (c) All redevelopment projects shall reduce existing site stormwater runoff volume by  
 21 implementing distributed ESD to the MEP. Where conditions prevent the implementation of  
 22 ESD techniques to reduce runoff, the Maryland Stormwater Design Manual criteria shall be  
 23 implemented.

24 (d) Alternative stormwater management measures may be used to meet the requirements in  
 25 32-175(b) of this Division if the owner/applicant satisfactorily demonstrates to the Department  
 26 that impervious area reduction has been maximized and ESD has been implemented to the MEP.  
 27 Alternative stormwater management measures include, but are not limited to:

28 (1) An on-site structural BMP;

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

31 (3) A combination of impervious area reduction, ESD implementation, and on-site or

1 off-site structural BMP for an area equal to or greater than 50 percent of the existing site  
 2 impervious area within the LOD.

3 (e) The Department may develop separate policies for providing water quality treatment  
 4 for redevelopment projects if the requirements of Section 32-175 (a) and (b) of this Division are  
 5 not met and when all alternative management strategies were considered and after all  
 6 opportunities for using ESD have been exhausted during the planning process. Any separate  
 7 redevelopment policy shall be reviewed and approved by the Administration and may include,  
 8 but not limited to:

9 (1) A combination of ESD and an on-site or off-site structural BMP;

10 (2) Retrofitting including existing BMP upgrades, filtering practices, and off-site

11 ESD implementation;

12 (3) Participation in a stream restoration project;

13 (4) Pollution trading with another entity;

14 (5) Design criteria based on watershed management plans developed according to this

15 Division;

16 (6) Fees paid that are dedicated exclusively to provide stormwater management; and

17 (7) Other appropriate practices approved by the Director.

18 (f) The determination of what alternative stormwater management measures will be  
 19 available may be made by the Department at the appropriate point in the development review  
 20 process. The Department shall consider the prioritization of alternative measures in (e) of this  
 21 Section after it has been determined that is it not practicable to meet the 2009 regulatory  
 22 requirements using ESD. In deciding what alternative measures may be required, the  
 23 Department may consider factors, including, but not limited to:

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

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

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

31 (g) Stormwater management shall be addressed for the portion of the site within the limit

1 of disturbance according to the new development requirements in the Maryland Design Manual  
 2 for any net increase in impervious area.

3 (h) If the Department determines that existing flooding and/or erosion exist downstream of  
 4 the proposed development, the Department has the authority to require the applicant to attenuate  
 5 the 2-year and 10-year storm runoff for downstream erosion and/or attenuate the 100-year  
 6 frequency storm event for downstream flooding in accordance with the Maryland Design  
 7 Manual.

8 **Sec. 32-176. Stormwater Management Variance.**

9 The Department may grant a written variance from any requirement of this Division if there  
 10 are exceptional circumstances applicable to the site such that strict adherence will result in  
 11 unnecessary hardship and not fulfill the intent of the Division. A written request for a variance  
 12 shall be provided to the Director stating the specific variance sought and appropriate  
 13 justification. The Department shall not grant a variance unless and until sufficient justification is  
 14 provided by the permittee developing land that the implementation of ESD to MEP has been  
 15 investigated thoroughly and notice is provided to the Council. The justification shall include an  
 16 explanation of why the requirement of the Division cannot be met and the reasons why the  
 17 alternative practices cannot be provided.

18 **Subdivision 2. Stormwater Management Design Plans.**

19 **Sec. 32-177. Stormwater Management Design Plans; required.**

20 (a) A concept plan shall be submitted for approval to the Department.

21 (b) All preliminary plans of subdivisions shall be consistent with any County approved  
 22 concept plan.

23 (c) The applicant shall submit a stormwater management design plans to the Department.

24 (d) If any plan involves any stormwater management facilities or land to be dedicated to  
 25 public use, the same information also shall be submitted for review and approval to the agency  
 26 having jurisdiction over the land or other appropriate agencies identified by the Director for  
 27 review and approval. This plan shall serve as the basis for all subsequent construction.

28 **Sec. 32-178. Minimum Stormwater Control Requirements.**

29 (a) The minimum control requirements established in this Section and the Maryland  
 30 Design Manual are as follows:

31 (1) Planning techniques, nonstructural practices, and design methods specified in the

1 Maryland Design Manual shall be used to implement ESD to the MEP. The use of ESD  
2 planning techniques and treatment practices must be exhausted before any structural BMP is  
3 implemented. Stormwater management design plans for development projects subject to this  
4 Division shall be designed using ESD sizing criteria, recharge volume, water quality volume, and  
5 channel protection storage volume criteria according to the Maryland Design Manual. The MEP  
6 standard is met when channel stability is maintained, 100% predevelopment groundwater  
7 recharge is replicated, non-point source pollution is minimized, and structural stormwater  
8 management practices are used only if determined to be absolutely necessary.

9 (2) Attenuation of the 2-year, 10-year frequency storm event for downstream erosion  
10 exist and/or attenuation of the 100-year frequency storm event for downstream flooding exist are  
11 required according to the Maryland Design Manual and all subsequent revisions when the  
12 Department determines that additional stormwater management is necessary because the  
13 receiving channel and/or conveyance system are determined inadequate.

14 (3) The Department has the authority to require more than the minimum control  
15 requirements specified in this Division if hydrologic or topographic conditions warrant or if  
16 flooding, stream channel erosion, or water quality problems exist downstream from a proposed  
17 project.

18 (b) Alternative minimum control requirements may be submitted for approval to the  
19 Administration. A demonstration that alternative requirements will implement ESD to the MEP  
20 and control flood damages, accelerated stream erosion, water quality, and sedimentation will be  
21 required by the Department. Comprehensive watershed studies also may be required.

22 (c) In addition, where the development activity is located within a Chesapeake Bay  
23 Critical Area Overlay Zone, the minimum stormwater control requirements shall include all the  
24 requirements of Subtitle 5B.

25 (d) Concept and design plans, shall be consistent with adopted and approved watershed  
26 management plans and flood management plans as approved by the State Water Resources  
27 Administration in accordance with the Flood Hazard Management Act of 1976 (Title 8, Subtitle  
28 9A of the Natural Resources Article), where applicable.

29 (e) Final Stormwater Management Plan's stormwater systems information for new  
30 developments and redevelopments shall be submitted by the Department to the Department of  
31 Environmental Resources for submission to the Administration under the requirements of the

1 NPDES program. The owner and/or applicant shall provide this information to the Department.

2 **Sec. 32-179. Stormwater Management Measures.**

3 The ESD planning techniques, practices and structural stormwater management measures in  
 4 the Division and the Maryland Design Manual shall be used either alone or in combination in a  
 5 stormwater management design plan. An applicant shall demonstrate that ESD has been  
 6 implemented to the MEP before the use of a structural BMP is considered in developing the  
 7 stormwater management design plan.

8 (a) ESD Planning Techniques and Practices.

9 (1) The following planning techniques shall be applied to MEP according to the  
 10 Maryland Design Manual to satisfy the applicable minimum control requirements established in  
 11 32-178 of this Division.

12 (A) Preserving and protecting natural resources;

13 (B) Conserving natural drainage patterns;

14 (C) Minimizing impervious area;

15 (D) Reducing runoff volume;

16 (E) Using ESD practices to maintain 100 percent of the annual average  
 17 predevelopment groundwater recharge volume;

18 (F) Using green roofs, permeable pavement, reinforced turf, and other  
 19 alternative surfaces;

20 (G) Limiting soil disturbance, mass grading, and compaction;

21 (H) Clustering development; and

22 (I) Any practices approved by the Administration.

23 (2) The following ESD treatment practices shall be designed to MEP according to the  
 24 Maryland Design Manual to satisfy the applicable minimum control requirements established in  
 25 32-178 of this Division.

26 (A) Disconnection of rooftop runoff;

27 (B) Disconnect of non-rooftop runoff;

28 (C) Sheet flow to conservation areas;

29 (D) Rainwater harvesting;

30 (E) Submerged gravel wetlands;

31 (F) Landscape infiltration;

- 1           (G) Infiltration berms;
- 2           (H) Dry wells;
- 3           (I) Micro-bioretenion;
- 4           (J) Rain gardens;
- 5           (K) Swales;
- 6           (L) Enhanced filters; and
- 7           (M) Any practice approved by the Administration.

8           (3) The use of ESD planning techniques and treatment practices specified in this  
 9 section shall not conflict with existing state law or local ordinances, regulations, or policies. The  
 10 County shall modify planning and zoning ordinances and public works codes to eliminate any  
 11 impediments to implementing ESD to the MEP according to the Maryland Design Manual.

12           (b) Structural Stormwater Management Measures.

13           (1) The following structural stormwater management practices shall be designed  
 14 according to the Maryland Design Manual to satisfy the applicable minimum control  
 15 requirements established in 32-178 of this Division:

- 16           (A) Stormwater management ponds;
- 17           (B) Stormwater management wetlands;
- 18           (C) Stormwater management infiltration;
- 19           (D) Stormwater management filtering systems; and
- 20           (E) Stormwater management open channel systems.

21           (2) The performance criteria specified in the Maryland Design Manual with regard to  
 22 general feasibility, conveyance, pretreatment, treatment and geometry, environment and  
 23 landscaping, and maintenance shall be considered when selecting structural stormwater  
 24 management practices.

25           (3) Structural stormwater management practices shall be selected to accommodate the  
 26 unique hydrologic or geologic regions of the County.

27           (c) ESD planning techniques, treatment practices and structural stormwater management  
 28 measures used to satisfy the minimum requirements in 32-178 of this Division must be recorded  
 29 in the land records of the County through the execution of a maintenance agreement by the  
 30 permittee and remain unaltered by subsequent property owners. Prior approval from the  
 31 Department shall be obtained before any stormwater management practice is altered.

1        (d) Alternative ESD planning techniques, treatment practices and structural stormwater  
 2 measures may be used for new development runoff control if they meet the performance criteria  
 3 established in the Maryland Design Manual and all subsequent revisions and are approved by the  
 4 Administration. Practices used for redevelopment projects shall be approved by the Department.

5        (e) For the purposes of modifying the minimum control requirements or design criteria, the  
 6 owner/applicant shall submit to the Department an analysis of the impacts of stormwater flows  
 7 downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations  
 8 necessary to determine the impact of hydrograph timing modifications of the proposed  
 9 development upon a dam, highway, structure, or natural point of restricted stream flow.

10 **Sec. 32-180. Specific Design Criteria.**

11        The basic design criteria, methodologies, and construction specifications, subject to the  
 12 approval of the Department and the Administration, shall be in accordance with the Maryland  
 13 Design Manual.

14 **Sec. 32-181. Stormwater Management Design Plan Preparation.**

15        (a) The design of stormwater management design plans shall be prepared by any  
 16 individual whose qualifications are acceptable to the Department. The Department may require  
 17 that the design be prepared by either a professional engineer, professional land surveyor, or  
 18 landscape architect licensed in the State of Maryland, as necessary to protect the public or the  
 19 environment.

20        (b) If a stormwater BMP requires either a dam safety permit from Administration or a  
 21 small pond approval from the Prince George's Soil Conservation District, the Department shall  
 22 require that the design be prepared by a professional engineer licensed in the State.

23 **Sec. 32-182. Stormwater Management Design Plans. Submission Requirements.**

24        (a) Concept Plan.

25        The owner/applicant shall submit a concept plan that provides sufficient information for an  
 26 initial assessment of the proposed project and whether stormwater management can be provided  
 27 according to 32-179 of this Division and the Maryland Design Manual. Plans submitted for  
 28 concept approval shall include, but are not limited to:

- 29            (1) A vicinity map;  
 30            (2) An approved Natural Resources Inventory plan;  
 31            (3) A brief narrative description of the project;

1           (4) Geotechnical investigations including soil maps, borings, site-specific  
 2 recommendations and any additional information necessary for the proposed stormwater  
 3 management design;

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

6           (6) Descriptions of all watercourses, impoundments and wetlands on or adjacent to  
 7 the site or into which stormwater directly flows;

8           (7) The location of existing and proposed structures and utilities;

9           (8) Any easements and rights-of-way;

10          (9) The delineation, if applicable, of the 100-year floodplain and all regulated  
 11 environmental features as shown on the approved NRI;

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

14          (11) Hydrologic computations, including drainage area maps depicting  
 15 predevelopment and post-development runoff flow path segmentation and land use;

16          (12) Hydraulic computations;

17          (13) The location of the proposed limit of disturbance, erodible soils, steep slopes, and  
 18 areas to be protected during construction;

19          (14) Preliminary estimates of stormwater management requirements, the selection and  
 20 location of ESD practices to be used, and the location of all points of discharge from the site;

21          (15) A narrative that supports the concept design and describes how ESD will be  
 22 implemented to the MEP; and

23          (16) Any other information required by the Department.

24          (b) Site Development Plan.

25          Following concept plan approval by the Department, the owner/applicant shall submit  
 26 technical plans that reflect the comments received from the previous concept plan review phase.  
 27 Plans submitted shall be of sufficient detail to allow site development to be reviewed and include  
 28 but not limited to:

29           (1) All information provided during the concept plan review phase;

30           (2) Final site layout, exact impervious area locations and acreages, proposed grading ,  
 31 delineated drainage areas at all points of discharge from the site, and stormwater volume

1 computations for ESD practices and quantity control structures;

2 (3) A proposed erosion and sediment control plan that contains the construction  
3 sequence, any phasing necessary to limit earth disturbances and impacts to natural resources, and  
4 an overlay plan showing the types and locations of ESD and erosion and sediment control  
5 practices to be used.

6 (4) A narrative that supports the site development design, describes how ESD will be  
7 used to meet the minimum control requirements, and justifies any proposed structural stormwater  
8 management measure; and

9 (5) Any other information required by the Department.

10 (c) Final Stormwater Management Plan.

11 Following the site development plan review by the Department, the owner/applicant shall  
12 submit final stormwater management plan for permit issuance. Plans submitted for permit  
13 issuance shall be of sufficient detail to allow all approvals and permits to be issued according to  
14 the following:

15 (1) Final erosion and sediment control plans shall be submitted according to COMAR  
16 26.17.01.05; and

17 (2) The final stormwater management plans shall be submitted for approval in the  
18 form of  
19 construction drawings and be accompanied by a report that includes sufficient information to  
20 evaluate the effectiveness of the proposed runoff control design.

21 (a) Reports submitted for final stormwater management plans an approval shall include,  
22 but are not limited to:

23 (1) Geotechnical investigations including soil maps, borings, site specific  
24 recommendations, and any additional information necessary for the stormwater management  
25 design plan;

26 (2) Drainage area maps depicting predevelopment as applicable and post  
27 development runoff flow path segmentation and land use;

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

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

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

2           (6)    Any other information required by the Department.

3           (b) Construction drawings submitted for final stormwater management plan approval shall  
 4 include, but are not limited to:

5           (1)    A vicinity map;

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

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

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

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

12          (6)    The delineation, if applicable, of the 100-year floodplain and all regulated  
 13 environmental features as shown on the approved NRI;

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

16          (8)    All necessary construction specifications;

17          (9)    Sequence of construction;

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

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

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

23          (13)   All soil boring logs and locations;

24          (14)   An inspection and maintenance schedule;

25          (15)   Certification by the owner/applicant that all stormwater management construction  
 26 will be done according to this plan;

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

29          (17)   Any other information required by the Department.

30          (c) If a stormwater management design plan involves direction of some or all runoff from  
 31 the site, it is the responsibility of the applicant to obtain from adjacent property owners any

1 easements or other necessary property interests concerning flow of water. Approval of a  
 2 stormwater management plan does not create or affect any right to direct runoff onto adjacent  
 3 property without that property owner's permission.

4 **Sec. 32-183. Changes to Plans.**

5 (a) All changes or modifications to the approved final stormwater management plans must  
 6 be submitted to and approved by the Department. All necessary substantiating reports shall be  
 7 submitted with any proposal to modify the approved plan. No grading or other work in  
 8 connection with any proposed modification shall be permitted without proper written approval of  
 9 the Department. If the revision where the limits of disturbance affects the tree conservation area  
 10 then a revised tree conservation plan shall also be required

11 (b) When inspection of a site indicates that the approved final stormwater management  
 12 plan requires a revision or change, the revision shall be in compliance with this Division. To  
 13 obtain an approved revision, the permittee shall:

14 (1) Submit a request for a revision to the approved final stormwater management plan  
 15 to the Department to be processed appropriately. This includes revisions due to plan and site  
 16 discrepancies and inadequacies at controlling stormwater as revealed through inspection; or

17 (2) Request a field change approval for modifications to the approved final  
 18 stormwater management plan and obtain County Engineer's approval. The modification shall be  
 19 noted on a signed copy of the approved plan, signed and dated by a Department's inspector and  
 20 documented on a field inspection report. These field modifications may include change of  
 21 material type, adjustments to avoid field conflicts and other concerns that may not require  
 22 recalculations and will not affect stormwater management controls.

23 **Sec. 32- 184. Permit Requirements.**

24 (a) A grading or building permit shall not be issued for any parcel or lot unless a final  
 25 erosion and sediment control plan has been approved by the Prince George's County Soil  
 26 Conservation District, and final stormwater management plan has been approved by the  
 27 Department as meeting all of the requirements of this Division. Where appropriate, building,  
 28 stormwater management or grading permits shall not be issued or modified without the  
 29 following:

30 (1) A performance bond acceptable to the County Attorney as required by this  
 31 Division, where applicable.

1           (2) Recorded easements for the stormwater management facilities that provide  
 2 adequate access for inspection and maintenance from a public right-of-way.

3           (3) Approved final stormwater management plan, provided that the Director may  
 4 accept a site grading plan that identifies the location and type of facilities to be constructed in  
 5 sufficient detail to accurately estimate construction costs.

6           (b) Notwithstanding any of the provisions herein, the Director may require an approved  
 7 final stormwater management plan and the recordation of all necessary easements prior to  
 8 issuance of a building permit or grading permit.

9           (c) In no event shall a use and occupancy permit be granted until all of the grading and  
 10 stormwater management requirements are completed to the satisfaction of the Director.

11           (d) Approved final stormwater management plan shall contain certification by the  
 12 applicant that all land clearing, construction, development and drainage shall be undertaken in  
 13 accordance with the approved final stormwater management plan.

14 **Sec. 32-185. Permit Fees.**

15           (a) A nonrefundable fee shall be paid at the time of the final stormwater management plan  
 16 or application for modification is submitted. The fee may provide for the cost of plan review,  
 17 administration of the permitting process, inspection and enforcement of all projects subject to  
 18 this Division. The fee shall be in the amount specified in Section 32-120 of this Code.

19           (b) If a stormwater management facility is to be constructed to serve more than one  
 20 development, a fee in lieu of construction of an on-site stormwater management ESD to MEP  
 21 facility may be assessed by the Department, as specified in Section 32-120 of this Code.

22           (c) Special maintenance fees are required for all publicly maintained stormwater  
 23 management ponds. The maintenance fee will be ten (10) percent of the total estimated  
 24 construction cost for all of the site's ponds, or \$10,000.00, whichever is greater. The fee will be  
 25 payable by the applicant with all other fees prior to issuance of storm drain and stormwater  
 26 management construction permits.

27 **Sec. 32-186. Permit Suspension and Revocation.**

28           Any grading, stormwater or building permit issued by the County may be suspended or  
 29 revoked by the Director after written notice to the permittee for any of the following reasons:

30           (a) Any violation(s) of the conditions of the approved final stormwater management plan,  
 31 including the provisions of the Conservation Plan and Conservation Agreement, where

1 applicable;

2 (b) Construction not in accordance with the approved final stormwater management plans  
3 or specifications;

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

6 (d) An immediate danger exists in a downstream area as determined by the Department.

7 (e) Permits found to be issued in error when the original approval did not conform to the  
8 provision of this Division or the approval was based on inaccurate information provided by the  
9 permittee.

10 **Sec. 32-187 Permit Conditions.**

11 In granting an approval for any phase of site development, the Department may impose  
12 such conditions that may be deemed necessary to ensure compliance with the provisions of this  
13 Division and the preservation of public health and safety.

14 **Sec. 32-188. Responsibility of Permittee.**

15 (a) Generally. Notwithstanding other conditions of a permit on the minimum standards set  
16 forth in this Division, the permittee is responsible for the abatement of pollutant discharges,  
17 damage to adjacent property, and the maintenance of water quality. No person shall grade land  
18 in any manner as to endanger or damage any adjoining public street, sidewalk, alley or any other  
19 public or private property without adequate protection of the property from settling, cracking,  
20 erosion, sedimentation, or other damage or personal injury which might result.

21 (b) Public-ways. The permittee shall be responsible for the prompt removal of, and  
22 damages resulting from, any soil, miscellaneous debris, and/or pollutant discharge, or other  
23 materials washed, spilled, tracked, dumped or otherwise deposited on public streets, highways,  
24 sidewalks, watercourses, or other public thoroughfares as an incident to construction activity, or  
25 during transit to and from a construction site where.

26 **Subdivision 3. Inspection, Maintenance and Enforcement.**

27 **Sec. 32-189. Performance Bond.**

28 (a) The applicant shall provide a cash bond, irrevocable letter of credit, certificate of  
29 guarantee or other means of security acceptable to the County Attorney prior to the issuance of  
30 any building and/or grading permit for construction of a development requiring a stormwater  
31 management facility.

1        (b) The amount of the security shall not be less than the total construction cost of the  
 2 publicly maintained stormwater management facility as estimated by the Department.

3        (c) The security required in this Section shall include provisions relative to forfeiture for  
 4 failure to complete work specified in the approved final stormwater management plan,  
 5 compliance with all the provisions of this Division and other applicable laws and regulations,  
 6 and any time limitations. Action on a defaulted permit shall be taken in accordance with the  
 7 provisions set forth in Section 32-135 of this Code.

8        (d) The security shall not be fully released without final inspection of completed work and  
 9 the acceptance of “as-built” plans.

10       (e) A provision may be made for the partial release of up to 75 percent of the amount of  
 11 the security.

12 **Sec. 32-190. Inspection Schedule and Reports.**

13       (a) The permittee shall notify the County at least 48 hours before commencing any work in  
 14 conjunction with the site development, the stormwater management plan, and upon completion  
 15 of the project.

16       (b) Regular inspections shall be made and documented for each ESD planning technique  
 17 and practice at the stages of construction specified in the Maryland Design Manual by the  
 18 County, its authorized representatives, or certified by a professional engineer licensed in the  
 19 State of Maryland. At a minimum, all ESD and other nonstructural practices shall be inspected  
 20 upon completion of final grading, the establishment of stabilization, and before issuance of a use  
 21 and occupancy approval.

22       (c) Written reports shall include:

23           (1) The date and location of the inspection;

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

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

27           (4) Any violations that exist.

28       (d) The owner/permittee and on-site personnel shall be notified in writing when violations  
 29 are observed. Written notification shall describe the nature of the violation and the required  
 30 corrective action.

31       (e) No work shall proceed on the next phase of development until the County inspects and

1 approves the work previously completed and furnishes the permittee with the results of the  
 2 inspection reports as soon as possible after completion of each required inspection.

3 **Sec. 32-191. Inspection Requirements During Construction.**

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

6 (1) For ponds:

7 (A) Upon completion of excavation to sub-foundation and when required,  
 8 installation of structural supports or reinforcement for structures, including but not limited to:

9 (i) Core trenches for structural embankments;

10 (ii) Inlet and outlet structures, anti-seep collars or diaphragms, and  
 11 watertight connectors on pipes; and

12 (iii) Trenches for enclosed storm drainage facilities;

13 (b) During placement of structural fill, concrete, and installation of piping and catch  
 14 basins;

15 (c) During backfill of foundations and trenches;

16 (d) During embankment construction; and

17 (e) Upon completion of final grading and establishment of permanent stabilization.

18 (2) Wetlands – at stages specified for pond construction in 32-191(A) (1) of this  
 19 Division, during and after wetland reservoir area planting, and during the second growing season  
 20 to verify a vegetation survival rate of at least 50 percent.

21 (3) For infiltration trenches:

22 (A) During excavation to subgrade;

23 (B) During placement and backfill of under drain systems and observation wells;

24 (C) During placement of geotextiles and all filter media;

25 (D) During construction of appurtenant conveyance systems such as diversion  
 26 structures, pre-filters and filters, inlets, outlets, and flow distribution structures; and

27 (E) Upon completion of final grading and establishment of permanent  
 28 stabilization.

29 (4) For infiltration basins – at the stages specified for pond construction in 32-191(A)  
 30 (1) of this Division and during placement and backfill of underdrain systems.

31 (5) For filtering systems:

1           (A) During excavation to subgrade;

2           (B) During placement and backfill of underdrain systems;

3           (C) During placement of geotextiles and all filter media;

4           (C) During construction of appurtenant conveyance systems such as flow  
 5 diversion structures, pre-filters and filters, inlets, outlets, orifice, and flow distribution structures;  
 6 and

7           (E) Upon completion of final grading and establishment of permanent  
 8 stabilization.

9           (6) For open channel systems:

10          (A) During excavation to subgrade;

11          (B) During placement and backfill of under drain system for dry swales;

12          (C) During installation of diaphragms, check dams, or weirs; and

13          (D) Upon completion of final grading and establishment of permanent  
 14 stabilization.

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

17           (1) A notice of violation shall be issued specifying the need for corrective action if  
 18 the final stormwater management plan noncompliance is identified;

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

21           (3) Bonds or securities shall be withheld or the case may be referred for legal action  
 22 if reasonable efforts to correct the violation have not been undertaken; or

23           (4) In addition to any other sanctions, a civil action or criminal prosecution may be  
 24 brought against any person in violation of this Code, the Maryland Design Manual, or this  
 25 Division.

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

28          (d) Once construction is complete, “as-built” plan certification shall be submitted by either  
 29 a professional engineer or professional land surveyor licensed in the State of Maryland to ensure  
 30 that ESD planning techniques, treatment practices, and structural stormwater management  
 31 measures and conveyance systems comply with the specifications contained in the approved

1 plans. At a minimum, "as-built" certification shall include a set of drawings comparing the  
 2 approved final stormwater management plan with what was constructed. The Department may  
 3 require additional information.

4 (e) The Department shall submit notice of construction completion to the Administration  
 5 on a form supplied by the Administration for each structural stormwater management practice  
 6 within 45 days of construction completion. The type, number, total drainage area, and total  
 7 impervious area treated by all ESD techniques and practices shall be reported to the  
 8 Administration on a site by site basis. If BMPs requiring Prince George's Soil Conservation  
 9 District approval are constructed, notice of construction completion shall also be submitted to the  
 10 Soil Conservation District.

#### 11 **Sec. 32-192. Final Inspection Reports.**

12 (a) The permittee shall provide "as-built" plans certified by a registered professional  
 13 engineer to be submitted upon completion of a stormwater management facility.

14 (b) The registered professional engineer shall certify that the facility has been constructed  
 15 as shown on the "as-built" plan and meets the approved final stormwater management plan and  
 16 specifications.

17 (c) A final inspection shall be conducted upon completion of the stormwater management  
 18 facility to determine if the completed work is constructed in accordance with the approved final  
 19 stormwater management plan.

20 (d) The Department shall maintain a permanent file of inspection reports.

#### 21 **Sec. 32-193. Acceptance of Certification in Lieu of Inspections.**

22 At the discretion of the Department, the certification of a professional engineer registered in  
 23 the State of Maryland may be accepted in lieu of any inspection required by this Division.

#### 24 **Sec. 32-194. Ownership and Maintenance of Stormwater Management Facilities.**

25 (a) Any stormwater management measure which serves a single lot or facility shall be  
 26 privately owned and maintained.

27 (b) All stormwater management measures relying on vegetated areas or site features shall  
 28 be privately owned and maintained unless located on public property.

29 (c) All other stormwater management facilities shall be publicly owned and operated.

#### 30 **Sec. 32-195. Maintenance Agreement.**

31 (a) Prior to the issuance of any building permit for which stormwater management is

1 required, the County shall require the applicant or owner to execute an inspection and  
2 maintenance agreement to include an operation and maintenance plan binding on all subsequent  
3 owners of land served by a private stormwater management facility. Such agreement shall  
4 provide for access to the facility at reasonable times for regular inspections by the County or its  
5 authorized representative to ensure that the facility is maintained in proper working condition to  
6 meet design standards.

7 (b) The agreement shall be recorded by the applicant in the land records of the County  
8 prior to the issuance of any Use and Occupancy permits for the project.

9 (c) The agreement shall also provide that, if after notice by the Department to correct a  
10 violation requiring maintenance work, satisfactory corrections are not made by the owner(s)  
11 within a reasonable period of time (30 days maximum), the County may perform all necessary  
12 work to place the facility in proper working condition. The owner(s) of the facility shall be  
13 assessed the cost of the work and any penalties. This may be accomplished by placing a lien on  
14 the property, which may be placed on the tax bill and collected as ordinary taxes by the County.

15 **Sec. 32-196. Inspection for Preventive Maintenance.**

16 (a) Preventive maintenance inspections of public infiltration systems, Bioretention,  
17 retention or detention structures shall be made by the Department. Inspection reports for public  
18 facilities shall be maintained by the Department.

19 (b) Privately maintained facilities shall be inspected by the property owner of record. The  
20 Department of Environmental Resources shall create an inspection schedule requiring an  
21 inspection during the first year of operation and at least once every three (3) years thereafter.  
22 The inspection reports shall be submitted to the Department of Environmental Resources for  
23 evaluation to ensure compliance with the approved plans and maintenance agreement. Reports  
24 for private facilities shall be maintained by the Department of Environmental Resources.

25 (c) In lieu of the Department of Environmental Resources maintenance inspections, a  
26 licensed professional engineer may also perform maintenance inspections of private facilities and  
27 submit the appropriate reports to the Department of Environmental Resources. Inspections by a  
28 third-party shall be evaluated by the Department of Environmental Resources to ensure  
29 compliance with the approved plan and maintenance agreement.

30 (d) If, after an inspection, the condition of a facility presents an immediate danger to the  
31 public health or safety because of an unsafe condition or improper maintenance, for publicly

1 maintained facility, the Department or for privately maintained facility, the Department of  
 2 Environmental resources as appropriate, shall take such action as may be necessary to protect the  
 3 public and make the facility safe. Any cost incurred by the County shall be paid by the owner.

4 (e) Inspection reports for ESD treatment systems and structural stormwater management  
 5 measures shall include the following:

6 (1) The date of inspection;

7 (2) Name of inspector;

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

10 (4) The condition of:

11 (A) Vegetation or filter media;

12 (B) Fences or other safety devices;

13 (C) Spillways, valves, or other control structures;

14 (D) Embankments, slopes, and safety benches;

15 (E) Reservoir or treatment areas;

16 (F) Inlet and outlet channels or structures;

17 (G) Underground drainage;

18 (H) Sediment and debris accumulation in storage and forebay areas;

19 (I) Any nonstructural practices to the extent practicable; and

20 (J) Any other item that could affect the proper function of the stormwater  
 21 management system.

22 (5) Description of needed maintenance.

23 (d) Upon notifying an owner of the inspection results, the owner shall have 30 days, or  
 24 other time frame mutually agreed to between the Department and the owner, to correct the  
 25 deficiencies discovered. The Department shall conduct a subsequent inspection to ensure  
 26 completion of the repairs.

27 (e) If repairs are not properly undertaken and completed, enforcement procedures  
 28 following 32-195(c) of this Division shall be followed by the Department.

29 (f) If, after an inspection by the Department, the condition of a stormwater management  
 30 facility is determined to present immediate danger to public health or safety because of an unsafe  
 31 condition, improper construction, or poor maintenance, the Department shall take such action as

1 may be necessary to protect the public and make the facility safe. Any cost incurred by the  
 2 County shall be assessed against the owner(s), as provided in 32-195(c) of this Division.

3 **Sec. 32-197. Severability.**

4 If any portion of this Division is held invalid or unconstitutional by a court of competent  
 5 jurisdiction, such portion shall not affect the validity of the remaining portions of this Division.  
 6 It is the intent of the County that this Division shall stand, even if a section, sub-section,  
 7 sentence, clause, phrase, or portion may be found invalid.

8 **Sec. 32-198. Appeals.**

9 (a) Any violation notice issued pursuant to this Division may be appealed in writing to the  
 10 Board of Appeals of the County within ten (10) days of the date of the violation notice or such  
 11 lesser period of time as may be specified on the violation notice.

12 (b) Any person aggrieved by the decision of the Director denying a modification of the  
 13 requirements of this Division may appeal such decision to the Board of Appeals of the County,  
 14 in writing, within ten (10) days of the date of the written denial.

15 **Sec. 32-199. Penalties.**

16 (a) Any person convicted of violating the provisions of this Division shall be guilty of a  
 17 misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than Five  
 18 Thousand Dollars (\$5,000.00), or imprisonment not exceeding one (1) year, or both, for each  
 19 violation, with costs imposed at the discretion of the court and not to exceed Fifty Thousand  
 20 Dollars (\$50,000.00).

21 (b) Each day that the violation continues shall be a separate offense.

22 (c) In addition, the County Attorney may institute injunctive mandamus or other  
 23 appropriate action or proceedings at law or equity for the enforcement of this Division or to  
 24 correct violations of this Division, and any court of competent jurisdiction shall have the right to  
 25 issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate  
 26 forms of remedy or relief.

27 **Sec. 32-200. Liability.**

28 Neither the issuance of a permit under the provisions of this Division nor compliance with  
 29 the provisions hereto or with any condition imposed by the Director hereunder shall relieve any  
 30 person from responsibility for damage to persons, property, drainage systems, living resources or  
 31 general environment nor impose any liability upon the County for damages to personal or

1 | property.

2 | **Sec. 32-201. Reserved.**

3 | **DIVISION 4. FLOODPLAIN ORDINANCE.**

4 | **Sec. 32-202. Purpose; Scope; Application.**

5 | (a) The purpose of this Division is:

6 | (1) To protect human life and health;

7 | (2) To minimize public and private property damage;

8 | (3) To encourage the use of appropriate construction practices in order to prevent or  
 9 | minimize flood damage in the future;

10 | (4) To protect potential purchasers from unwittingly buying lands and structures  
 11 | which are unsuited for certain purposes because of the flood hazards;

12 | (5) To protect water supply, sanitary sewage disposal, and natural drainage;

13 | (6) To reduce financial burdens imposed on the community, its governmental units,  
 14 | and its residents by preventing the unwise design and construction of development in areas  
 15 | subject to flooding;

16 | (7) To increase public awareness of the flooding potential;

17 | (8) To protect the biological and environmental quality of the watersheds or portions  
 18 | thereof located in Prince George's County; and

19 | (9) To provide a unified comprehensive approach to floodplain management which  
 20 | addresses requirements of Federal and State programs concerned with floodplain management,  
 21 | including without limitations: the National Flood Insurance Program and the President's  
 22 | Executive Order 11988 of May 27, 1977, on floodplain management; the State Waterway  
 23 | Construction Permit Program, State Wetlands Permit Program, the U.S. Army Corps of  
 24 | Engineer's Section 10 and Section 404 permit programs; and the State Coastal Zone  
 25 | Management Program.

26 | (b) The provisions of this Division shall apply to all parts of Prince George's County,  
 27 | except for that area of the County within the boundaries of the City of Laurel.

28 | (c) The provisions of this Division shall be:

29 | (1) Considered as minimum requirements;

30 | (2) Construed in favor of proper flood hazard management in the County; and

31 | (3) Deemed neither to limit nor repeal any other powers granted under the

1 Annotated Code of Maryland.

2 (d) In the event that other provisions of this Code affect the application of this  
3 Division, the more restrictive Code provisions shall apply.

4 (e) The granting of a permit or approval pursuant to this Division, shall not be a  
5 representation, guarantee, or warranty of any kind and shall create no liability upon the County,  
6 its officials or employees.

7 (f) This Division shall be applied and interpreted so as to meet or exceed the minimum  
8 requirements of federal and state floodplain regulations. In the event of a conflict between the  
9 minimum requirements of federal and state floodplain requirements, the more restrictive  
10 provisions shall prevail.

11 **Sec. 32-203. Definitions.**

12 (a) The following terms shall have the meanings indicated:

13 (1) **100 Year Flood or Base Flood** - the flood that has a one percent (1%) chance of  
14 being equaled or exceeded in any given year.

15 (2) **Accessory Structure** - for FEMA purposes only, a detached structure on the  
16 same parcel of property as the principal structure, the use of which is incidental to the principal  
17 structure. (Examples would be a shed or detached garage, etc.)

18 (3) **Basement** - any area of a building having its floor subgrade (below ground level)  
19 on all sides.

20 (4) **Community** (for FEMA purposes only) - any State or area or political  
21 subdivision thereof, which has authority to adopt and enforce flood plain management  
22 regulations for the areas within its jurisdiction.

23 (5) **County Floodplain or the Floodplain** – includes those areas within the County  
24 that will be inundated by the 100-year flood, as determined by FEMA or the County.

25 (6) **Department** – the Department of Public Works and Transportation.

26 (7) **Development** – any man-made change to improved or unimproved real estate  
27 including, but not limited to, any construction, reconstruction, modification, extension or  
28 expansion of buildings or other structures, placement of fill or concrete, construction of new or  
29 replacement infrastructure, dumping, mining, dredging, grading, paving, drilling operations,  
30 storage of materials, land excavation, land clearing, land improvement, landfill operation, or any  
31 combination thereof.

1           (8) **Director** – the Director of Public Works and Transportation.

2           (9) **Elevation Certification** – the certificate that verifies the as-built elevation of a  
 3 structure using Mean Sea Level as established by the National Geodetic Vertical Datum (NGVD)  
 4 of 1929, the North Atlantic Vertical Datum (NAVD) of 1988, or the WSSC Datum submitted by  
 5 a registered land surveyor or professional engineer on the official form prepared and distributed  
 6 by the Federal Emergency Management Agency.

7           (10) **FEMA** – the Federal Emergency Management Agency.

8           (11) **FEMA Maps** – the Flood Insurance Rate maps and the Flood Boundary and  
 9 Floodway maps of the County prepared by FEMA and any subsequent amendments.

10          (12) **Flood** – the general and temporary condition of partial or complete inundation of  
 11 normally dry land areas from overflow of inland or tidal waters, or rapid unusual accumulation  
 12 of runoff from any source.

13          (13) **Flood Insurance Rate Map (FIRM)** – a map that depicts the minimum special  
 14 flood hazard area to be regulated by this Ordinance (unless a floodway map is available).

15          (14) **Floodplain** means in general:

16               (A) Relatively flat or low land area adjoining a river, stream or other  
 17 watercourse which is subject to partial or complete inundation;

18               (B) Area subject to the unusual and rapid accumulation or runoff of surface  
 19 waters from any source; or

20               (C) Area subject to tidal surges or extreme tides.

21          (15) **Floodplain Buffer** – an area extending beyond and paralleling the County  
 22 floodplain to maintain the stability of steep slopes, to preserve the environmental integrity of  
 23 stream or wetland habitats associated with a floodplain, and to otherwise protect and maintain  
 24 the public safety.

25          (16) **Floodproofing** – any combination of structural and nonstructural additions,  
 26 changes or adjustments of properties and structures that reduce or eliminate flood damage to  
 27 lands, water and sanitary facilities, structures, and contents of buildings.

28          (17) **Floodproofing Certificate** – a form supplied by FEMA to certify that a building  
 29 has been designed and constructed to be structurally dry and floodproofed to the Flood  
 30 Protection Elevation.

31          (18) **Flood Protection Elevation (FPE)** – the elevation of the base flood plus one-foot

1 freeboard.

2 (19) **Floodway** – the channel and adjacent land area required to discharge the waters  
 3 of the 100-year flood of a watercourse without cumulatively increasing the water surface  
 4 elevations more than a specified height.

5 (20) **Floodway Fringe** – that portion of the floodplain outside the floodway.

6 (21) **Floodway Map** – a map which depicts floodways and special flood hazard areas  
 7 to be regulated.

8 (22) **Freeboard** – an increment of elevation added to the base flood elevation to  
 9 provide a factor of safety for uncertainties in calculations, wave actions, subsidence, and other  
 10 unpredictable effects.

11 (23) **Geographic Information System (GIS) Based Floodplain Model** – the  
 12 hydrology and hydraulic models developed by the Department of Environmental Resources  
 13 using GIS technologies and databases to determine peak discharges and flood elevations.

14 (24) **Historic Structure** – a structure listed individually on the National Register of  
 15 Historic Places, the Maryland Inventory of Historic Properties, or the Historic Sites and Districts  
 16 Plan of Prince George’s County.

17 (25) **Lowest Floor** – the lowest floor of the lowest enclosed area (including basement).  
 18 An unfinished or flood resistant enclosure, usable solely for parking vehicles, building access, or  
 19 storage in an area other than a basement area and that is not considered a building’s lowest floor,  
 20 provided that it is supplied with water equalizing vents.

21 (26) **Manufactured Home or Building** (for FEMA purposes only) – a structure  
 22 transportable in one or more sections built on a permanent chassis and is designed for use with or  
 23 without a permanent foundation when connected to required utilities. For floodplain  
 24 management purposes, the term “manufactured home or building” also includes park trailers,  
 25 travel trailers, and other similar vehicles placed on a site for more than 180 consecutive days.

26 (27) **NGVD** – National Geodetic Vertical Datum of 1929 elevation reference points set  
 27 by the national Geodetic Survey based on Mean Sea Level.

28 (27.1) **NAVD**- North Atlantic Vertical Datum 1988 is the vertical control datum  
 29 established for vertical control surveying in the United States of America based upon the General  
 30 Adjustment of the North American Datum of 1988.

31 (28) **New Construction** – a structure for which the start of construction commenced

1 on or after the effective date of the adoption of a floodplain management ordinance and includes  
 2 any subsequent improvements.

3 (29) **Permanent Construction** (for FEMA purposes only) – any structure occupying a  
 4 site for more than 180-days per year.

5 (30) **Proposed Condition Floodplain** – the 100-year floodplain conditions after the  
 6 proposed development is completed.

7 (31) **Recreation Vehicle** (for FEMA purposes only) – a vehicle built on a single  
 8 chassis that is 400 square feet or less at the longest horizontal projection, self-propelled or  
 9 towable, and designed primarily for temporary living while traveling or camping.

10 (32) **Registered Engineer, Registered Land Surveyor, or Registered Architect** – a  
 11 professional engineer, land surveyor, or architect licensed to practice said profession and in good  
 12 standing in the state of Maryland.

13 (33) **Special Flood Hazard Area** – an area within the County where, by local  
 14 knowledge, the county has reason to believe that there is a serious potential of flooding or flood  
 15 damage. (For FEMA purposes only, this definition includes an area that would be inundated by  
 16 the flood having a 1% chance of being equaled or exceeded in any given year and shown on the  
 17 latest adopted FEMA map.)

18 (34) **Start of Construction** (for FEMA purposes only) – the date the building permit  
 19 was issued, provided the actual start of construction, repair, reconstruction, placement,  
 20 substantial improvement, or other improvement occurs within 180-days of the permit date. The  
 21 actual start of construction means either the first placement of permanent construction of a  
 22 structure on a site such as the pouring of slab or footings, installation of piles, construction of  
 23 columns or any work beyond the stage of excavation, or placement of a manufactured home on a  
 24 foundation. Permanent construction, as used in this definition, does not include land preparation  
 25 such as clearing, grading, and filling, nor does it include the installation of streets and/or  
 26 walkways, excavation for basements, footings, piers, foundations or the erection of temporary  
 27 forms, or installation on the property of accessory buildings such as garages or sheds not  
 28 occupied as dwelling units or not as part of the main structure.

29 (35) **Structure (for FEMA purposes only)** – a walled and/or roofed building,  
 30 including, but not limited to, a gas or liquid storage tank, a building foundation, platform, deck,  
 31 fence, swimming pool, bulkhead, or greenhouse that is affixed to a permanent site or location.

1           (36) **Substantial Damage** – damage of any origin sustained by a structure whereby the  
 2 cost of restoring the structure to its condition before damage would equal or exceeds fifty percent  
 3 (50%) of the market value of the structure.

4           (37) **Substantial Improvement** (for FEMA purposes only) – any repair,  
 5 reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the  
 6 market value of the structure (less land value) either:

7                   (A) Before the improvement or repair is started; or

8                   (B) If the structure has incurred substantial damage and has been restored, be-  
 9 fore the damage occurred. Substantial improvement occurs when the first alteration of any wall,  
 10 ceiling, floor or other structural part of the building commences. The minimum repairs needed  
 11 to correct previously identified violations of local health, safety, or sanitary codes and alterations  
 12 to historic structures which do not preclude their continued designation as historic structures, are  
 13 not considered substantial improvements.

14           (38) **Temporary Structure** (for FEMA purposes only) – any structure completely  
 15 removed within 180-days from issuance of the permit.

16           (39) **Use and Occupancy Permit** – the official approval from the Department of  
 17 Environmental Resources that the structure has been built consistent with approved plans and  
 18 may be legally inhabited or used for the intended purpose.

19           (40) **Waiver** – the grant of relief from the terms of this floodplain management  
 20 ordinance.

21           (41) **Wetland** – an area that is:

22                   (A) Inundated or saturated by surface or ground water at a frequency and  
 23 duration sufficient to support, and that under normal circumstances does support, a prevalence of  
 24 vegetation typically adapted for life in saturated soil conditions, including swamps, marshes,  
 25 bogs and similar areas;

26                   (B) Considered “private wetland” or “State wetland” pursuant to Title 9,  
 27 Wetlands and Riparian Rights, Natural Resources Article, Annotated Code of Maryland; or

28                   (C) Defined as wetland under the procedures described in the “Federal  
 29 Interagency Committee for Wetland Delineation” most updated version and as amended from  
 30 time to time.

31 **Sec. 32-204. Establishment of the County Floodplain.**

1       (a) The Department of Environmental Resources shall establish as the County floodplain  
2 areas of the County that are subject to inundation by the 100-year flood and shall delineate these  
3 areas on the official floodplain maps that shall be prepared and maintained in force as part of this  
4 Division. Where flood elevations have been defined, the County floodplain shall be determined  
5 based on 100 year flood elevations rather than the area graphically delineated on the official  
6 floodplain maps. The County floodplain may also be determined using the County's GIS-based  
7 floodplain models.

8       (b) Area included. The County floodplain shall include all of the following areas:

9           (1) 100 year floodplain as determined by FEMA, including all of the following  
10 FEMA subcategories:

11               (A) Approximate floodplain – areas subject to inundation by the 100-year flood  
12 where a detailed study has not been performed but where a 100-year floodplain boundary has  
13 been approximated and delineated on the FEMA Maps as Zone A.

14               (B) Floodway – areas required to carry and discharge the water of the 100 year  
15 flood without increasing the water surface elevation at any point more than one (1) foot above  
16 existing 100 year flood conditions where defined by FEMA and delineated on the FEMA Maps.

17               (C) Floodway Fringe – areas subject to the 100 year flood that lie beyond the  
18 Floodway where the floodway has been determined or where detailed study data, profiles and  
19 100-year flood elevations have been established, delineated on the FEMA maps as Zones A, AE  
20 and A1-A30.

21               (D) Coastal floodplain – areas subject to coastal or tidal flooding by the 100 year  
22 flood, where detailed study data are available, delineated on the FEMA Maps as Zones A, AE  
23 and A1-A30.

24           (2) Special flood hazard areas, as defined herein and identified by the County.

25           (3) Wetland floodplains – areas of wetland subject to inundation by the 100 year  
26 flood.

27           (4) Area delineated by approved County Comprehensive Watershed Management  
28 Plans and supporting data to be subject to the 100 year flood or determined to be subject to the  
29 100-year flood by any other floodplain study approved by the County.

30           (5) Areas delineated by any other floodplain studies prepared using the County's  
31 GIS-based floodplain models.

1       (c) Danger reach of a dam – area that will be flooded when a dam has been breached by  
 2 flood waters, as established using the latest methodology of the Maryland Department of the  
 3 Environment.

4       (d) Floodplain buffer area - where proposed development is associated with a stream or  
 5 tributary and the limits of the floodplain cannot be accurately determined because of the lack of  
 6 detailed floodplain data and analysis or because of unknown effects of future development in the  
 7 watershed, the Department may require that a floodplain buffer be established and maintained as  
 8 part of the development.

9       (e) Areas excluded – areas associated with a watercourse having less than fifty (50) acres  
 10 of watershed may be excluded, subject to the approval of the County.

11       (f) Sources - the County shall use the following sources for identifying the floodplain:

12           (1) Most current FEMA Flood Insurance Study for Prince George’s County,  
 13 Maryland;

14           (2) FEMA maps (the Floodway maps, if available, must be used rather than the  
 15 Flood Insurance Rate Maps);

16           (3) Approved County comprehensive watershed management plans;

17           (4) Other floodplain studies approved by the County; and

18           (5) Other floodplain studies prepared by the County or its designee using the  
 19 County’s GIS-based floodplain models.

20       (g) Official floodplain maps shall be at a minimum the FEMA maps.

21       (h) Revisions of the County floodplain:

22           (1) The County may amend the limits of the County floodplain to reflect the effect of  
 23 specified flood protection measures recommended in adopted County watershed plans that have  
 24 been included in an adopted Prince George’s County Capital Improvement Program (CIP) for  
 25 planning, design and construction, and for which the County has all necessary federal and state  
 26 permits. However, the County floodplain may not be based upon flood elevations lower than  
 27 shown on the currently adopted FEMA map until concurrence in the lowered elevations has been  
 28 received from FEMA in accordance with applicable federal regulations.

29           (2) The County floodplain limits shall be amended by the Department where studies  
 30 or information provided by a qualified agency or person document the need or possibility for  
 31 such revision. Where there are no available studies, or where existing studies have been

1 determined by the Department to be inadequate, a new study of the area shall be required. All  
 2 such floodplain studies shall be performed in accordance with the Department's requirements and  
 3 criteria, which shall include, without limitation:

4 (A) System within the drainage basin either existing or included in an adopted  
 5 County CIP for planning, design and construction and, for which, the County has all necessary  
 6 federal and state permits; and

7 (B) Future land use based on existing zoning or based on adopted or approved  
 8 master plans, or sectional map amendments, whichever best reflects future land use in the  
 9 opinion of the County.

10 (3) Any proposed reduction or modification to any area of the County identified by  
 11 FEMA as part of the 100 year floodplain must have the approval of FEMA. Proposed  
 12 modifications must first be submitted to the County for review, and the County's  
 13 recommendation on the proposed modification shall be transmitted to FEMA with a copy to the  
 14 submitter. Any development in the floodplain, which may result in any increase in water surface  
 15 elevations or change to the FEMA floodplain boundaries, must be submitted to FEMA for a  
 16 Conditional Letter of Map Revision. Hydrologic and hydraulic analysis based on existing  
 17 floodplain models and performed in accordance with standard engineering practices and certified  
 18 by a registered professional engineer must be submitted. Failure to receive this letter shall be  
 19 grounds for denial of the permit. The County shall notify the Federal Insurance Administrator of  
 20 revisions to the FEMA floodplain within six (6) months after the date of completion of the  
 21 modification by submitting technical and scientific data in accordance with 44 Code of Federal  
 22 Regulations, Part 65. All revisions and modifications of the FEMA floodplain shall be subject to  
 23 the review and approval of FEMA and the Maryland Department of the Environment.

24 **Sec. 32-205. Development Regulations.**

25 (a) Within the County floodplain, no development shall be permitted except as provided in  
 26 Subsection (b) unless a waiver is obtained from the County which permits such development.

27 (b) Permitted Development. The following development shall be permitted:

28 (1) The modification, alteration, repair, reconstruction, or improvement of a structure  
 29 which does not constitute substantial improvement to the structure (including improvements to  
 30 historic structures which do not affect the exterior dimensions). The improvements shall be  
 31 elevated and/or flood proofed to the greatest extent possible. The elevation of the lowest floor

1 shall be at least one (1) foot above the elevation of the 100 year flood or those parts of the  
 2 improvement below the elevation of one (1) foot above the 100 year flood shall be dry flood  
 3 proofed in accordance with the U.S. Army Corps of Engineers flood proofing regulations.

4 (2) Private and public utilities and facilities which conform to the construction,  
 5 design, and flood proofing requirements of this Division.

6 (3) Private or public streets crossing the floodplain.

7 (4) Stormwater management facilities.

8 (5) Small projections leading off of the floodplain which would be enclosed by storm  
 9 drainage pipes.

10 (6) Developments in which all structures will be elevated, by fill, to or above the  
 11 flood protection elevations and will not be located within the proposed condition floodplain  
 12 boundaries, provided that all development regulations stated in this Section are met.

13 (c) All areas within the County floodplain shall be dedicated to public use or for use as a  
 14 park, or as a floodplain or conservation easement, whichever is appropriate; the dedication or  
 15 easement shall meet the County requirements for form and content and shall be recorded among  
 16 the Land Records of the County. The easement requirement may be waived when, in the opinion  
 17 of the County, the waiver would not compromise any public or private interests including the  
 18 rights of the landowners, safety, and environmental protection; would not conflict with any  
 19 Federal, State or County laws; and the establishment of an easement would constitute an  
 20 unreasonable hardship on the applicant. A waiver may be granted only if the County finds that  
 21 the applicant has demonstrated the following:

22 (1) The property is already essentially developed and occupied by the applicant; or

23 (2) The proposed disturbed area is less than 20% of the total area of a single  
 24 residential lot; and

25 (3) The floodplain is clear of proposed improvements, including access roads, to the  
 26 extent the floodplain area is not used in conjunction with the proposed improvements; and

27 (4) The floodplain is not likely to increase in the future nor would it be damaged by  
 28 continuing stream flows or flooding that may be caused, in part, by the existence of downgraded  
 29 or upgraded public storm drain systems or Stormwater management facilities.

30 (d) Fences and other matters or enclosures which may impede, retard, or change the  
 31 direction of the flow of water, or that will catch or collect debris carried by such water, or that

1 are placed where the natural flow of the stream or flood waters would carry such impediments  
2 downstream to the damage or detriment of either public or private property in or adjacent to the  
3 floodplain shall not be permitted without a waiver and permit as provided in this Division.

4 (e) All development shall be designed to minimize floodplain disturbance and shall  
5 conform to all other applicable codes, ordinances, regulations, flood management and watershed  
6 management plans where they have been prepared, and the requirements of the permit programs  
7 of all applicable Federal, State and local governments.

8 (f) Any new or substantially improved residential or nonresidential structures, including  
9 manufactured homes, shall be located outside the floodplain and have the lowest floor and the  
10 surrounding ground elevated, by fill, to or above the flood protected elevation. Basements are  
11 not permitted. The elevation of the lowest floor shall be certified by a registered surveyor or  
12 professional engineer on the as-built plan or after the lowest floor is in place. All new structures  
13 in any subdivision shall be located outside the 100 year floodplain boundary. All residential  
14 structures shall be set back 25 feet minimum from the 100 year floodplain. For every activity in  
15 the floodplain, the conditions described in Sections 32-205(g), 32-205(h), and 32-106(a)(6) must  
16 be met.

17 (g) If floodplain storage is reduced because of the project, an equal amount of  
18 compensatory storage within the floodplain shall be provided. A site grading plan prepared by a  
19 registered engineer, showing a balance of cut-and-fill, shall also be submitted. The limits of the  
20 floodplain before and after development shall be clearly shown on the site plan. A detailed  
21 floodplain analysis shall be conducted to indicate that the new floodplain can carry the discharge  
22 of the 100 year flood without increasing the water surface elevation at any point on other private  
23 or public property either upstream or downstream from the tract to be developed, unless such  
24 lands affected by an increase in water surface elevation are either acquired by the applicant or  
25 reserved through acquisition of suitable floodplain easements, provided such increases will not,  
26 in the determination of the County, cause or aggravate damage to such properties. However,  
27 development shall not increase water surface elevation of the base flood more than one foot at  
28 any point. The floodplain analysis shall consider backwater conditions, local obstructions and,  
29 where required by the County partial or complete failure or obstruction of any culvert or  
30 enclosed storm drainage system. The new floodplain shall be designed to prevent detrimental  
31 erosion, overflow, or nuisance of any kind and shall ultimately discharge into a storm drain

1 facility or a watercourse in accordance with County standards and procedures.

2 (h) All proposals to offset the effects of development in the floodplain by construction of  
 3 stream modifications shall be documented by an engineering study prepared by a registered  
 4 engineer who fully evaluates the effects of such construction. The report shall use the 100 year  
 5 flood and floodplain data prepared by FEMA, at a minimum, and other County-approved  
 6 watershed studies. Evidence shall be provided that all adjacent communities and the Maryland  
 7 Department of the Environment have been notified by certified mail and have approved of the  
 8 proposed modification. Copies of these notifications shall then be forwarded to FEMA's Federal  
 9 Insurance Administration. The County or its designee will conduct a study to assure that the  
 10 flood carrying capacity within the altered or relocated portion of the watercourse in question will  
 11 be maintained. If required, the owner shall execute a Stormwater management maintenance  
 12 agreement with the County, which shall be recorded in the Land Records.

13 **Sec. 32-206. Waiver Requirements for Development in Floodplain.**

14 (a) In order to undertake any development in the County floodplain other than as permitted  
 15 in the preceding Section, the applicant must obtain a waiver from the Director.

16 (b) The request for waiver shall include:

17 (1) The information required for a permit for development as set forth in this  
 18 Division;

19 (2) A statement explaining the need for the development, any public benefit to be  
 20 derived, and the actions that will be taken to reduce the threat of any potential flooding, flood  
 21 damage, or adverse environmental impacts; and

22 (3) Plans and studies as required by the County.

23 (c) Required plans and studies. The County may require plans and studies to be submitted.  
 24 All studies shall be subject to approval by the County. All studies and calculations furnished to  
 25 satisfy this provision shall become the property of the County and may be used by the County for  
 26 reviewing other development or for other purposes.

27 (d) The Director shall grant a waiver only upon determining that:

28 (1) There is good and sufficient cause;

29 (2) The granting of the waiver will not result in additional threats to public safety,  
 30 increased flood elevations or discharges, or other adverse impacts on other public or private  
 31 property either upstream or downstream;

1           (3) The granting of the waiver will not result in fraud or victimization of the public;

2           (4) The waiver is the minimum necessary, considering the flood hazard, to afford  
 3 relief to the owner, and public funds shall not be expended to mitigate the results of the waiver;

4           (5) The development will not violate other Federal, State or local laws or regulations;  
 5 and

6           (6) The waiver does not violate the purpose and intent of this Division.

7           (e) Waivers will not be granted for any filling, or the construction or placement of any  
 8 structures or obstructions which will ultimately be located in the FEMA-designated Floodways,  
 9 or in the County designated Special Flood Hazard Areas which will increase the water surface  
 10 elevation of the base flood. Within the floodplain, waivers shall not be granted for any new  
 11 structures, the lowest floors of which are below flood protection elevations.

12           (f) If granted, a waiver shall involve only the least modification necessary to provide  
 13 relief. If it should become necessary to grant any variance, the applicant shall be required to  
 14 comply with all applicable requirements of the National Flood Insurance Program regulations  
 15 (60.3d) including the requirements for elevation, flood proofing and anchoring. The applicant  
 16 must also comply with any other requirements considered necessary by the County.

17 Notwithstanding any of the above, however, all structures shall be designed and constructed so  
 18 as to have the capability of resisting the 100 year flood. Flood proofing is not an option in  
 19 residential construction. All residential structures must be elevated.

20           (g) A record of all waiver actions, including justifications for their issuance, shall be  
 21 maintained by the County, shall be included in the Biannual report submitted to the Federal  
 22 Insurance Administrator, and shall be available upon request by FEMA or its authorized agent  
 23 during periodic assessments of the County participation in the National Flood Insurance  
 24 Program.

25           (h) As a condition of the waiver, the owner of the property being developed shall be  
 26 required to execute covenants to provide notice of the waiver, the potential for higher insurance  
 27 premium rates, the flood hazard, and any responsibilities of the owner to maintain flood proofing  
 28 or stream modification facilities or systems, which covenants shall be recorded among the Land  
 29 Records of the County. Where there will be enclosed areas below the 100 year flood elevation, a  
 30 statement shall be recorded in the Land records of the County which reads, "No conversion of  
 31 this area to habitable space is to occur unless the lowest floor is elevated to one (1) foot above

1 the 100 year flood elevation. At this site the 100 year flood elevation is \_\_\_\_\_.”

2 **Sec. 32-207. Construction and Design Standards within the Floodplain.**

3 (a) All development permitted in the County Floodplain shall comply with the following  
 4 minimum standards where applicable.

5 (1) In general, all new construction and substantial improvements which are  
 6 permitted in the floodplain by waiver pursuant to this Division shall be:

7 (A) Designed (or modified) and adequately anchored to prevent flotation,  
 8 collapse, or lateral movement of the structure;

9 (B) Constructed and placed on the lots so as to offer the minimum obstruction to  
 10 the flow and height of the flood water;

11 (C) Constructed with materials and utility equipment resistant to flood damage;  
 12 and

13 (D) Constructed by methods and practices that minimize flood damage and  
 14 adverse environmental impacts.

15 (2) The elevation of the lowest floor of all new or substantially improved structures,  
 16 except for garages, storage and accessory structures, which are less than 300 square feet and not  
 17 used for human habitation, shall be at least one (1) foot above the 100 year flood. Basements in  
 18 buildings within the floodplain as herein defined are prohibited.

19 (3) Enclosures below the lowest floor. The new construction or substantial  
 20 improvement of fully enclosed areas below the lowest floor, including but not limited to crawl  
 21 spaces, solid footings and continuous foundations, shall be vented to equalize hydrostatic  
 22 pressure by permitting the free entry and exit of floodwaters and shall include the following as a  
 23 minimum:

24 (A) At least two openings having a total net area of not less than one square inch  
 25 for every square foot of enclosed area subject to flooding shall be provided;

26 (B) The bottom of all openings shall be no higher than one foot above grade;

27 (C) Openings may be equipped with screens, louvers, valves, or other coverings  
 28 or devices provided that they permit the automatic entry and exit of floodwaters; and

29 (D) A statement shall be included on the building plans which states: “No  
 30 conversion of this area to habitable space is to occur unless the lowest floor elevated to one (1)  
 31 foot above the 100 year flood elevation. At this site the 100 year flood elevation is

\_\_\_\_\_.”

(4) Accessory structures. The new construction or substantial improvement of garages, storage sheds and similar accessory structures shall meet the requirements set forth in Paragraph (3), above.

(5) Storage. Storage for materials that are buoyant, flammable, explosive, or that in times of flooding could be injurious to human, animal or plant life shall not be constructed or permitted below one (1) foot above the level of the 100 year flood.

(6) Fill.

(A) Where allowed, fill material shall comply with the requirements of Sections 32-156 through 32-158 of this Subtitle.

(B) Fill slopes shall be no steeper than one (1) vertical to two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the County.

(C) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

(7) Landscape design.

(A) Where permitted, disturbance or removal of the natural vegetation in the floodplain shall be avoided or minimized.

(B) Adequate ground cover shall be provided for soil stabilization.

(C) Design of land contours and choice of plant materials shall direct surface runoff away from structures and shall not increase surface runoff onto neighboring properties.

(8) Electrical and plumbing systems.

(A) All water heaters, furnaces, generators, heat pumps, air conditioners and other permanent mechanical and electrical installations shall be permitted only at or above one (1) foot above the elevation of the 100 year flood.

(B) No electrical distribution panels shall be permitted at an elevation less than three (3) feet above the elevation of the 100 year flood.

(9) Public and private utilities. The design, placement and construction of all public and private utilities and facilities shall meet the following requirements:

(A) New or replacement water supply systems and/or sanitary sewage systems shall be designed and flood proofed to eliminate or minimize infiltration of flood waters into the systems and discharges from the systems into the flood waters, and to avoid impairment during

1 flooding and to minimize flood damage.

2 (i) Cesspools and seepage pits are prohibited.

3 (ii) Septic tanks are permitted provided they are securely anchored to resist  
4 buoyant forces during inundation.

5 (iii) All pipes connected to sewage systems shall be sealed to prevent  
6 leakage.

7 (B) All gas, electrical and other facility and utility systems shall be located,  
8 constructed and flood proofed to eliminate or minimize flood damage.

9 (C) All new storm drainage facilities within and leading to or from the County  
10 floodplain shall be adequately designed, flood proofed and installed to eliminate or minimize  
11 property damage resulting from the flood waters of the 100 year flood and to minimize adverse  
12 environmental impacts of their installation and use.

13 (10) Recreational vehicles located within the floodplain may be exempted from the  
14 elevation and anchoring requirements provided they are:

15 (A) Located on the site less than 180 consecutive days per year;

16 (B) Fully licensed and ready for highway use; and

17 (C) Properly permitted.

18 A recreational vehicle is ready for highway use if it is on its wheels and jacking system, is  
19 attached to the site by quick disconnect type utilities and securing devices, and has no  
20 permanently attached additions. If it cannot meet all of these criteria, the recreational vehicle  
21 must be considered a manufactured home and is subject to the elevation and construction  
22 standards of this Code.

23 (11) All notice of the flood hazard and the waiver action shall be placed on the deed or  
24 other title document of the property on which the waiver is granted.

25 **Sec. 32-208. Coastal and Wetland Floodplain Regulations.**

26 (a) Any development and construction in the coastal and wetland floodplains which is  
27 permitted pursuant to Section 32-206 of this Division, shall, in addition to all other requirements  
28 of this Division, meet the requirements of this Section.

29 (b) The development shall be subject to the provisions of this Code regulating  
30 development in the Chesapeake Bay Critical Areas.

31 (c) In the wetland floodplain the following regulations shall apply:

1           (1) The County shall obtain, review and reasonably utilize any wetlands classification  
 2 data available from a Federal, State or other source to determine the boundaries and  
 3 characteristics of the wetland floodplain. When the boundary of the wetland floodplain is  
 4 unknown, obscure, or undefined, the County, in cooperation with or with assistance from the  
 5 Maryland Department of the Environment, shall evaluate each site to determine the actual extent  
 6 of wetlands.

7           (2) Except where specifically allowed by the County and the Maryland Department  
 8 of the Environment and the U.S. Army Corps of Engineers, the following shall be prohibited:

9                   (A) Filling, dumping or excavating of any kind;

10                   (B) Drainage or alteration of the natural drainage and circulation of surface or  
 11 ground waters; and

12                   (C) Removal of natural vegetation.

13           (3) The County may approve development or construction upon determining that the  
 14 proposed uses:

15                   (A) Require access to water or wetlands, or are water dependent;

16                   (B) Have no prudent or feasible alternative site which does not involve wetland  
 17 areas; and

18                   (C) Will result in minimum feasible alteration or impairment to wetland  
 19 functional characteristics and existing contour, vegetation, fish and wildlife resources and  
 20 hydrologic conditions of the wetland area.

21                   (D) Meet all applicable regulations of Subtitle 5B when located in the  
 22 Chesapeake Bay Critical Area Overlay Zone.

23           (4) All buildings and structures shall be prohibited with the exception of catwalks,  
 24 piers, boathouses, boat shelters, fences, duck blinds, wildlife management shelters, footbridges,  
 25 observation decks and shelters; and other similar water-related structures which are constructed  
 26 on pilings to permit the unobstructed flow of waters and preserve the natural contour of the  
 27 wetland area within the Chesapeake Bay Critical Area Overlay Zone.

28 **Sec. 32-209. Permit Requirements within the Floodplain.**

29           (a) A permit is required for all development (including, but not limited to, construction of  
 30 and/or substantial improvements to buildings and structures, placement of manufactured homes  
 31 or buildings, fill, temporary development, new or replacement infrastructure, or any combination

1 thereof) in the floodplain. However, for a development associated with a watercourse draining  
2 less than 50 acres of land, a detailed floodplain study may be waived, subject to the approval of  
3 the County.

4 (b) An application for a permit shall be submitted to the County. The application shall be  
5 part of the application for a building or grading permit when such a permit is otherwise required  
6 for the proposed development.

7 (c) The following additional information shall be required, where applicable:

8 (1) If the development includes any grading, new construction, or exterior  
9 modifications to existing structures, a site grading plan prepared by a registered engineer or  
10 architect showing: the size and location of the proposed development and any existing buildings  
11 or structures; the location, dimensions and elevation in mean sea level of the site in relation to  
12 the stream channel, shoreline and the floodplain; the elevations of the 100 year flood, the  
13 existing and proposed final grading and the lowest floor elevations of all structures; the method  
14 of elevating the proposed structure, including proposed fills, retaining walls, foundations, erosion  
15 protection measures; and such other information as may be required by the County.

16 (2) For substantial improvement to existing structures, a summary description of the  
17 proposed work and estimated cost.

18 (3) For new construction or substantial improvements of nonresidential structures  
19 within the floodplain, certification by a registered engineer or architect that the nonresidential  
20 structure will be dry flood proofed watertight in accordance with the specifications of the U.S.  
21 Army Corps of Engineering to one (1) foot above the 100 year elevation.

22 (4) A plan showing the location of all existing and proposed public and private  
23 utilities, facilities, drainage structures and road access. If the 100 year flood elevation has been  
24 determined, it shall be delineated on the proposed plan. For all proposals associated with a  
25 watercourse having a drainage area of 50 acres or more, the County shall determine the 100 year  
26 flood elevation using floodplain models and the applicant shall delineate it on the proposed plan.  
27 Private consultant engineering studies and studies using the County's GIS-based floodplain  
28 models will be accepted by the County until a date certain established by the County. After the  
29 specified deadline and upon proper notice, only studies using the County's GIS-based floodplain  
30 models will be accepted by the County, unless the County grants as applicant's written request to  
31 use a private consultant to perform the study. In addition, field survey information of structures,

1 within the floodplain, as may be required by the County to complete the study, shall be supplied  
2 by the applicant. For all proposals associated with a watercourse having a drainage area of 50  
3 acres or less, the delineation of the 100 year flood elevation may be excluded upon the approval  
4 of the County. All plans shall be certified by a registered engineer.

5 (d) The application shall be reviewed by the County to assure that:

6 (1) The proposed development is consistent with the construction and design  
7 requirements of this Division;

8 (2) Adequate drainage is provided to reduce exposure to flood hazards;

9 (3) The plans provide at least one access which will permit safe vehicular ingress and  
10 egress from the subdivision and/or new development during a 100 year flood;

11 (4) Adequate measures have been taken to minimize any potential adverse  
12 environmental impacts of the proposed development; and

13 (5) The development complies with the requirements of this Division and all other  
14 applicable codes and ordinances.

15 (e) No construction or development will occur until all other Federal, State and local  
16 permits and approvals have been obtained.

17 (f) During the construction period, the County shall inspect the premises to determine that  
18 the work is progressing in compliance with the permit and with all applicable laws and  
19 ordinances. The premises shall also be subject to inspection by the Maryland  
20 Department of the Environment. In the event that the County determines that the work is not in  
21 compliance with the permit or all applicable laws and ordinances, or that there has been a false  
22 statement or misrepresentation by the applicant, the County shall report such fact to the  
23 Maryland Department of the Environment for whatever action it considers necessary as well as  
24 pursuing compliance as provided under this Division and Subtitle.

25 (g) A use and occupancy permit shall not be approved until the County has been provided  
26 with a completed elevation certificate prepared by a registered land surveyor or engineer  
27 certifying the "as-built" elevation of the subject construction.

28 (h) A record or log of permits issued for development in the County floodplain shall be  
29 maintained by the County and shall be available upon request to FEMA or its authorized agent  
30 (the Maryland Department of the Environment) during periodic assessments of the County  
31 participation in the National Flood Insurance Program. Such record shall include at a minimum

1 the date the permit was issued, the as-built lowest floor elevation of all new construction or  
2 substantial improvement, the issuance date of the use and occupancy permit, a copy of the  
3 completed elevation certificate, and any map amendments issued by FEMA.

4 **Sec. 32-210. Appeals.**

5 (a) A person aggrieved by a decision of the County under this Division may file an appeal  
6 in writing with the Board of Appeals for Prince George's County within ten (10) days of  
7 receiving notice of the County's decision.

8 (b) The Board may reverse, modify or remand the decision of the County only if the  
9 decision of the County is clearly erroneous, illegal, arbitrary or capricious or unsupported by any  
10 substantial evidence. The Board shall not have the authority to issue an order which is in conflict  
11 with a lawful order of the County, the requirements and provisions of this Ordinance, or the  
12 Federal or State floodplain regulations.

13 (c) Further appeals shall be to the Circuit Court pursuant to the Maryland Rules on  
14 Administrative Appeals.

15 **Sec. 32-211. Enforcement and Penalties.**

16 (a) The County may issue a notice of violation to any person, firm, association or  
17 corporation who fails to comply with the standards and requirements of this Division for  
18 construction or development in the floodplain, which notice may provide a reasonable time in  
19 which to comply.

20 (b) Any person who fails to comply with a notice of violation or other lawful direction of  
21 the Director shall be subject to civil citation and a monetary fine pursuant to Section 28-261 of  
22 this code.

23 (c) Any person who violates the provisions of this Division shall be guilty of a  
24 misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than One  
25 Thousand Dollars (\$1,000) or imprisonment not exceeding six (6) months, or both, for each  
26 violation, with costs imposed in the discretion of the Court. Each day that the violation  
27 continues shall constitute a separate offense.

28 (d) The imposition of a civil or criminal fine or penalty for any violation or noncompliance  
29 with this Division shall not excuse the violator from the requirement to correct or remedy the  
30 violation within a reasonable time. The County Attorney may institute injunctive, mandamus or  
31 other appropriate action or proceedings at law or equity for the enforcement of this ordinance.

1 and any court of competent jurisdiction shall have the right to issue restraining orders, temporary  
 2 or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

3 (e) The County shall promptly notify the Federal Insurance Administrator and the  
 4 Maryland Department of the Environment of any structure or development in the floodplain  
 5 which is in violation of this Division in order that new or renewal National Flood Insurance on  
 6 the subject property may be denied or other appropriate remedies may be pursued by these  
 7 agencies.

8 **Sec. 32-212. Fees for Conducting the Floodplain Study.**

9 The fees for the County to conduct a floodplain study using the GIS-based floodplain  
 10 models pursuant to this Subtitle shall be adopted by resolution of the Prince George's County  
 11 Council. The County Executive shall propose and recommend to the County Council a schedule  
 12 of fees that reflects the actual costs associated with conducting the study and administering and  
 13 maintaining the GIS database and hardware needed for the models pursuant to the floodplain  
 14 study.

15 **Sec. 32-213. through 32-215. Reserved.**

16 **DIVISION 5. NONTIDAL WETLAND PROTECTION ORDINANCE.**

17 **Sec. 32-216. Short Title; Purpose.**

18 (a) The provisions of this Division shall constitute and be known as the "Nontidal Wetland  
 19 Protection Ordinance" of Prince George's County, Maryland.

20 (b) Prince George's County has established a comprehensive program for the protection,  
 21 conservation and regulation of nontidal wetlands. The goal of this program is to ensure no net  
 22 loss of nontidal wetland acreage and function and to strive for a net resource gain in the County.  
 23 This program is to be administered by the Department of Public Works and Transportation under  
 24 the provisions of this Ordinance.

25 (c) It is the intent of Prince George's County to protect the County's nontidal wetland  
 26 resources through a comprehensive Countywide program in cooperation with State and Federal  
 27 agencies. Through this program further degradation and losses of nontidal wetlands will be  
 28 prevented wherever possible. Where losses are unavoidable, these losses will be offset through  
 29 restoration or creation of nontidal wetlands.

30 (d) The provisions of this Ordinance are adopted pursuant to the Annotated Code of  
 31 Maryland, Natural Resources Article, Section 8-1201, et seq., and Code of Maryland Regulations

1 (COMAR) 08.05.04.22 and are subject to the provisions described therein.

2 **Sec. 32-217. Definitions.**

3 (a) Applicability of definitions. The definitions contained in Subtitle 32, Divisions 2 and 3  
 4 of this Code may apply to this Division and shall be supplemented by the definitions in  
 5 Subsection (b) of this Section.

6 (b) Terms Defined. Wherever the following words are used in, or in conjunction with, the  
 7 administration of this Division, they shall have the meaning ascribed to them in this Section.

8 (1) **Adaptive Vegetation** - plant species which are not native but provide similar  
 9 value to native species and grow successfully in Maryland.

10 (2) **Adverse Impact** - any diminishment of nontidal wetland acreage or function.

11 (3) **Agricultural Activity** - aquaculture and farming activities including plowing,  
 12 tillage, cropping, seeding, cultivating, and the grazing and raising of livestock, sod production  
 13 and other products cultivated as part of a recognized commercial enterprise, and harvesting for  
 14 production of food and fiber products, excluding forest products. The definition includes  
 15 tobacco, nursery stock, Christmas trees, aquaculture ponds, and other ponds used to conduct  
 16 farming activities. Activities that result in a change to a land use other than agriculture are not  
 17 agricultural activities. Structures or temporary storage areas related to sale of products are  
 18 excluded from this definition.

19 (4) **Agriculture** - a land use dominated by the production of food, fiber, aquaculture  
 20 or livestock, and other products cultivated as part of a recognized commercial enterprise.

21 (5) **Applicant** - a person who signs the Nontidal Wetland Concept Plan and Nontidal  
 22 Wetland Permit Application.

23 (6) **Aquaculture** - the commercial rearing of finfish, shellfish and aquatic plants for  
 24 sale, trade, barter or shipment.

25 (7) **Aquaculture Facility** - a pond, impoundment, raceway or tank and their  
 26 associated structures essential for the purpose of aquaculture.

27 (8) **Areas that have Lain Fallow** - areas used for agriculture or forestry activities  
 28 that are not in production for agriculture or forest products.

29 (9) **Avoid** - to refrain from conducting an activity that may adversely impact a  
 30 nontidal wetland.

31 (10) **Best Management Practices** - conservation practices or systems of practices and

1 management measures that:

2 (A) Control soil loss and reduce water quality degradation caused by nutrients,  
3 animal waste, toxics and sediment; and

4 (B) Minimize adverse impacts to the surface water, groundwater flow, and  
5 circulation patterns, and to the chemical, physical and biological characteristics of a nontidal  
6 wetland.

7 (11) **Bog** - a nontidal wetland characterized by organic soils, accumulated peat, and  
8 soils saturated to the surface through the year with minimal fluctuation in water level.

9 (12) **Buffer** - a regulated area 25 feet in width surrounding a nontidal wetland,  
10 measured from the outer edge of the nontidal wetland.

11 (13) **Clean Water Act** - the Federal Water Pollution Control Act of 1972, as amended  
12 by the Clean Water Act of 1977 and later amendments (33 U.S.C. 1251, et seq.).

13 (14) **Comprehensive Watershed Management Plan** - a plan developed in  
14 cooperation with Federal, State and local agencies and approved by the County and Maryland  
15 Department of Natural Resources (MDNR) that addresses nontidal wetland protection, creation,  
16 restoration, enhancement, cumulative impacts, flood protection, water supply concerns and other  
17 natural resource elements for a specific area or region.

18 (15) **Corps Delineation Manual** - the Corps of Engineers Wetlands Delineation  
19 Manual, Technical Report Y-87-1 and any subsequent amendments, which is incorporated by  
20 reference.

21 (16) **Creation** - actions performed which establish nontidal on upland sites.

22 (17) **Critical Habitat** - habitat necessary for the survival of threatened or endangered  
23 species, or species in need of conservation.

24 (18) **Department** - the Prince George's County Department of Public and  
25 Transportation Works and Transportation.

26 (19) **Destruction or Removal of Plant Life that would alter the Character of a**  
27 **Nontidal Wetland:**

28 (A) The physical removal of natural nontidal wetland vegetation; or

29 (B) Causing mortality of nontidal wetland vegetation by the application of  
30 herbicides, hydrologic alteration, or by other means.

31 (20) **Director** - the Director of the Prince George's County Department of Public

1 Works and Transportation or the designee of the Director.

2 (21) **Discharge of Fill Material** - the addition of fill material, from any source, into a  
 3 nontidal wetland area. Activities that can result in the discharge of fill material include:

4 (A) Placement of fill necessary for the construction of any structure;

5 (B) Building or any structure or impoundment requiring rock, sand, dirt, or other  
 6 materials for its construction;

7 (C) Site development fills for recreational, industrial, commercial, residential,  
 8 and other uses;

9 (D) Causeways or road fills;

10 (E) Dams and dikes;

11 (F) Artificial islands;

12 (G) Property protection or reclamation devices, or both;

13 (H) Levees; and

14 (I) Fills for structures such as, and associated with, sewage treatment facilities  
 15 and intake and outfall pipes.

16 (22) **Disturbance of Water Level or Water Table** - the alteration of the existing  
 17 elevation of groundwater or surface water by:

18 (A) Adding or impounding a sufficient quantity of stormwater or water from  
 19 other sources to modify the existing vegetation, values or functions of the nontidal wetlands; or

20 (B) Draining, ditching, or otherwise causing the depletion of the existing  
 21 groundwater or surface water levels so that the activity would modify the existing vegetation.

22 (23) **Drainage basin** - an area drained by a river system. In Prince George's County  
 23 this includes the Anacostia, Patuxent and Potomac drainage basins.

24 (24) **Drainage of Nontidal Wetlands** - methods used to change the hydrologic  
 25 conditions of nontidal wetlands, including lowering groundwater or surface water levels through  
 26 pumping, piping, ditching or otherwise altering water flow patterns.

27 (25) **Emergent Nontidal Wetland** - that portion of a nontidal wetland dominated by  
 28 erect, rooted, herbaceous vegetation as the uppermost vegetation strata.

29 (26) **Enhancement** - those actions performed to provide additional protection to, or to  
 30 create, or improve the functions of a nontidal wetland or other aquatic sites or resources.

31 (27) **Excavation** - to dig or remove soil, rocks or other materials resulting in a change

1 | in all or part of the elevation of a site.

2 |       (28) **Expanded Buffer** - a regulated area of 100 feet in width surrounding a non-tidal  
3 | wetland, measured from the wetland boundary and established because of the presence of steep  
4 | slopes, highly erodible soils, other soils with development constraints, or the presence of  
5 | Nontidal Wetlands of Special State Concern.

6 |       (29) **Extenuating Circumstances** - conditions as defined in Section 32-220(e) and (g)  
7 | requiring extension of a set time limit to process an application, render decision, or conduct a  
8 | public informational hearing.

9 |       (30) **Farmed Nontidal Wetland** - an area designated under Subsection (b)(56) that is  
10 | presently tilled, grazed, or under conservation tillage for agricultural activities or is lying fallow  
11 | and has been out of production for agricultural activities for less than five consecutive years.

12 |       (31) **FEMA Maps** - the Federal Insurance Rate Maps (FIRM) and the Flood Boundary  
13 | and Floodway maps of the County prepared by FEMA (Federal Emergency Management  
14 | Agency) and any subsequent amendments.

15 |       (32) **Fill** - any materials placed in an area which alters the elevation of the site,  
16 | groundwater level, or the soil surface.

17 |       (33) **Floodplain or County Floodplain** - includes all those areas within the County  
18 | which will be inundated by the 100 year flood, as determined by FEMA and the County.

19 |       (34) **Forested Nontidal Wetland** - that portion of a nontidal wetland dominated by  
20 | woody vegetation greater than 20 feet in height.

21 |       (35) **Forestry Activity** - planting, cultivating, thinning, harvesting or any other  
22 | activity undertaken to use forest resources or to improve their quality or productivity. Activities  
23 | that change nontidal wetlands to another land use, including but not limited to agricultural or  
24 | development, are not forestry activities.

25 |       (36) **Function** includes, but is not limited to, the roles nontidal wetlands serve through:

26 |       (A) Reduction of pollutant loadings, including excess nutrients, sediment and  
27 | toxics;

28 |       (B) Attenuation of floodwaters and stormwaters;

29 |       (C) Shoreline stabilization and erosion control;

30 |       (D) Breeding grounds and habitat for many species of plants and wildlife  
31 | including fish, game and nongame birds and mammals, including threatened and endangered

1 species and species in need of conservation;

2 (E) Food chain support; and

3 (F) Timber production.

4 (37) **General Area** - the geographic or market vicinity that has desired characteristics  
5 for fulfilling the basic project purpose.

6 (38) **Grazing** - feeding on grass or other herbaceous plants in fields.

7 (39) **Hydric Soils** - soils that are saturated, flooded or ponded long enough during the  
8 growing season to develop anaerobic conditions that favor the growth and regeneration of  
9 hydrophytic vegetation as defined in the Corps Delineation Manual.

10 (40) **Hydrologically Connected** - a nontidal wetland:

11 (A) Contiguous to a watercourse, surface water body, tidal wetland or ditch  
12 drainage;

13 (B) Within or connected to any 100 year floodplain as determined by calculation  
14 or by Federal Emergency Management Maps;

15 (C) receives or discharges surface or groundwater as intermittent or perennial  
16 flow from or to a surface water body, watercourse or other tidal or nontidal wetland as  
17 demonstrated by the presence of an intermittent or perennial stream or spring flow; or

18 (D) Formerly contiguous to a surface water body, watercourse or a nontidal  
19 wetland described in Subsection (b) (39) (A)-(C), and is presently separated from these areas by  
20 a man-made berm, fill, road or other structure.

21 (41) **Hydrophyte** - plant life adapted to growth and reproduction under periodically  
22 saturated root zone conditions during at least a portion of the growing season. A listing of these  
23 plants can be found in the "National List of Plant Species that Occur in Wetlands: 1988,  
24 Maryland," which is incorporated by reference.

25 (42) **Initial Planning Phase** - the period of time in which the feasibility of a project is  
26 evaluated before committing resources necessary for its implementation.

27 (43) **In kind** - a characteristic closely approximating those of a nontidal wetland  
28 before it was adversely impacted by a regulated activity.

29 (44) **Intermittent Stream** - those areas that are surface waters, contained within a  
30 defined channel or bed that flow at least once per year. A defined channel or bed is indicated by  
31 hydraulically sorted sediment, or the removal of vegetative litter, or loosely rooted vegetation by

1 the action of moving water.

2 (45) **Isolated Nontidal Wetland** - a nontidal wetland that is not hydrologically  
 3 connected through surface or subsurface flow to streams, tidal or nontidal wetlands or tidal  
 4 waters.

5 (46) **Landscape Management** - to maintain or enhance vegetation that was planted or  
 6 manipulated for aesthetic purposes. Landscape management includes mowing, pruning and  
 7 private gardening, excluding agricultural activities.

8 (47) **Landscape Management Area** - an area predominately covered by grasses or  
 9 herbaceous ground cover established and maintained for horticultural purposes. The landscape  
 10 management area may include a lawn which contains trees, shrubs or other plants.

11 (48) **Loss of Nontidal Wetland:**

12 (A) Alteration of existing nontidal wetland vegetation or water levels that  
 13 significantly impairs or eliminates its principal functions, but excluding:

14 (i) Forestry activities conducted in accordance with a Prince George's Soil  
 15 Conservation District approved sediment and erosion control plan;

16 (ii) Restoration; and

17 (iii) Department or MDNR approved enhancement projects; or

18 (B) Alteration of an area so that it no longer meets the nontidal wetland  
 19 definition.

20 (49) **Maintenance** - activities undertaken to prevent the deterioration, impairment, or  
 21 need of a serviceable fill area, structure, right-of-way, or land use, which includes management  
 22 of vegetation and replacement of structural components.

23 (A) Maintenance does not include the following activities, unless conducted in a  
 24 temporary sediment control structure, wash pond or roadside ditch:

25 (i) Dredging;

26 (ii) Excavating; or

27 (iii) Filling.

28 (50) **MDE** - the Maryland Department of the Environment, Standards and Certification  
 29 Division.

30 (51) **MDNR** - the Maryland Department of Natural Resources, Water Resources  
 31 Administration, Nontidal Wetlands Division.

1           (52) **Minimize** - to reduce the adverse impact on a nontidal wetland to the greatest  
2 practicable and reasonable degree.

3           (53) **Mitigation** - creation, restoration, or enhancement of nontidal wetlands that were  
4 or will be lost due to regulated activities.

5           (54) **Mitigation Bank** - an area approved by the Department and used for wetland  
6 mitigation projects required for future wetland impacts, usually from multiple projects, and  
7 operated using a system of credits and debits based on acreage or functions as specified by the  
8 Department.

9           (55) **Mitigation Banking** - wetland restoration, creation, or enhancement undertaken  
10 expressly for the purpose of providing compensation credits for wetland losses from future  
11 activities.

12           (56) **Nontidal Wetland** - an area that is inundated or saturated by surface water or  
13 groundwater at a frequency and duration sufficient to support, and that under normal  
14 circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil  
15 conditions, and is determined according to the Corps Delineation Manual.

16           (57) **Nontidal Wetland Concept Plan** - a pre-application review process used to  
17 provide the applicant with information about the presence of nontidal wetlands to deter-  
18 mine: if  
19 there are any potential adverse impacts on nontidal wetlands as a result of the proposed project;  
20 if those impacts can be avoided; and if those impacts can then be minimized, before the applicant  
21 has committed substantial **resources** in the project site. Use of the Nontidal Wetland Concept  
22 Plan review is for guidance purposes only; it does not imply approval of a Unified Nontidal  
23 Wetland Permit.

24           (58) **Nontidal Wetlands of Special State Concern** - those areas designated, based on  
25 the criteria in COMAR 08.05.04.23 and listed in COMAR 08.05.04.26, as having exceptional  
26 ecological or educational value of Statewide significance. Nontidal Wetlands of Special State  
27 Concern in Prince George's County are listed in Section 32-239.

28           (59) **Off-Site** - not on the same parcel as the nontidal wetland which has been  
29 adversely impacted by a regulated activity.

30           (60) **On-Site** - the same parcel on which a nontidal wetland has been adversely  
31 impacted by a regulated activity.

(61) **Out of Kind** - biological characteristics not closely approximating those of the

1 nontidal wetland before it was adversely impacted by a regulated activity.

2 (62) **Peat Mining** - the extraction of peat of a commercially valuable quality and  
 3 quantity.

4 (63) **Person** - the Federal Government, the State, and county, municipal corporation,  
 5 or other political subdivision of the State, or any of their units, or an individual, receiver, trustee,  
 6 guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership,  
 7 firm, association, public or private corporation, or any other entity.

8 (64) **Practicable** - available and capable of being done after taking into consideration  
 9 the costs, existing technology, and logistics in light of the overall project purpose.

10 (65) **Project** - the entire activity on a parcel of land, including all proposed and  
 11 projected phases and sections of land subdivisions, of which all regulated or other activities  
 12 conducted in a nontidal wetland, buffer or expanded buffer are a part.

13 (66) **Project Purpose** means the principal reason for conducting all regulated activities  
 14 and other activities on a project site.

15 (67) **Regulated Activity:**

16 (A) Means any of the following activities which are directly undertaken or  
 17 originate in a nontidal wetland, buffer or expanded buffer;

18 (i) **Removal, excavation, or dredging of soil, sand, gravel, minerals,**  
 19 organic matter, or materials of any kind;

20 (ii) **Change of existing drainage characteristics, sedimentation patterns or**  
 21 flood retention characteristics;

22 (iii) **Disturbance of the water level or water table by drainage,**  
 23 impoundment or other means;

24 (iv) **Dumping, discharging of material, or filling with material, including**  
 25 the driving of piles and placing of obstructions;

26 (v) **Grading or removal of material that would alter existing topography;**  
 27 and

28 (vi) **Destruction or removal of plant life that would alter the character of a**  
 29 nontidal wetland;

30 (B) **Does not include an agricultural activity or forestry activity as defined in this**  
 31 Ordinance.

1           (68) **Repair** - an activity that restores the character, scope, size, and design of a  
 2 serviceable fill area, structure, or land use to its previously authorized and undamaged condition.  
 3 Activities that change the size or scope of a project beyond the original design in order to drain,  
 4 dredge, fill, flood, change the hydrology, or otherwise convert nontidal wetlands that were not  
 5 previously impacted by the project are not included in this definition. Minor deviations to plans  
 6 or specifications are allowed as long as no permanent nontidal wetland impact results from the  
 7 deviation.

8           (69) **Restoration or Restore** - actions performed to return nontidal wetland acreage  
 9 and function temporarily impacted by a regulated activity. Restoration also means actions  
 10 performed to establish nontidal wetlands on former nontidal wetland sites.

11           (70) **Scrub-Shrub Wetland** - that portion of a nontidal wetland dominated by woody  
 12 vegetation less than 20 feet in height as the uppermost strata.

13           (71) **Serviceable** - presently usable or currently fulfilling its basic, original purpose.

14           (72) **Significant Plant or Wildlife Value** - a nontidal wetland:

15           (A) **Of the following unusual or unique community types:**

16           (i) **Bogs;**

17           (ii) **Areas with bald cypress (*Taxodium distichum*), Atlantic white cedar**  
 18 **(*Chamaecyparis thyoides*), red spruce (*Picea rubens*, balsam fir (*Abies balsanea*), or American**  
 19 **larch (*Larix laricina*) that contain at least 20 percent of these species in any strata as determined**  
 20 **by the Corps Delineation Manual; or**

21           (iii) **Delmarva bays as defined in COMAR .08.05.04.01 B.21;**

22           (B) **With water discharge that maintains minimum stream base flow important**  
 23 **for maintaining plant wildlife species;**

24           (C) **With threatened or endangered species, or species in need of conservation;**

25           (D) **Adjacent to Class III or Class IV waters as defined in COMAR 26.08.02.08;**

26           (E) **Of Special State Concern;**

27           (F) **That supports vernal pools as defined in COMAR 08.05.04.01 B.87;**

28           (G) **That is regularly or periodically influenced by tidal waters.**

29           (73) **Site Development** - any grading, grubbing or disturbance to remove unwanted  
 30 vegetation and other material from a parcel of land for development, maintenance or  
 31 reconstruction.

1           (74) **Soil Conservation and Water Quality Plan** - a land use plan for a farm that  
2 shows a farmer how to make best possible use of soil and water resources while protecting and  
3 conserving those resources for the future.

4           (75) **Spring** - a nontidal wetland that discharges groundwater at the surface to form a  
5 pool or to provide intermittent or perennial surface flow, and is usually characterized by  
6 saturated or organic soils.

7           (76) **State Water Quality Certification** - a certification issued by MDE pursuant to  
8 the Clean Water Act, Section 401.

9           (77) **Structure** - anything constructed or built and affixed, except for those structures  
10 built in order to maintain the wetland as part of an approved mitigation plan.

11           (78) **Utility Line** means any underground or overhead transmission line, pipe, cable, or  
12 wire for the conveyance of public or private water or sewer, natural gas or the trans-mission of  
13 electrical, radio or telecommunications service.

14           (79) **Water-Dependent Activity** means an activity for which the use of surface water  
15 is essential to fulfill the basic purpose of the proposed project.

16           (80) **Watershed** means the area draining into a river, river system or body of water. A  
17 watershed is a subunit of a drainage basin. Some examples of watersheds within Prince  
18 George's County are Tinker's Creek, Piscataway Creek and Western branch.

19           (81) **Wetland Boundary** means the point the ground at which a shift from wet-lands  
20 to nonwetlands occurs pursuant to the Corps Delineation Manual.

21           (82) **Wildlife** means any species of a vertebrate or invertebrate animal, excluding  
22 domestic species.

23 **Sec. 32-218. Wetland Concept Plan.**

24           (a) The Wetland Concept Plan is an optional pre-application review process used to  
25 provide the applicant with information about the presence of nontidal wetlands to deter-mine: if  
26 there are any potential adverse impacts on nontidal wetlands as the result of the proposed project;  
27 if those impacts can be avoided; and if those impacts can be minimized. Consideration of  
28 alternative sites at the earliest stage may enable the applicant to refrain from committing  
29 substantial resources in the project site and retain the flexibility to avoid adverse impacts on  
30 nontidal wetlands.

31           (b) Wetland Concept Plan Purpose.

1           (1) The purpose of the Wetland Concept Plan is to determine:

2                   (A) If the proposed project includes any regulated activity;

3                   (B) If the proposed project can be modified to first avoid and then to minimize  
4 impacts on nontidal wetlands;

5                   (C) If the proposed activity falls under the jurisdiction of a Unified Nontidal  
6 Wetland Permit, a State Nontidal Wetland permit or if a Federal Section 404 permit may be  
7 required; and

8                   (D) If the proposed activity is exempt or if it qualifies for a Letter of  
9 Authorization.

10           (c) Beginning January 1, 1994, all persons involved with the development of a project  
11 within Prince George's County are strongly encouraged to take advantage of the Wetland  
12 Concept Plan review process before submitting an application for a Unified Nontidal Wetland  
13 Permit, grading permit, building permit, or a preliminary plan of subdivision.

14           (d) Wetland Concept Plan Application.

15                   (1) Applicants are encouraged to consult guidance maps prepared by MDNR to assist  
16 in identifying and locating wetlands.

17                   (2) If the proposed activity will require a Unified Nontidal Wetland Permit, the  
18 Department will provide guidance on applying for the permit.

19                   (3) The Wetland Concept Plan application form shall be furnished by the Department.

20                           (A) The review process can be used to identify wetland areas, verify wetland  
21 delineations, or assist the applicant in identifying the type of nontidal wetland permits required  
22 for the proposed project.

23                           (B) Submission requirements. The application and background information  
24 shall include the name of the property; the name of the applicant; the name of the property owner  
25 and their signatures; the name of the contract purchaser; a location map; the County Road Atlas  
26 page number and grid coordinates; zoning classification; a site plan of all proposed regulated and  
27 nonregulated activities, including, but not limited to the topography, natural features, location  
28 and dimensions of structures, driveways, pools, walk-ways, utility lines, septic systems and  
29 wells; a narrative of the proposed project's purpose; and any other information the Department  
30 may require.

31                           (C) Additional submission requirements. If applicable, the following

1 information shall also be submitted: the wetland report and delineation in accordance with the  
 2 Corps of Engineers Wetland Delineation manual, Technical Report Y-87-1 and any subsequent  
 3 amendments. Forest Stand Delineation and the proposed Type I or Type II Tree Conservation  
 4 Plan; the proposed or approved preliminary plan of subdivision; soil map; drainage area map;  
 5 and a 200 foot scale map of the project site if the proposed project involves a subdivision or a  
 6 commercial or industrial use.

7 (D) If necessary to identify the potential impacts of a proposed project, the  
 8 Department will request submission of one or more of the following: an analysis of pre- and  
 9 post discharges to wetlands (changes to discharges, volumes and velocities); the total number of  
 10 sites considered by an applicant along with the physical, economic and demo-graphic  
 11 characteristics of each site; the purpose of the proposed project and its relation-ship to the site;  
 12 the location of any existing structural or natural features that constrain the placement or  
 13 configuration of the proposed project; the spatial requirements of the pro-posed project; the  
 14 sensitivity of the project design to the nontidal wetland(s); and any proposed phasing of the  
 15 project (for larger projects which may not be completed within three (3) years, it is  
 16 recommended that the project be phased).

17 (4) The Department, in reviewing and evaluating the Wetland Concept Plan, shall  
 18 consider the following factors:

19 (A) Reduction in acreage of a nontidal wetland affected by a regulated activity;

20 (B) Harm to threatened or endangered species or species in need of conservation,  
 21 or the critical habitat of these species;

22 (C) Movement of aquatic and wildlife species indigenous to the nontidal wetland  
 23 or water body;

24 (D) Ability of the nontidal wetland to continue to support and provide habitat for  
 25 those aquatic and wildlife species using the area;

26 (E) Hydrologic regime of the areas upstream and downstream of the area of  
 27 impact;

28 (F) Functions of the impacted and/or adjacent nontidal wetlands;

29 (G) Passage of normal or expected high flows, or the relocation of water;

30 (H) Subsurface water flow into or out of any nontidal wetland area;

31 (I) Presence of, or potential for, supporting fish spawning areas;

1           (J) Presence of areas having significant plant or wildlife value;

2           (K) Cumulative impact to nontidal wetlands; and,

3           (L) Impacts to the 100 year floodplain.

4           (e) Upon completion of the Wetland Concept Plan review, the Department will provide a  
 5 letter to the applicant stating that:

6           (1) A Unified Wetland Permit is required;

7           (2) A Letter of Authorization is required;

8           (3) A MDNR Nontidal Wetland Permit is required;

9           (4) A Federal Section 404 permit may be required; or

10          (5) A Wetland Permit or Letter of Authorization is not required.

11          (f) The Wetland Concept Plan letter shall be valid for three (3) years from the date of  
 12 issuance and may, upon review, be renewed for additional three (3) year periods.

13          (g) The Wetland Concept Plan review is for guidance purposes only and does not grant  
 14 approval of a Unified Nontidal Wetland Permit.

15          **Sec 32-219. Application Requirements for Regulated Activities.**

16          (a) A person may not conduct a regulated activity in a non-tidal wetland, buffer, or  
 17 expanded buffer unless the Department has determined that the activity is exempted or has issued  
 18 a permit or a Letter of Authorization. Any County grading or building permit to conduct a  
 19 regulated activity in a wetland, buffer, or expanded buffer is invalid unless the Department or the  
 20 MDNR has issued a Nontidal Wetland Permit or a Letter of Authorization.

21          (b) Any fee structure for the nontidal wetland permit process shall be established by  
 22 Resolution of the County Council, and such fees shall be payable to Prince George's County.

23          (c) Application Forms.

24           (1) An application for a nontidal wetland permit shall be on a unified Federal, State  
 25 and County permit application form furnished by the Department and shall include all in-  
 26 formation required in Subsection (d) and any additional information required by the Department  
 27 in Subsection (e).

28           (2) The Department shall coordinate with other Federal, State and County agencies to  
 29 expedite review of associated permits.

30           (3) The person signing the application form shall be:

31           (A) An officer or authorized agent, if the applicant is a corporation;

1           (B) A legally authorized official, if the applicant is a County agency or  
 2 municipal government;

3           (C) An authorized partner, if the applicant is an association or a partnership; or

4           (D) An individual or his/her legally authorized representative, if the applicant is  
 5 an individual.

6           (4) The person who signs the application shall be responsible for the truth, accuracy  
 7 and completeness of all information in the application.

8           (d) An applicant for a permit or a Letter of Authorization shall submit all of the  
 9 information required by the application form.

10          (e) An applicant for a Unified Nontidal Wetland Permit or Letter of Authorization may be  
 11 required to submit one or more of the following items of information for an application to be  
 12 considered complete and the delineation correct:

13           (1) The Wetland Concept Plan letter and all information submitted at the Concept  
 14 stage;

15           (2) Name of the property owner and contract purchaser;

16           (3) Legal description of the project location;

17           (4) Description of the project purpose including a discussion of the project's spatial  
 18 requirements and the sensitivity of the project design to the nontidal wetland area;

19           (5) A composite site plan at a scale of one inch equals 200 feet drawn by a licensed  
 20 surveyor or engineer to show the overall project and layout;

21           (6) A site plan at a scale of one inch equals 30 feet or 50 feet drawn by a licensed  
 22 surveyor or engineer that includes the following:

23           (A) Nontidal wetland boundary, as marked by flags in the field, based on field  
 24 delineation and in accordance with the Corps Delineation Manual, including the buffer and  
 25 expanded buffer. The applicant shall maintain the boundary flags in place until notified by the  
 26 Department;

27           (B) Location of all existing and proposed structures;

28           (C) Location of all proposed regulated and nonregulated activities;

29           (D) Property Lines of all adjacent and/or impacted properties;

30           (E) Names of adjacent property owners;

31           (F) Location of Nontidal Wetlands of Special State Concern;

- 1                    (G) Location and number of all soil samples;
- 2                    (H) Location of the County’s approved 100 year floodplain boundary based on
- 3 the proposed condition;
- 4                    (I) Existing topography (2 foot field run contours, 5 foot contours or aerial as
- 5 needed); and
- 6                    (J) Type I and II Tree Conservation Plan or a valid letter of exemption;
- 7                    (7) Proposed or approved preliminary plan of subdivision or lot layout;
- 8                    (8) Drainage area map;
- 9                    (9) Alternative site analysis including the physical, economic and demographic
- 10 character of each site. The analysis shall also include a discussion of potential impacts and the
- 11 steps taken, first to avoid, and then to minimize, impacts for each site;
- 12                    (10) An Avoidance and Minimization Analysis;
- 13                    (11) Demonstration of public need, as applicable, by showing;
- 14                    (A) The present or future availability of projects with the same or similar public
- 15 need; and
- 16                    (B) A demand for the project in the general area;
- 17                    (12) representative photograph of the affected nontidal wetland area;
- 18                    (13) A Phase I Mitigation Plan;
- 19                    (14) Other information an applicant deems appropriate;
- 20                    (15) A cross section of proposed final elevation after filling, grading or excavating;
- 21                    (16) A description of the type and quantity of fill material to be used;
- 22                    (17) Acreage, function and type of nontidal wetland area, buffer, and expanded buffer
- 23 that will be affected permanently or temporarily by the regulated activity;
- 24                    (18) Data from soil samples which will be:
- 25                    (A) Taken from a minimum depth of 20 inches and include a description of soil
- 26 colors and textures as obtained from borings sufficient to verify Hydric or nonhydric conditions;
- 27                    (B) On transects perpendicular to the nontidal wetland boundary, starting within
- 28 the nontidal wetland area and moving towards the upland; and
- 29                    (C) Numbered and accompanied by a soil description log indicating the observed
- 30 or estimated depth to the highest water table during the year;
- 31                    (19) Data sheets from the Corps delineation Manual identifying and describing

1 hydrology and vegetation along the transects required in Subsection (e) (18);

2 (20) Identification of nontidal wetlands known or believed to have significant plant or  
3 wildlife value;

4 (21) Description of available utilities, site access, type and acreage of the nontidal  
5 wetland, and description of potential impacts for each alternative site considered by the  
6 applicant;

7 (22) Map of, and narrative statement regarding, the geographic boundaries of the  
8 general area where the proposed project could be undertaken and still meet the project purpose;

9 (23) Brief discussion of demographic factors which are critical to the success of the  
10 project, including data, statistics or marketing studies;

11 (24) Description of water, wastewater, community facilities, schools, transportation, or  
12 other public facility requirements of the project;

13 (25) An assessment of on-site and adjacent nontidal wetland buffer and expanded  
14 buffer functions;

15 (26) Field survey of animal species and/or the natural characteristics of the site;

16 (27) Soil infiltration rates as determined in the field; or

17 (28) Larger scale or more detailed engineering design plans or maps.

18 (f) Confidential Information.

19 (1) Except as provided in Subsection (f) (2), information submitted to the Department  
20 under this regulation shall be made available for public inspection and copying.

21 (2) An applicant may request in writing, at the time the application is submitted, that  
22 confidential information submitted as part of an application not be disclosed. The Department  
23 shall determine if the information is confidential under State Government Article Section 10-611  
24 et seq., Annotated Code of Maryland, and other applicable law. If the Department denies the  
25 applicant's request for nondisclosure, the applicant may with-draw an application or seeks  
26 review of the Department's determination under applicable law. If the applicant withdraws an  
27 application, the Department shall, at the request of the applicant, return any documents  
28 designated as confidential.

29 **Sec. 32-220. Application Processing Procedures for the Department.**

30 (a) The Department shall acknowledge receipt of the application in writing, within ten (10)  
31 days by fax or regular mail.

1       (b) The Department shall consider an application complete if it contains all of the  
2 information required under Section 32-220(d); information requested under Section 32-219(e);  
3 and is sufficient for the Department to process the application.

4       (c) The Department shall notify an applicant for a permit in writing, within 45 days of  
5 receipt of an application stating, whether the application is complete and the wetland delineation  
6 correct.

7           (1) If the application is incomplete or information submitted is insufficient, the  
8 Department shall notify the applicant, in writing, of the additional information needed.

9           (2) If the wetland delineation is incorrect, the Department shall so notify the applicant  
10 and require the applicant to correct the delineation.

11       (d) If the Department fails to notify an applicant of the need for additional information  
12 and/or correction of the wetland delineation within 45 days of receipt of the application, the  
13 application shall be considered complete and the delineation correct.

14       (e) The Department, upon written notice to the applicant, may extend the 45 day time  
15 period when at least one of the following extenuating circumstances prevent consideration of the  
16 application:

17           (1) Inclement weather conditions;

18           (2) Review required by Federal or State agencies; or

19           (3) Additional information must be submitted by the applicant to clarify or complete  
20 the information in the application.

21       (f) Public Notice.

22           (1) After the Department has determined that an application is complete and the  
23 wetland delineation is correct, the Department shall issue, at the applicant's expense, a public  
24 notice of an opportunity to submit written comments or request a public informational hearing  
25 about the application. The time period for submitting written comments or requesting a hearing  
26 shall not exceed 30 days. Public notice and a public informational hearing may not be required  
27 for activities that qualify for a Letter of Authorization under Section 32-226.

28           (2) The public notice shall contain:

29               (A) The name and address of the applicant;

30               (B) A description of the nature and location of the proposed project;

31               (C) A description of the proposed mitigation plan, if applicable.

1           (D) Instructions of how to submit written comments, request a public  
 2 informational hearing, and/or how to place one's name on the interested person's mailing list;

3           (E) The expiration date for the opportunity to comment on the wetland  
 4 delineation or to request a public informational hearing regarding same;

5           (F) A statement that any further notices concerning actions on the application  
 6 will be provided only by mail to those persons on the interested persons mailing list; and

7           (G) The name, address and telephone number of person in the Department from  
 8 which information about the application may be obtained.

9           (3) The public may be notified by any of the following methods:

10           (A) Selected mailing to Federal, State, County, or municipal authorities; persons  
 11 on the interested persons mailing list; and adjacent property owners;

12           (B) Publication for at least one (1) business day in a newspaper of record;

13           (C) Joint notice with other Federal, State or County agencies; or

14           (D) Joint notice with other units or programs within the Department.

15           (4) The Department shall provide MDNR with a copy of the public notice for any  
 16 completed application.

17           (g) Public Informational hearing.

18           (1) Any interested person may request, in writing, a public informational hearing.

19           (2) If requested, a public informational hearing shall be held within 45 days of the  
 20 expiration date specified in the public notice. The Department shall mail the notice specifying  
 21 the location, date and time of the public informational hearing to those persons on the interested  
 22 person's mailing list.

23           (3) The Department may extend the time period for the public informational hearing  
 24 for the following extenuating circumstances:

25           (A) Circumstances listed in Subsection (e); or

26           (B) A request by an applicant.

27           (4) The Director may hold a public informational hearing and shall be designated as  
 28 the presiding official.

29           (5) An applicant and any interested person shall be given an opportunity at the public  
 30 informational hearing to present facts and make statements for or against granting the permit.

31 Questions may be asked of, and directed to, the presiding official, but cross examination may not

1 be conducted. The hearing is not a contested case hearing.

2 (6) The presiding official may determine the order of presentation of comments and  
 3 questions at the public informational hearing. The public informational hearing may be  
 4 conducted in the following order:

5 (A) Introduction by the Department.

6 (B) Presentation or proposed project by the applicant;

7 (C) Comments and questions by public officials;

8 (D) Comments and questions by other persons; and

9 (E) Closing of the public informational hearing by the presiding official;

10 (7) The presiding official has the authority and duty to:

11 (A) Conduct a full and fair public informational hearing;

12 (B) Act to avoid unnecessary delay and to maintain order; and

13 (C) Regulate the course of the public informational hearing and the conduct of

14 the participants.

15 (8) The presiding official shall prepare an official record of the public informational  
 16 hearing.

17 (9) The official record of the public informational hearing may not be transcribed  
 18 unless the Department, the applicant, or a participant in the hearing requests a transcript. Costs  
 19 of transcription shall be paid by the person requesting the transcript.

20 (h) In calculating any time period provided for in this ordinance, if the last day falling  
 21 within the time period falls on a Saturday, Sunday or a County or State holiday, the time period  
 22 will be extended until the next normal business day.

23 (i) Letter of Authorization.

24 (1) Within 21 days of the Department's determination that the application is complete  
 25 and the wetland delineation correct, the Department shall notify the applicant, in writing,  
 26 whether the activity qualifies for a Letter of Authorization and, if so, what best management  
 27 practices, if any, will be required.

28 (2) The Department's Letter of Authorization shall be void if the information  
 29 submitted is later shown to have been false, misleading or inaccurate. The Department shall  
 30 pursue an appropriate enforcement action under Section 32-236 as to any activities that have  
 31 been undertaken under the void Letter of Authorization.

1           (3) If the Department determines that the proposed activity does not qualify for a  
 2 Letter of Authorization, it shall notify the applicant of the need to apply for a permit under  
 3 Section 32-219.

4           (4) The Department shall specify in the Letter of Authorization the time period for  
 5 which it is valid.

6           (5) If an applicant applies for a Letter of Authorization and a permit, the Department  
 7 may withhold its decision on the Letter of Authorization pending a final permit decision.

8           (j) Interested person's mailing list. Upon written request, the Department may add  
 9 additional names to the list. Those wishing to have their names placed on the list may send a  
 10 written request to the Department.

11 **Sec. 32-221. Permit Decision and Reconsideration.**

12           (a) Permit Decision.

13           (1) The Department shall, after the closing date for receipt of written comments or  
 14 after a public informational hearing if requested:

15                   (A) Consider the written comments, testimony and other information received;  
 16 and

17                   (B) Render a decision to grant, deny or condition a permit within:

18                           (i) 60 days of the Department's determination that an applicant is  
 19 complete and the delineation correct, if no hearing is requested; or

20                           (ii) 45 days of a public informational hearing.

21           (2) The department may extend the time period in which to render a decision for an  
 22 additional 30 days for the following extenuating circumstances:

23                   (A) Review required by a Federal or State agency; or

24                   (B) Request by an applicant.

25           (3) The Department may afford the applicant an opportunity to provide, or the  
 26 Department may request the applicant to provide, additional information to address concerns  
 27 raised in written comments.

28           (4) The applicant may request, in writing, that the Department withhold making a  
 29 final permit decision on the application until additional information can be provided. The  
 30 Department may withhold making its permit decision for 6 months, after which the application  
 31 shall be deemed withdrawn and a new application must be submitted, unless otherwise

1 determined by the Department.

2 (5) Written notice of the permit decision shall be mailed to the applicant and to all  
 3 persons on the interested person's mailing list. Notice of the permit decision need not be  
 4 published.

5 (6) Work authorization under a permit shall be completed within the time period  
 6 specified in the permit.

7 (7) An applicant may not submit a new permit application for the same scope of work  
 8 where a permit application has been denied for six (6) months from the date of denial unless  
 9 there is a substantive change in the application.

10 (8) A permit may not be issued and work may not begin unless a final site plan or any  
 11 other necessary information is provided to the Department.

12 (b) Permit Reconsideration.

13 (1) A person who has the legal rights, duties, interests or privileges different from the  
 14 general public, which are adversely affected by the Department's decision to grant, deny, or  
 15 condition a permit, may request a reconsideration of the decision to the Director.

16 (2) The request for reconsideration shall be in writing and filed with the Department  
 17 within 30 days of the permit decision.

18 (3) The request for reconsideration shall contain:

19 (A) The name, address and telephone number of the person making the request;

20 (B) The name, address and telephone number of any attorney representing the  
 21 person making the request;

22 (C) A description of the grounds for the request, including the specific legal  
 23 right, duty, privilege or interest which may be adversely affected by the permit determination,  
 24 and which is different from those interests held by the general public;

25 (D) A statement of the specific relief desired as a result of the reconsideration;  
 26 and

27 (E) A general outline of the evidence supporting the desired relief, including the  
 28 names and addresses of those that can verify the information submitted for the reconsideration.

29 (4) The Director shall review a request for reconsideration to determine whether the  
 30 person requesting it has:

31 (A) A specific legal right, duty, privilege, or interest which is or may be

1 adversely affected by the permit determination and which is different from that held by the  
 2 general public;

3 (B) Raised at least one issue that is related to the subject of the permit and arises  
 4 under this Ordinance; and

5 (C) Made a request for reconsideration within 30 days of the date the permit was  
 6 issued or denied as specified under Subsection (b).

7 (5) The Director shall determine whether to grant or deny the relief requested in the  
 8 reconsideration. If the determination is to deny the request, the determination shall be in writing  
 9 and mailed by certified mail to the person requesting the reconsideration.

10 (6) Notification of the determination to deny the relief requested in the  
 11 reconsideration shall contain the following:

12 (A) The specific reasons for the denial;

13 (B) A statement that if review under this regulation is not sought, the denial shall  
 14 be the Department's final decision on the request for reconsideration.

15 (c) Appeal of Permit Decision or Appeal of Reconsideration.

16 (1) Any person adversely affected by the determination to grant or deny the permit or  
 17 the reconsideration has the right to appeal to the Prince George's County Board of Appeals.  
 18 Such action shall be taken within ten (10) calendar days of the receipt of the notice of decision.

19 (2) The Board may reverse, modify or remand the decision of the Director only if the  
 20 decision of the Director is clearly erroneous, illegal, arbitrary or capricious, or unsupported by  
 21 any substantial evidence. The Board shall not have the authority to issue an order which is in  
 22 conflict with a lawful order of the Director, or the requirements and provisions of this Ordinance.

23 **Sec. 32-222. Criteria for Review of Nontidal Wetland Permit Applications.**

24 (a) The Department may not issue a permit for a regulated activity unless the Department  
 25 finds the applicant has demonstrated that the:

26 (1) Proposed project is water-dependent and requires access to a nontidal wetland as a  
 27 central element of its basic function under the criteria in Subsection (b) and (c), or is not water-  
 28 dependent and has no practicable alternative under the criteria in Subsection (d);

29 (2) Regulated activity will first avoid and then minimize adverse impacts to the  
 30 nontidal wetland based on consideration of existing topography, vegetation, fish and wildlife  
 31 resources and hydrological conditions under the criteria in Section 32-223(b);

1           (3) Regulated activity does not cause or contribute to degradation of groundwater or  
 2 surface water under the criteria in Section 32-224(a); and

3           (4) Proposed project is consistent with an applicable comprehensive watershed  
 4 management plan.

5           (b) Water Dependency.

6           (1) A proposed project shall be considered water-dependent if the use of surface  
 7 water or a nontidal wetland is essential to fulfill the basic purpose of the proposed project.

8           (2) The Department shall apply the following criteria in determining if a proposed  
 9 project is water-dependent:

10           (A) Whether an alternative water source is available for use, including surface  
 11 runoff or groundwater, that may have fewer adverse impacts on nontidal wetlands; and

12           (B) Whether the use of a nontidal wetland would only enhance a project rather  
 13 than being essential to it.

14           (3) In determining whether a proposed project is water-dependent, the Department  
 15 shall consider the applicant's definition of the project purpose but may independently determine  
 16 whether the proposed project is water-dependent.

17           (4) For a multiple use project which has both water-dependent and nonwater  
 18 dependent features, the Department shall determine which features are water-dependent.

19           (c) Access Test.

20           (1) In determining whether the proposed project requires access to a nontidal wetland  
 21 as a central element of its basic function, the Department shall consider whether access could be  
 22 accomplished at another location that would first avoid and then minimize nontidal wetland  
 23 impacts.

24           (2) A water-dependent project, which the Department determines requires access to a  
 25 nontidal wetland, shall be exempted from the requirements of Subsection (d), but shall comply  
 26 with all other requirements referenced in Subsection (a).

27           (d) Practicable Alternative Analysis.

28           (1) The applicant shall demonstrate to the satisfaction of the Department that  
 29 practicable alternatives, including both alternative site analysis and on-site minimization, have  
 30 been analyzed and that the proposed regulated activity has no practicable alter-native.

31           (2) In determining whether the proposed regulated activity has a practicable alter-

1 native, the Department shall consider whether:

2 (A) The project purpose can be reasonably accomplished using one or more  
 3 alternative sites in the same general area as the proposed site that would avoid or result in  
 4 less adverse impact to the nontidal wetland(s) under the criteria in Section 32-223. The  
 5 Department shall consider the applicant’s definition of “general area” but may take its  
 6 own independent determination of what the “general area” is;

7 (B) The reduction in the size, scope, configuration or density of the proposed  
 8 project and all alternatives designs would avoid or minimize impact to the nontidal wetland but  
 9 would not accomplish the basic purpose of the project under the criteria of Section 32-223(b);

10 (C) The applicant has made a good faith effort to accommodate site restraints  
 11 such as zoning regulations, infrastructure or parcel size which caused an alternative site to be  
 12 rejected. To determine if an applicant has made a reasonable effort to accommodate constraints,  
 13 the Department shall consider any pertinent information, including:

14 (i) Correspondence or other written documentation between an applicant  
 15 and the County, including a request for a special exception or other Zoning variance;

16 (ii) Evidence of efforts to modify the local infrastructure, including future  
 17 planned expansions or redesign of the project because of a nontidal wetland impact; and

18 (iii) Written documentation of the effort undertaken to acquire another site  
 19 or to reconfigure the proposed project to accommodate the constraint.

20 (D) The regulated activity is necessary to meet a demonstrated public need. The  
 21 following apply:

22 (i) To determine if the regulated activity is necessary for the proposed  
 23 project to meet a demonstrated public need, the Department shall consider any pertinent  
 24 information, including the economic value contributed by the proposed project to an identified  
 25 State or local economic priority and if the proposed project promotes public health, safety or  
 26 welfare.

27 (ii) In weighing the economic value of the proposed project with respect to  
 28 meeting a demonstrated public need in the general area, and the ecological and economic value  
 29 associated with the nontidal wetland, the Department shall consider the functions of, benefits and  
 30 the economic value provided to the general public by the nontidal wet-land adversely impacted  
 31 by the regulated activity and the ability of the nontidal wetland to continue to provide the

1 identified functions and benefits to the general public.

2 **Sec. 32-223. Alternative Site; Avoidance and Minimization Analysis.**

3 (a) Alternative Site Analysis.

4 (1) An applicant shall prove to the Department's satisfaction that alternative sites for  
5 the proposed project have been examined during the initial planning phase.

6 (2) An applicant shall search during the initial planning phase for one or more  
7 alternative sites that meet the project purpose and would result in the latest adverse impact to  
8 nontidal wetlands.

9 (3) Determining the Initial Planning Phase.

10 (A) The intent of the initial planning phase is to require an applicant to evaluate  
11 the feasibility of the project and the adverse impact on nontidal wetlands at the earliest stage of  
12 the development process, before the applicant has committed substantial resources in the project  
13 site. Consideration of alternative sites at the earliest stage enables the applicant to retain the  
14 flexibility to avoid adverse impacts to nontidal wetlands.

15 (B) An applicant shall select the earliest of the following times as the initial  
16 planning phase for the proposed project:

17 (i) When an applicant conducts a formal or informal feasibility or market  
18 study, prepares an environmental impact statement or assessment, or a similar study for the  
19 project;

20 (ii) When an applicant enters into an option agreement or contract of sale  
21 for the property;

22 (iii) When an applicant applies for a Wetland Concept Plan review, a  
23 building permit, subdivision or infrastructure approval, zoning change or any other local  
24 governmental approvals for the project;

25 (iv) At the time an applicant applies for a Unified Nontidal Wetland Permit  
26 under this Ordinance;

27 (v) When a budget or financing request is secure; or

28 (vi) Any other appropriate time selected by the applicant.

29 (C) For the time selected in Subsection (a)(3)(B), an applicant shall provide a  
30 written justification of the selection, including copies of any documentation supporting the  
31 selection and an explanation of why earlier times would be inappropriate or inapplicable to the

1 proposed project.

2 (D) While the Director will give serious consideration to the initial planning  
 3 phase selected by the applicant, the Department reserves the right to require additional  
 4 information from the applicant concerning the initial planning phase selection or to in-  
 5 dependently determine the appropriate time.

6 (4) To determine if the purpose of the proposed project cannot be reasonably  
 7 accomplished by using another site, the Department shall consider:

8 (A) Whether an applicant has made, and can document, a good faith effort to  
 9 analyze alternative sites in the general area during the initial planning phase to first avoid  
 10 adverse impacts and then to minimize adverse impacts to nontidal wetlands;

11 (B) Whether an applicant has made, and can document, attempts to obtain land  
 12 ownership interests or other rights to conduct the proposed project on alternative sites which first  
 13 avoid adverse impacts and then minimize adverse impacts to nontidal wet-lands;

14 (C) The total number of alternative sites and the physical, economic and demo-  
 15 graphic characteristics of those sites considered by an applicant;

16 (D) The physical, economic and demographic requirements of the proposed  
 17 project relative to the alternative sites analyzed;

18 (E) The degree to which use of alternative sites is constrained by other govern-  
 19 mentally imposed restrictions and requirements, including concern for avoidance of other  
 20 environmental, social, community, archaeological, historic and park land impacts;

21 (F) Efforts undertaken to reduce adverse impacts to nontidal wetlands through  
 22 consideration of reducing density, other site designs or project configurations on each alternative  
 23 site analyzed; and

24 (G) The costs of fulfilling mitigation requirements for each alternative site.

25 (5) An alternative site may not be excluded from consideration because it includes or  
 26 requires an area not owned by the applicant who could be reasonably obtained, used, expanded  
 27 or managed to fulfill the basic purpose of the proposed project.

28 (b) Avoidance and Minimization Analysis.

29 (1) The applicant shall demonstrate to the Department's satisfaction that all necessary  
 30 steps have been taken to first avoid and then to minimize adverse impacts to nontidal wetlands.

31 Losses of nontidal wetlands shall be permitted only when adverse impacts to nontidal wetlands

1 are necessary and unavoidable.

2 (2) In reviewing the sufficiency of the applicant's efforts to first avoid and then to  
 3 minimize adverse impacts to a nontidal wetland through reduction of the project size, scope, or  
 4 density or by an alternative configuration or design, the Department shall consider:

5 (A) The spatial requirements of the proposed project;

6 (B) The location of any existing structural or natural features that may dictate the  
 7 placement or configuration of the proposed project;

8 (C) The purpose of the proposed project and how the purpose relates to  
 9 placement, configuration or density;

10 (D) Sensitivity of the site design to nontidal wetlands;

11 (E) An applicant's efforts to:

12 (i) Reduce the scope of the proposed project;

13 (ii) Remove or accommodate site constraints including zoning regulations,  
 14 infrastructures, access or natural features; and

15 (iii) Otherwise avoid or minimize adverse impact, and

16 (F) The costs of fulfilling potential mitigation requirements based on project  
 17 configuration or design versus the alternative project configuration or design.

18 (3) The Department shall consider pertinent factors when evaluating the extent to  
 19 which a proposed project has avoided or the regulated activity has minimized, direct or indirect  
 20 adverse impacts to nontidal wetlands under this Section, including:

21 (A) reduction in acreage of a nontidal wetland affected by a regulated activity;

22 (B) Harm to a threatened or endangered species in need of conservation, or to  
 23 the critical habitat of these species;

24 (C) Movement of wildlife species indigenous to the nontidal wetland or water  
 25 body;

26 (D) Ability of the nontidal wetland to continue to support and provide habitat for  
 27 those aquatic and wildlife species using the area;

28 (E) Hydrologic regime of the areas upstream and downstream of the area of  
 29 impact;

30 (F) Functions of the impacted or adjacent nontidal wetlands;

31 (G) Passage of normal or expected high flows, or the relocation of water;

- 1           (H) Subsurface water flow into or out of any nontidal wetland areas;
- 2           (I) Presence of, or potential for, supporting fish spawning areas;
- 3           (J) Presence of areas having significant plant or wildlife value;
- 4           (K) Cumulative impact to nontidal wetlands; and
- 5           (L) Impacts to the 100 year floodplain.

6   **Sec. 32-224. Water Quality and Watershed Management Plans.**

7           (a) To meet the requirements of Section 32-222 (a) (3), a regulated activity may not;

8                   (1) As determined by the Department, MDNR or MDE, cause an individual or  
 9 cumulative effect that degrades;

- 10                   (A) Aquatic ecosystem diversity, productivity and stability;
- 11                   (B) Plankton, fish, shellfish and wildlife;
- 12                   (C) Recreational and economic values; and
- 13                   (D) Public welfare; or

14                   (2) As determined by MDE or the Department, cause an individual or cumulative  
 15 effect that;

- 16                   (A) Violates any applicable State water quality standard, the Environment  
 17 Article of the Annotated Code of Maryland, or the Clean Water Act; and
- 18                   (B) Degrades surface and groundwater quality.

19           (b) To meet the requirements of Section 32-222(a) (4), a regulated activity shall be  
 20 consistent with the applicable comprehensive watershed management plan. Comprehensive  
 21 watershed management plans shall meet the following criteria:

22                   (1) Comprehensive watershed management plans may be prepared by Federal, State  
 23 and local agencies;

24                   (2) A private property owner may request to assist in the preparation of a  
 25 comprehensive watershed management plan when the entire watershed is owned by the private  
 26 property owner; and:

27                   (A) When the Department, after consultation with MDNR and appropriate  
 28 Federal, State and local government agencies, approved the request;

29                   (B) A private property owner agrees to assist in the preparation of the  
 30 comprehensive watershed management plan in accordance with this Subsection; and

31                   (C) The comprehensive watershed management plan meets the requirements of

1 Subsection (b) (3) through (5).

2 (3) Comprehensive watershed management plans shall be prepared in cooperation  
3 with Federal, State and local agencies and approved by the County and MDNR.

4 (4) The County and MDNR may not adopt or approve a comprehensive watershed  
5 management plan before conducting a public informational hearing on the proposed plan.

6 (5) A comprehensive watershed management plan shall include the following  
7 elements:

8 (A) A functional assessment of nontidal wetlands within the watershed;

9 (B) The location of potential mitigation sites;

10 (C) Protection of nontidal wetlands;

11 (D) A plan for limiting cumulative impacts to nontidal wetlands;

12 (E) Water supply management; and

13 (F) Flood management.

14 **Sec. 32-225. Exemptions from Permit Requirements.**

15 (a) The following activities shall be exempt from the Unified Nontidal Wetland Permit and  
16 mitigation requirements of this Ordinance, but are subject to MDNR regulations under COMAR  
17 08.05.04.13 and .15 through .18;

18 (1) Forestry activities conducted in accordance with COMAR 08.05.04.20 and .21;

19 (2) Agricultural activities in Regulation COMAR .08.05.04.19B. All other  
20 agricultural activities shall be exempt from the permit requirements of this Ordinance, but are  
21 subject to the mitigation requirements of COMAR .08.05.04.13 and .15 through .18;

22 (3) Activities conducted by State agencies; and

23 (4) Activities conducted in Nontidal Wetlands of Special State Concern.

24 (b) Any proposed regulated activity conducted by a person who has applied to the U.S.  
25 Army Corps of Engineering by December 31, 1990, for a permit under Section 404 of the Clean  
26 Water Act is exempt from the Joint State/County Wetland permit requirement provided that the  
27 following conditions are satisfied:

28 (1) The U.S. Army Corps of Engineers ultimately issues a permit or other document  
29 under Subsection (b) (3);

30 (2) The applicant does not alter the scope of the regulated activity originally applied  
31 for without authorization from the U.S. Army Corps of Engineers.

1           (3) A person submits the following information to the Department, as may be  
 2 applicable, and as may be requested by the Department:

3                   (A) A copy of a dated application for a permit under Section 404 of the Clean  
 4 Water Act;

5                   (B) A copy of the plans for the project which were submitted to the Corps; and

6                   (C) A letter from the Corps describing the project and proposed activity and  
 7 stating either:

8                           (i) The project and proposed activity is authorized by the Corps; or

9                           (ii) The proposed activity is exempt from Section 404 permit requirements.

10           (c) The following activities shall be exempt from the Unified Nontidal Wetland Permit,  
 11 provided they do not result in cumulative direct or indirect adverse impacts:

12                   (1) Construction of additions, outbuildings and accessories to existing structures  
 13 within a landscape management area which impacts less than 1,000 square feet of non-tidal  
 14 wetlands;

15                   (2) Construction placed on existing impervious surfaces or on structures within the  
 16 buffer or expanded buffer;

17                   (3) Removal of 30 percent of the trees in the buffer provided that:

18                           (A) The density, but not the areal extent of the trees, is reduced;

19                           (B) No more than 30 percent of the understory is removed; and

20                           (C) Provided that clearing is in conformance with the applicable Type I and/or

21 Type II Tree Conservation Plan;

22                           (4) Moving or other forms of vegetation control on existing rights-of-way;

23                           (5) The control of State designated noxious weeds;

24                           (6) Landscape management in the nontidal wetland, buffer or expanded buffer;

25                           (7) Soil investigations;

26                           (8) Percolation tests for sewage disposal fields;

27                           (9) Survey markers or survey monuments;

28                           (10) Other similar activities with minimal adverse impacts as approved by the

29 Department and MDNR;

30                           (11) The maintenance of the following serviceable structures or fills:

31                                   (A) Above and underground utilities;

- 1           (B) Structures in rights-of-way;
- 2           (C) Railroad beds;
- 3           (D) Road beds, roadside ditches, culverts, outlet ditches, wash ponds and
- 4 temporary sediment control structures;
- 5           (E) Bridges;
- 6           (F) Dams;
- 7           (G) Dikes;
- 8           (H) Levees;
- 9           (I) Water and wastewater control structures; and
- 10          (J) Facilities designed for stormwater management.

11 **Sec. 32-226. Activities Requiring a Letter of Authorization.**

12           (a) Except for regulated activities proposed within the Chesapeake Bay Critical Area, an

13 activity that qualifies for a Letter of Authorization is exempt from the permit and mitigation

14 requirements of this Ordinance. Activities proposed in the Chesapeake Bay Critical Area are not

15 exempt from the mitigation requirements of Sections 32-230 through 32-234.

16           (b) Upon application, the following activities may qualify for a Letter of Authorization

17 provided that the conditions in Section 32-227(b) are satisfied and best management practices,

18 which may be required by the Department, are all met:

19           (1) Activities in isolated nontidal wetlands of less than one acre and having no

20 significant plant or wildlife value. An applicant's determination of whether an area is an isolated

21 nontidal wetland shall be based on published hydrologic and hydraulic data or data obtained in

22 the field which shows whether the nontidal wetland is hydrologically connected. The applicant's

23 determination shall be verified by the Department.

24           (2) Activities whose cumulative loss of nontidal wetlands and buffer, which contains

25 no significant plant or wildlife value is:

26           (A) Less than 5,000 square feet; or

27           (B) Greater than 5,000 square feet; or

28           (i) The actual loss of nontidal wetland is less than 5,000 square feet; and

29           (ii) Activities in the buffer result in minimal additional adverse impacts to

30 nontidal wetlands as determined by the Department.

31           (3) Installation of utility lines.

1           (A) The installation of utility lines including the following activities:

2                 (i) Trenching, jetting, jack hammering or plowing of nontidal wetlands;

3                 (ii) Laying of pipe, cable or wire;

4                 (iii) Backfilling of the excavated trench containing the pipe, cable or wire;

5                 (iv) Placement of the riprap; and

6                 (v) Restoration of nontidal wetland areas which have been disturbed.

7           (B) Utility lines do not include:

8                 (i) Intake and outfall structures;

9                 (ii) Pipe or pipeline used to transport any liquid or slurry substance except

10 as associated with water and sewage lines;

11                 (iii) Natural gas lines greater than 12 inches in diameter; or

12                 (iv) Stormwater conveyance systems.

13           (4) Construction of overhead power transmission lines.

14           (5) Mitigation projects not required under this Ordinance.

15           (6) Regulated activities which impact the buffer and less than two acres of farmed  
 16 nontidal wetlands with 15 or more consecutive days on inundation during the growing season,  
 17 except in Wetlands of Special State Concern or their expanded buffer.

18           (7) The repair of the following serviceable structures or fills:

19                 (A) Above and underground utilities;

20                 (B) Structures in rights-of-way;

21                 (C) Railroad beds;

22                 (D) Road beds, roadside ditches, culverts and outlet ditches;

23                 (E) Bridges;

24                 (F) Dams;

25                 (G) Dikes;

26                 (H) Levees;

27                 (I) Water and wastewater control structures; and

28                 (J) Facilities designed for stormwater management.

29           (8) Activities which will result in the loss of nontidal wetlands that have been  
 30 temporarily created by a permitted or authorized construction activity or as a result of a  
 31 permitted activity, including wetlands created:

1           (A) Incidental to mining activities that were conducted under an approved  
 2 mining plan or permit, or wetlands that have been created incidental to a mining activity, and that  
 3 will be impacted during implementation of an approved reclamation plan;

4           (B) As a result of the construction of an approved sediment control structure;  
 5 and

6           (C) For a specific purpose that will remain for a specified period of time,  
 7 including wash ponds and grassed waterways.

8           (c) The following conditions apply to the activities listed in Subsection (b) (7).

9           (1) If the structure or fill has been put to uses other than the use originally intended or  
 10 authorized for the original construction, and the repair activity will alter or impair any additional  
 11 nontidal wetland area, the repair of the structure may not qualify for a Letter of Authorization.

12           (2) Repairs to be made more than three years after damage occurs or is first identified  
 13 does not qualify for a Letter of Authorization.

14           (d) An applicant seeking a Letter of Authorization under Subsection (b) (8) shall submit  
 15 the following:

16           (1) Information regarding the creation of the wetland;

17           (2) The purpose of the wetland creation, if applicable;

18           (3) The length of time the wetland has existed;

19           (4) A copy of the approved site plan, erosion and sediment control plan, mining plan  
 20 or reclamation plan;

21           (5) A description of the function the created wetland has served;

22           (6) A request for the length of time the Letter of Authorization is to be valid; and

23           (7) Justification for conducting the regulated activity in the nontidal wetland.

24           (e) Structures that have been placed in nontidal wetlands (for example, sediment traps), or  
 25 that have impacted nontidal wetlands through their construction or operation, do not qualify for a  
 26 Letter of Authorization under Subsection (b) (8).

27           (f) A Letter of Authorization issued under Subsection (b) (8) is in effect for a period of up  
 28 to five years and may be extended for one additional five-year period. No Letter of  
 29 Authorization granted under Subsection (b)(8) may be extended for more than one five-year  
 30 period, for a total of ten years, unless the regulated activity is part of a permitted mining activity  
 31 or involves implementation of a mining reclamation plan.

1 **Sec. 32-227. Best Management Practices for Letters of Authorization.**

2 (a) If a Letter of Authorization is granted, the Department may require an applicant to  
 3 comply with best management practices, including one or more of the following:

4 (1) Conduct the regulated activity in a manner that does not pose any harm to a  
 5 threatened or endangered species, or species in need of conservation, or alter or impair the  
 6 critical habitat of these species;

7 (2) Properly maintain the structure or fill;

8 (3) Design the project to first avoid and then minimize any adverse impacts to the  
 9 nontidal wetlands' existing topography, vegetation, fish and wildlife resources, and hydrologic  
 10 conditions;

11 (4) Conduct the regulated activity in a manner that does not restrict or impede the:

12 (A) Movement of wildlife indigenous to the nontidal wetland or adjacent water;

13 or

14 (B) Passage of normal or expected high water flow;

15 (5) Adhere to time of year restrictions as required by the MDE under COMAR  
 16 26.08.02;

17 (6) Avoid any disturbances in breeding areas for migratory waterfowl;

18 (7) Maintain the hydrologic regime of the nontidal wetland upstream, downstream or  
 19 adjacent to the exempted activity;

20 (8) Remove excess fill or construction material or debris to an upland disposal area;

21 (9) Place materials in a location and manner which will not adversely impact surface  
 22 or subsurface water flow into or out of the nontidal wetland;

23 (10) If backfill is obtained from sources other than the originally excavated material,  
 24 use clean material free of waste metal products, unsightly debris, toxic material, or any other  
 25 deleterious substance;

26 (11) Place heavy equipment on mats or suitably design the equipment to prevent  
 27 damage to the nontidal wetlands;

28 (12) Repair and maintain any serviceable structures or fills in a manner that does not  
 29 result in a substantial deviation from the plans or specifications of the original structure or fill.

30 Minor deviations due to changes in materials or construction techniques, and which are  
 31 necessary for repair and maintenance, are permitted;

1           (13) Restore any nontidal wetlands temporarily impacted by a proposed repair and  
 2 maintenance activity;

3           (14) Repair and maintain any serviceable structures or fills so that there is no  
 4 permanent loss of nontidal wetlands in excess of nontidal wetlands lost due under the original  
 5 construction or fill;

6           (15) Conduct the activity in a manner that does not cause or contribute to a degradation  
 7 of water quality as determined by the Department and MDE;

8           (16) For installation of utility lines, make post-construction grades and elevations of  
 9 nontidal wetlands the same as the original grades and elevations.

10          (b) A proposed activity may not qualify for a Letter of Authorization if the Department  
 11 determines that the activity:

12           (1) Does not qualify under Section 32-226;

13           (2) May result in significant individual or cumulative impacts to nontidal wetlands  
 14 attributable to an entire and complete project; or

15           (3) Will not comply with the best management practices in Subsection (a).

16          (c) Activities of a similar nature.

17           (1) Applicants proposing to conduct repeated activities of a similar nature that may  
 18 qualify for a Letter of Authorization may submit a single application to the Department.

19           (2) The department may issue a single Letter of Authorization for these activities.

20           (3) Activities may include:

21           (A) Structural repair and maintenance; or

22           (B) Work within rights-of-way.

23 **Sec. 32-228. Permit Modifications.**

24          (a) The Department may require modification of a nontidal wetland permit to ensure  
 25 compliance with this Ordinance.

26          (b) The Department may make modifications to a permit:

27           (1) Upon written request by the permittee; or

28           (2) When the rights of the permittee under the permit have not vested, and the

29 Department:

30           (A) Receives new, relevant information; or

31           (B) Has amended the regulation under which the permit was issued.

1       (c) A permittee may apply for a permit modification of an unexpired permit. Modification  
2 requests shall be in writing and contain the following information:

3           (1) A description of the requested modification.

4           (2) A statement of the reasons and need for the requested modification; and

5           (3) A statement of the wetland and buffer impacts associated with the requested  
6 modification.

7       (d) An applicant shall provide additional information requested by the Department.

8       (e) Within 30 days of receiving a request for permit modification, or of receiving  
9 additional information, if any, the Department shall notify the permittee if the modification is  
10 major or minor and of its decision to grant, deny or condition the request.

11       (f) Within 15 days of receipt of notification, a permittee may request reconsideration of a  
12 complete or partial denial of a request to modify a permit. The reconsideration shall be  
13 conducted in conformance with Section 32-222(b) and (c).

14       (g) Minor Modifications.

15           (1) Minor modifications are changes to the original permit which do not constitute a  
16 significant departure from its terms and conditions, including:

17                   (A) Correction of typographical errors;

18                   (B) Changes in frequency of monitoring by the permittee;

19                   (C) Changes of land ownership or permittee;

20                   (D) Extension or reduction of the terms or conditions of the permit;

21                   (E) Minor filed modifications, including substitution of comparable materials,  
22 structural realignments and sediment and erosion control corrections not affecting the design and  
23 performance of wetland protection measures or mitigation plans approved by the Department;  
24 and

25                   (F) Relocation of the proposed project where the adverse impact is equal to or  
26 less than originally permitted.

27           (2) The Department may make minor modifications without notice or review.

28       (h) Major Modifications.

29           (1) Major modifications are changes to the original permit which constitutes a  
30 significant departure from its terms and conditions including changes in the scope of the project  
31 which result in a greater adverse impact than originally permitted.

1           (2) Major modifications are subject to the public notice and hearing procedures  
 2 required for permit applications under Section 32-220(f) and (g).

3           (3) Major changes to the project may require reevaluation of the original permit  
 4 approval.

5           (i) Notice to permittee of required modifications.

6           (1) The Department shall notify a permittee, in writing, if a notification to the permit  
 7 or Letter of Authorization is required under Subsection (b) (2).

8           (2) Within 15 days of receipt of notification that a modification is required, a  
 9 permittee may request reconsideration of the modification. The reconsideration shall be  
 10 conducted in accordance with Section 32-221(b) and (c).

11 **Sec. 32-229. Temporary Emergency Nontidal Wetland Permit.**

12           (a) The Department may issue a temporary emergency nontidal wetland permit if:

13           (1) A threat to life, severe loss, or damage of property, or a threat to public safety or  
 14 public work is imminent; and

15           (2) The anticipated threat, loss or damage may occur before a permit can be issued  
 16 under the procedures otherwise required by this Ordinance.

17           (b) Permit requirements. The temporary emergency permit shall:

18           (1) Incorporate, to the greatest extent practical and feasible, the standards and criteria  
 19 required for nonemergency regulated activities;

20           (2) Be limited in duration to the time required to complete the authorized emergency  
 21 activity, not to exceed 90 days;

22           (3) Require restoration for nontidal wetlands with temporary adverse impacts;

23           (4) Require mitigation for nontidal wetland losses pursuant to Section 32-230 through  
 24 32-234 of this Ordinance.

25           (c) Temporary Emergency Procedure.

26           (1) Not later than the next business day after beginning an emergency regulated  
 27 activity, a temporary emergency permit shall be requested.

28           (2) A temporary emergency permit request may be made orally. However, the  
 29 applicant shall submit a written request to the Department within three days of the oral request.

30           (3) The request in Subsection (c) (2) shall include the:

31           (A) Applicant's name;

- 1 (B) Location of the emergency activity;
- 2 (C) Extent of work to be done;
- 3 (D) Anticipated adverse impact on nontidal wetlands; and
- 4 (E) Reason for the emergency.

5 (4) The temporary emergency permit may be granted orally or in writing. If oral  
 6 approval is granted, the Department shall issue a written emergency permit within three days of  
 7 the approval.

8 (5) If oral approval is not granted, the Department shall issue a written temporary  
 9 emergency permit within ten days of the request if the temporary emergency permit is approved  
 10 by the Department.

11 (d) The Department shall provide public notice and opportunity for comment on the  
 12 issuance of a temporary emergency permit in a local newspaper of general circulation, not later  
 13 than 15 days after the issuance of a permit.

14 (e) Upon written request by a permittee, the Department may extend the temporary  
 15 emergency permit if more time is required to complete the work authorized or to restore the site.

16 (f) The Department may suspend or revoke a temporary emergency permit in conformance  
 17 with Section 32-237.

18 (g) Work performed under a temporary emergency permit shall conform to conditions  
 19 specified by the Department.

20 (h) A person shall apply for a nontidal wetland permit if:

21 (1) The person intends to conduct an additional regulated activity at the site which  
 22 does not qualify for a temporary emergency permit;

23 (2) A temporary emergency permit is denied;

24 (3) Work authorized under temporary emergency permit is conducted beyond the 90  
 25 day period under Subsection (b) (2) without approval from the Department; or

26 (4) Mitigation is required under Subsection (b) (4).

27 **Sec. 32-230. Mitigation for Regulated Activities.**

28 (a) Exemptions. Mitigation or monetary compensation for nontidal wetland loss is not  
 29 required for regulated activities that:

30 (1) Are exempted under Sections 32-225 and 32-226, except where specified;

31 (2) Do not result in a loss of nontidal wetlands;

1           (3) Occur only in the buffer or expanded buffer.

2           (b) Requirements.

3           (1) A permittee shall take all necessary steps to first avoid adverse impacts and then  
4 to minimize impact to nontidal wetlands. If the permittee demonstrates to the Department's  
5 satisfaction that losses of nontidal wetlands are unavoidable and necessary, the Department shall  
6 require the permittee to develop and implement mitigation.

7           (2) The Department shall require a permittee, as a condition of the permit, to mitigate  
8 or monetarily compensate for nontidal wetland losses caused by regulated activities not listed as  
9 exemptions in Subsection (a).

10          (3) The Department may waive some or all of the off-site mitigation requirements for  
11 up to one (1) acre of nontidal wetland lost for construction of special wastewater disposal  
12 facilities in a nontidal wetland on residential property. The waiver is conditioned upon the  
13 applicant siting the special wastewater disposal facility so as to first avoid and then top minimize  
14 impacts to nontidal wetlands, and upon performance of on-site mitigation to the maximum extent  
15 practicable.

16          (4) The Department may reduce mitigation requirements if the regulated activity  
17 provides a significant environmental benefit of the proposed mitigation project has a likelihood  
18 of success, as determined by the Department.

19          (5) The Department shall require a permittee to develop and submit a mitigation plan  
20 for review and approval. The plan shall be consistent with the following:

21               (A) Standards of Section 32-231;

22               (B) Plan requirements in Section 32-233; and

23               (C) Monitoring and bonding requirements in Section 32-232.

24          (6) The Department may accept monetary compensation only if it is determined that  
25 creation; restoration or enhancement of nontidal wetlands is not a feasible alternative. Monetary  
26 compensation shall only be accepted under specific conditions and shall be based on the fee  
27 structure guidelines described in Section 32-234.

28          (7) The Department may not base a final permit decision on the environmental  
29 benefits of a mitigation proposal or the financial benefits of monetary compensation proposals.

30          (8) If the Department denies approval of a mitigation plan and the permittee is  
31 aggrieved by the decision, the permittee may request reconsideration of the denial under the

1 procedures of Section 32-221(b). The Department may order cessation of the per-mitted activity  
 2 or interim stabilization measures, or rescind any other permits or approvals granted for the  
 3 subject property, pending resolution of the request for reconsideration of the Department's  
 4 decision.

5 (9) The Department may approve of mitigation bank sites in consultation with  
 6 appropriate Federal, State and local agencies for the purpose of providing mitigation for  
 7 identified projects. Mitigation bank sites for identified projects are required to meet the  
 8 standards of Section 32-231(i) and (j) and the monitoring requirements of Section 32-232(a).  
 9 Wetland bank sites will not obligate the County to issue a nontidal wetland permit for the future  
 10 project that will cause nontidal wetland loss.

11 **Sec. 32-231. Mitigation Standards.**

12 (a) It is the goal of this Ordinance to attain a no net overall loss in nontidal wetland  
 13 acreage and function, and to strive for a net resource gain in nontidal wetlands within Prince  
 14 George's County. Achievement of the goal will occur through the regulatory components of this  
 15 Ordinance and other County initiatives which incorporate nontidal wetland creation, restoration  
 16 and enhancement projects outside of the regulatory framework.

17 (b) Mitigation standards shall be determined in part through the use of acreage re-  
 18 placement ratios. Acreage replacement ratios are expressed as a relationship between two  
 19 numbers. The first number shall specify the acreage of nontidal wetlands to be mitigated, and  
 20 the second shall specify the acreage of nontidal wetlands lost.

21 (c) The Department shall consider the mitigation requirement for replacing the loss of  
 22 nontidal wetlands to be fulfilled when:

23 (1) The in-kind creation or restoration of nontidal wetlands meets the following  
 24 replacement ratios:

25 (A) Emergent nontidal wetlands 1:1;

26 (B) Scrub-shrub nontidal wetlands 2:1;

27 (C) Forested nontidal wetlands 2:1;

28 (D) Emergent nontidal wetlands designated as Nontidal Wetlands of Special  
 29 State Concern 2:1;

30 (E) Scrub-shrub nontidal wetland designated as Nontidal Wetlands of Special  
 31 State Concern 3:1; and

1                   (F) Forested nontidal wetlands designated as Nontidal Wetlands of Special State  
 2 Concern 3:1; or

3                   (2) A minimum in-kind acreage replacement ratio of 1:1 has been met; and lost  
 4 nontidal wetland functions have been replaced through additional creation, restoration or  
 5 enhancement activities; or

6                   (3) The Department has determined on an individual basis that enhancement is the  
 7 only mitigation option, and has specified mitigation requirements which have been met by the  
 8 permittee;

9                   (4) The Department has specified mitigation requirements which have been agreed to  
 10 and implemented by the permittee.

11                  (d) The Department shall consider the mitigation requirements for replacing a loss of  
 12 farmed nontidal wetlands to be fulfilled when the following replacement ratios have been met  
 13 through:

14                   (1) Enhancement of farmed nontidal wetlands – 1:1;

15                   (2) Creation or restoration of emergent, scrub-shrub, or forested nontidal wetlands –  
 16 1:1.

17                  (e) In order for enhancement activities to be acceptable for the replacement of lost nontidal  
 18 wetland functions, the permittee may be required to:

19                   (1) Perform a functional assessment based on site assessment techniques acceptable  
 20 to the Department; and

21                   (2) Identify how enhancement activities are to replace lost nontidal wetland  
 22 functions;

23                  (f) An enhancement activity may be accepted for replacement of lost nontidal wetland  
 24 functions when the activity provides additional protection to, creates or improves the functions  
 25 of, a nontidal wetland. Activities may include:

26                   (1) Enhancement of farmed wetlands;

27                   (2) Enhancement of degraded nontidal wetlands and buffers;

28                   (3) Best management practices for agricultural activities;

29                   (4) Creation of wildlife ponds approved by the Prince George's Soil Conservation  
 30 District and MDNR;

31                   (5) Purchase or preservation of upland buffers adjacent to existing, created, re-stored

1 or enhanced nontidal wetlands;

2 (6) Purchase or preservation of existing nontidal wetlands; and

3 (7) Activities consistent with the plans and agreements to create or improve water-  
4 fowl habitats in Maryland;

5 (g) In determining if enhancement activities will replace lost nontidal wetland acreage and  
6 function, the Department shall consider the:

7 (1) Degree to which the enhancement activity replaces the functions of the lost  
8 nontidal wetland;

9 (2) Benefits of the enhancement activity in rehabilitating or maintaining the non-tidal  
10 wetland;

11 (3) Scope and extent of the enhancement activity;

12 (4) Proximity of the enhancement activity to the nontidal wetland lost;

13 (5) Technical merits of the enhancement activity and its likelihood of long term  
14 success;

15 (6) Adverse impact of the enhancement activity on natural resources;

16 (7) Relationship of the enhancement activity to ongoing natural resource management  
17 activities; and

18 (8) Compatibility of the enhancement activity to ongoing natural resource  
19 management, if applicable.

20 (h) Mitigation projects shall be connected to existing nontidal wetlands, waterways or 100  
21 year floodplains. Projects may be located on multiple parcels. Projects shall be located  
22 according to the following geographic location in order of preference, unless otherwise  
23 determined by the Department;

24 (1) On site;

25 (2) Off site, in a location approved under a Comprehensive Watershed management  
26 Plan;

27 (3) Off site, in a location identified in plans and agreements to create or improve  
28 waterfowl habitats in Maryland and approved by the Department and MDNR.

29 (4) Where the Department has determined, in consultation with other Federal, State,  
30 County and local agencies, that regional needs for nontidal wetland functions strongly justify the  
31 siting of mitigation projects, and the mitigation project is located:

- (A) In the watershed where the nontidal wetland loss occurred;
- (B) In the drainage basin where the nontidal wetland loss occurred; or
- (C) Outside the drainage basin where the nontidal wetland loss occurred,

preferably within the County.

(i) Mitigation projects for regulated activities in the Chesapeake Bay Critical Area shall be located in the Critical Area according to Subsection (h) (1)-(3);

(j) Siting Within Geographic Locations. In selecting sites, a permittee shall pursue mitigation projects on upland sites which have undergone significant human disturbances. A permittee shall avoid, whenever possible, siting mitigation projects on:

(1) Forested lands;

(2) Lands used for dredge disposal, mine refuse or other purposes where contamination problems may exist; or

(3) Lands which are existing or potential habitat for plant or animal species:

(A) Listed as endangered or threatened by the U.S. Fish and Wildlife Service;

(B) Listed as endangered or threatened or species listed as in need of conservation by the Department and MDNR; or

(C) Considered as a candidate for listing by the U.S. Fish and Wildlife Service, or considered to be locally unusual or rare by the Department and MDNR.

(k) Project Standards.

(1) The permittee shall successfully implement the approved mitigation plan within the time period specified by the Department based on the mitigation plan.

(2) Created or restored nontidal wetlands shall meet the following plant survival criteria:

(A) After five (5) years greater than 85 percent of the site shall be vegetated by planted species approved by the Department or by a species composition agreed to by the Department;

(B) Allowances shall be made for natural species changes as long as the plant communities are similar to those lost; and

(C) After five (5) years, the nontidal wetland shall be dominated by native or adaptive vegetation.

(3) In the case where a permittee has proposed the use of natural re-vegetation as part

1 of the creation, restoration or enhancement project, greater than 85 percent of the site shall, after  
 2 five (5) years, be:

3 (A) Vegetated by species similar to those that are found in the nontidal wetland  
 4 area that was lost or by a species composition agreed to by the Department; and

5 (B) Dominated by native or adaptive vegetation.

6 (4) In the case where the nontidal wetland was dominated by exotic or nuisance  
 7 plants, the Department shall accept out-of-kind mitigation.

8 (5) The Department may not approve mitigation plans that include exotic or nuisance  
 9 plant species:

10 (l) Protection Mechanisms.

11 (1) The permittee shall provide mechanisms to assure the protection of created,  
 12 restored or enhanced nontidal wetlands in perpetuity. This may be achieved through protection  
 13 mechanisms, including:

14 (A) Deed restrictions;

15 (B) Conservation easements;

16 (C) Deeding the created, restored or enhanced nontidal wetland to an  
 17 organization or public agency capable of protecting the area in perpetuity; or

18 (D) Restrictive covenants.

19 (2) Any protection mechanism under Subsection (1) (1) shall include the following  
 20 provisions:

21 (A) Language granting the Department, or any successor agency, access to the  
 22 mitigation site for inspections during the construction and monitoring period of the mitigation  
 23 project, if the permittee forfeits a bond and the Department decides to complete the construction  
 24 of the mitigation project;

25 (B) In the case of an easement agreement, language allowing assignment of a  
 26 permittee's interest under the easement agreement to the Department, if the bond is forfeited and  
 27 the Department decides to complete construction of the mitigation project;

28 (C) An absolute prohibition on the draining, dredging, removal or filling of the  
 29 created nontidal wetland site; and

30 (D) Language that the restriction is perpetual, binding on the grantor's personal  
 31 representative, heirs, successors and assigns and runs with the land.

1 **Sec. 32-232. Monitoring and Bonding.**

2 (a) Monitoring of Mitigation Projects.

3 (1) The permittee shall submit to the Department annual monitoring reports for five  
4 (5) years from the completion of the construction of the mitigation project unless the permittee  
5 has received written notice from the Department that the monitoring requirements have been  
6 fulfilled in less than five (5) years.

7 (2) Through written notification to the permittee, the Department may extend the  
8 required monitoring period for not more than an additional three (3) year period if the mitigation  
9 project fails to comply with Section 32-231(k).

10 (3) Annual monitoring reports submitted to the Department shall include the  
11 following information:

12 (A) A description of how the mitigation project meets the mitigation project  
13 standards in Section 32-231(k);

14 (B) Photographs of the mitigation project;

15 (C) The commercial source of planting stock whenever planting is required;

16 (D) A description of any midcourse corrections which have been taken, or need  
17 to be taken, to implement the mitigation plan or a component thereof to meet the standards of  
18 Section 32-231(k); and

19 (E) An “as-built” site design plan.

20 (4) The Department reserves the right to inspect the mitigation project at any time  
21 during its construction, during the required monitoring period, and at any time after that to assess  
22 the long term viability of the mitigation project.

23 (5) The permittee shall consider monitoring requirements fulfilled only upon receipt  
24 of written notice from the Department.

25 (b) Bonding.

26 (1) This Subsection does not apply to agencies of any Federal, State, County or  
27 Municipal government.

28 (2) Within 60 days of the Department’s approval of Phase II of the mitigation plan, a  
29 permittee shall file with the Department a surety bond on a form to be prescribed and furnished  
30 by the Department.

31 (3) The surety bond shall be payable to the Prince George’s County Government and

1 conditioned upon the successful completion of construction of the mitigation project according to  
2 an approved mitigation plan, as it may be modified under Section 23-268(c).

3 (4) Upon approval by the Director and the County Attorney, the Department may  
4 accept one of the following alternative forms of security:

5 (A) A deposit of cash or negotiable bonds of the U.S. Government having a  
6 market value equal to the acceptable bond amount accompanied by a written agreement of the  
7 bank to pay the County on demand in the event of forfeiture;

8 (B) A certificate of deposit equal to the required bond issued by a bank in the  
9 State of Maryland and accompanied by a written agreement of the bank to pay the County on  
10 demand in the event of forfeiture; or

11 (C) An irrevocable letter of credit that is equivalent to the required bond issued  
12 by a bank or financial institution organized or authorized to do business in the State of Maryland  
13 that expressly states that the total sum is guaranteed to be available and payable directly to the  
14 County on demand in the event of forfeiture. The irrevocable letter of credit may not expire until  
15 all mitigation and monitoring requirements have been fulfilled to the Department's satisfaction.

16 (5) Upon approval by the Director and the County Attorney, the Department may  
17 accept the following alternatives to posting a surety bond before work is begun under a permit:

18 (A) The grant to the Department, in trust, of a deed, by an easement or other  
19 interest in upland property owned by the permittee, that has at least the same monetary value as  
20 the selected mitigation site.

21 (B) Fulfillment of mitigation requirements before the permitted activity results  
22 in a loss of nontidal wetlands.

23 (C) The Department shall obtain possession of, and keep in custody; all  
24 alternative forms of security deposited by the permittee under Subsection (b) (4) (A)-(C) until  
25 authorized for release. All alternative forms of security may not expire until construction of the  
26 mitigation project has been successfully completed pursuant to the approved litigation plan, as  
27 may be modified under Section 32-233(c).

28 (6) The amount of the bond shall be set at \$20,000 per acre of nontidal wetland  
29 mitigation required under the permit. For permits that will impact less than one (1) acre, but no  
30 less than one-quarter acre of nontidal wetlands, the bond shall be set at \$5,000 per one-quarter  
31 acre. The permittee may request the Department to reduce the required bonding amount based

1 on estimated or actual costs of the mitigation project and any other relevant information. In no  
 2 event may the amount of security required be less than the total costs of the mitigation  
 3 requirements, taking into account the following:

4 (A) Number of acres to be mitigated.

5 (B) The cost of land in the area of the mitigation site;

6 (C) The proposed method of mitigation; and

7 (D) Any other relevant factors, including reduction of the bond amount for  
 8 projects with a high likelihood of success.

9 (7) Liability under the bond shall continue until all mitigation and monitoring work  
 10 has been successfully completed, and the work has been accepted as final by the Department.

11 (8) A bond or other alternative form of security shall contain a provision that it  
 12 cannot be canceled by the surety, bank, or other issuing entity, except after not less than 90 days  
 13 written notice to the Department and to the permittee. At least 45 days prior to the cancellation  
 14 date indicated in the notice, the permittee shall file with the Department a commitment from a  
 15 surety, bank, or other issuing entity to provide a substitute bond or other security which will be  
 16 effective on the cancellation date in the notice.

17 (9) The amount of the bond posted by a permittee may be adjusted by the Department  
 18 based on the actual costs of the mitigation design plan or if the cost of future mitigation work  
 19 changes. The Department shall notify the permittee of any proposed bond adjustment and  
 20 provide an opportunity for an informal conference on the adjustment. A permittee may request  
 21 reduction of the bond amount upon submission of evidence to the Department that proves the  
 22 costs to complete the mitigation plan have been reduced. Such requests shall be considered as a  
 23 request for a partial bond release.

24 (10) The surety bond shall be fully or partially released to the obligee upon receipt of  
 25 written notice from the Department which states that all mitigation requirements have been  
 26 satisfactorily fulfilled or that a partial release is appropriate under Subsection (b)(9). The written  
 27 notice for a full bond release shall be sent at the end of the required five (5) year monitoring  
 28 period, a lesser monitoring period as described under Subsection (a)(1), or the extended  
 29 monitoring period as described under Subsection (a)(2).

30 (c) Bond Forfeiture.

31 (1) The bond or other instrument securing compliance with a permit may be subject

1 to forfeiture upon:

2 (A) Revocation of a nontidal wetland permit;

3 (B) Failure of the permittee to comply with an administrative order; or

4 (C) Failure to comply with any element of the approved mitigation plan and an  
5 approved modification.

6 (2) The Department shall notify the permittee and the surety or other financial  
7 institution in writing, by certified mail, of its intention to initiate forfeiture proceedings.

8 (3) The permittee shall have 30 days from receipt of the notice of forfeiture to show  
9 cause why the bond or other instrument should not be forfeited. If the permittee fails to show  
10 cause, the bond or other instrument shall be forfeited.

11 (4) On showing cause, the Department shall provide for a reasonable time for the  
12 permittee, surety or other financial institution, to correct the problem.

13 (5) If the permittee fails to show cause, the bond or other instrument shall be forfeited  
14 nisi and the Department shall notify the permittee, surety or other financial institution, of the  
15 forfeiture. If a showing of an intention to correct the problem in compliance with the mitigation  
16 is not submitted to the Department within 30 days from forfeiture nisi, the bond or other security  
17 shall be forfeited absolute.

18 (d) To avoid double bonding, the Department shall work with an applicant required to post  
19 bond under other Department programs requiring a bond.

20 (e) A permittee may not conduct a regulated activity in a nontidal wetland if the permittee  
21 previously forfeited any bond or alternate under this Ordinance, unless the permittee repays the  
22 Department the cost of completing the mitigation project in excess of the forfeited bond or  
23 alternative security plus interest at the rate set in the Courts and Judicial Proceedings Article,  
24 Section 11-107(a), Annotated Code of Maryland. If the mitigation project is still not completed,  
25 the permittee shall complete the mitigation project at its expense according to the approved  
26 mitigation plan and any approved modifications.

27 **Sec. 32-233. Mitigation Plan.**

28 (a) Phase I Mitigation Plan.

29 (1) A permittee shall submit a Phase I Mitigation Plan as part of the nontidal wet-land  
30 permit application.

31 (2) Phase I Mitigation Plans shall include all of the following information:

1                   (A) Names, addresses and telephone numbers of the principals associated with  
 2 project implementation;

3                   (B) A proposal, if applicable, to use monetary compensation consistent with  
 4 Section 32-221 to fulfill mitigation requirements;

5                   (C) A photograph and description of the type and acreage of the proposed non-  
 6 tidal wetland losses;

7                   (D) A description of the activity causing the nontidal wetland loss;

8                   (E) A description of mitigation projects proposed to fulfill the required  
 9 replacement of nontidal wetland acreage and/or functions. The description shall include a  
 10 project location map, showing the geographic relationship between the area of proposed nontidal  
 11 wetland loss and the proposed mitigation site or sites; and

12                   (F) A description of the site selection process and a justification of the selection  
 13 of the proposed mitigation site based on Section 32-231(h) and (j);

14                   (G) A description of the selected protection mechanisms required in Section 32-  
 15 231(1).

16                   (3) The Department shall render a decision concerning the acceptability of the Phase I  
 17 Mitigation Plan as part of the final permit decision.

18                   (4) In rendering a decision on the Phase I Mitigation Plan, the Department shall  
 19 provide guidance to the applicant on the content, timing and necessity of proceeding with the  
 20 Phase II Mitigation Plan.

21                   (b) Phase II Mitigation Plan.

22                   (1) A permittee may submit the Phase II Mitigation Plan as part of the permit  
 23 application;

24                   (2) Unless otherwise determined by the Department, the Phase II Mitigation Plan  
 25 shall be submitted within three (3) months of the Department's final permit determination. The  
 26 design plan shall include all of the following information:

27                   (A) Plan view scaled drawings prepared by a licensed surveyor or engineer that  
 28 include;

29                   (i) A vicinity map showing the project location, existing land use and  
 30 zoning;

31                   (ii) The location, type and acreage of proposed nontidal wetland mitigation

1 activities;

2 (iii) The location of proposed stockpile areas;

3 (iv) The location of proposed sediment and erosion control devices;

4 (v) The location of all areas to be used to store machinery, equipment or

5 supplies;

6 (vi) The proposed source of borrow materials;

7 (vii) The proposed location, spacing and type of propagules for each plant

8 species; and

9 (viii) Other information pertinent to a Phase II Mitigation Plan as required by

10 the Department;

11 (B) Cross section drawing showing existing and proposed final site conditions  
12 including grade, elevation and slope;

13 (C) Description of how enhancement activities will replace lost nontidal wet-  
14 land acreage and functions;

15 (D) If applicable, a description of how the enhancement of farmed nontidal wet-  
16 lands will replace lost nontidal wetland acreage and function;

17 (E) Construction schedule, which includes estimated start and completion dates;

18 (F) Hydrology, which includes:

19 (i) Estimated elevation of surface and groundwater, as measured from the  
20 soil surface, bimonthly from November to May and monthly from June to October;

21 (ii) The source of the water, such as precipitation, surface water, or  
22 ground-water, over various seasons of the year;

23 (iii) The reliability of the hydrologic sources throughout various seasons of  
24 the year; and

25 (iv) Relevant precipitation data;

26 (G) Substrate conditions, including a description of:

27 (i) Existing soil and substrate conditions; and

28 (ii) Soil and substrate amendments needed to meet hydric soil

29 characteristics and maintain the specified plant species;

30 (H) Vegetation to be planted, including all of the following:

31 (i) The scientific and common name of plant species. All plants shall be

1 native or adaptive to the State;

2 (ii) Planting dates for each species according to propagation methods; and

3 (iii) Planting stock fertilizer requirements for the entire five (5) year

4 monitoring period;

5 (I) A five (5) year monitoring schedule establishing responsibility for the  
 6 removal of exotic and nuisance vegetation, and permanent establishment of the nontidal wetland  
 7 system and its component parts. The Department shall encourage the permittee to provide for  
 8 the long-term maintenance and monitoring of mitigation sites beyond the required monitoring  
 9 period;

10 (J) A detailed budget of the proposed mitigation project costs, including;

11 (i) Land acquisition; and

12 (ii) Design, which includes construction, monitoring and maintenance;

13 (K) A description of protection mechanisms required in Section 32-231(1).

14 (3) The permittee shall present evidence of a legal right to implement the proposed  
 15 mitigation plan on the selected site by providing:

16 (A) An executed deed conveying title of the selected site to the permittee;

17 (B) An executed conservation easement agreement;

18 (C) Written evidence of the landowner's consent for use of the selected site;

19 (D) A fully executed option agreement, long-term lease agreement, sales  
 20 contract for the selected site; or

21 (E) Other written evidence of a possessor ownership interest in the selected site.

22 (4) The Department may waive all or part of the requirements of a Phase II  
 23 Mitigation Plan.

24 (5) The Department may not release a bond or terminate monitoring without receipt  
 25 of a legally binding deed, long-term lease, or conservation easement on those lands where  
 26 mitigation will occur.

27 (6) The Department shall render a decision concerning the acceptability of the Phase  
 28 II Mitigation Plan within 45 days of receipt of a completed plan; unless a final permit decision  
 29 has not been made. If the Department fails to notify the applicant within the 45 day period, the  
 30 plan shall be considered acceptable unless a final permit decision has not been made.

31 (c) Mitigation Plan Modification.

1           (1) The Department may require, and a permittee may request, modifications to an  
 2 approved mitigation plan or component during construction to ensure compliance with this  
 3 Ordinance. Modification, substitution, or other deviations from an approved mitigation plan or  
 4 component may not be made without approval under this Section.

5           (2) A modification request may be made orally and followed up in writing.

6           (3) A written request shall contain the following information:

7               (A) The name of the permittee;

8               (B) Location of the mitigation project;

9               (C) A description of proposed modification; and

10              (D) A justification for the modification.

11           (4) The Department's decision may be given orally or in writing. The Department  
 12 shall notify a permittee of its decision within ten (10) days of a written request. If an oral  
 13 decision is made, the Department shall confirm its decision, in writing, within ten (10) days. The  
 14 Department's decision, whether oral or written, is binding on the permittee.

15 **Sec. 32-234. Nontidal Wetland Compensation Fund.**

16           (a) The Department may accept monetary compensation if it determines that mitigation for  
 17 nontidal wetland loss is not a feasible alternative. Monetary compensation may not be suitable  
 18 for the requirement to first avoid adverse impacts and then to minimize nontidal wetland losses.

19           (b) When a permittee maintains that mitigation is not a feasible alternative based on the  
 20 requirements of Subsection (c), the permittee shall propose that the Department accept monetary  
 21 compensation. A proposal for acceptance of monetary compensation shall be submitted as a part  
 22 of a Phase I Mitigation Plan.

23           (c) Monetary compensation may be accepted under one or more of the following  
 24 circumstances:

25               (1) The size of the nontidal wetland loss is less than one (1) acre;

26               (2) In-kind mitigation is technically not feasible; or

27               (3) An acceptable mitigation site cannot be located within the County. The permittee  
 28 shall demonstrate compliance with Section 32-231, including submission of the following  
 29 information:

30                   (A) Number of sites evaluated. A minimum of seven (7) sites is required;

31                   (B) A map and description of sites rejected;

1           (C) Justification of why each site was unsuitable for mitigation; and

2           (D) Other information required by the Department;

3           (4) The Department recommends use of the compensation fund.

4           (d) Monetary compensation proposals may be rejected if the Department determines that:

5                 (1) Mitigation requirements can be fulfilled on-site; or

6                 (2) Conditions in Subsection (c) are not fulfilled.

7           (e) The Department shall render decisions on proposals to accept monetary compensation  
8 based on Subsection (b) as part of a final permit decision.

9           (f) The Nontidal Wetland Compensation Fund shall include:

10                 (1) Monetary compensation paid by a permittee instead of engaging in the creation,  
11 restoration or enhancement of nontidal wetlands;

12                 (2) Civil or criminal penalties imposed by a court pursuant to Sections 32-236 or 32-  
13 237; and

14                 (3) Other monetary contributions to the fund from other sources.

15           (g) Funds in the Nontidal Wetland Compensation Fund may only be used for the creation,  
16 restoration or enhancement of nontidal wetlands. This includes the location and acquisition of  
17 land, design, construction, monitoring, maintenance and the development of mitigation plans.

18           (h) The Department may base monetary compensation on anticipated costs for  
19 development and construction of mitigation projects, including location and acquisition of land,  
20 design, maintenance and monitoring costs. The Department may use the following to determine  
21 costs:

22                 (1) Land acquisition costs derived from fair market value of the converted nontidal  
23 wetland by the permittee, based on at least two independent appraisals or other evidence  
24 of land value which may be acceptable to the Department;

25                 (2) Design costs derived from a percentage of construction costs or actual costs for  
26 projects similar in size and complexity that have been completed by other permittee's or the  
27 Department;

28                 (3) Construction costs derived on a case by case basis, taking into account the  
29 following factors:

30                         (A) Nontidal wetland type, size and functions;

31                         (B) Amount of planting, grading and other site preparations; and

1                   (C) Costs of similar mitigation projects completed by other permittee's or the  
 2 Department; and

3                   (4) Monitoring and maintenance costs derived from a percentage of construction  
 4 costs or actual costs for projects similar in size and complexity completed by other permittee's or  
 5 the Department.

6                   (i) Funds credited, and any interest accrued, to the Nontidal Wetland Compensation Fund  
 7 shall remain available until expended, and may not revert to the general fund or to the  
 8 Stormwater Enterprise Fund.

9                   (j) The Department shall prepare an annual report on the Nontidal Wetland Compensation  
 10 Fund that includes an accounting of:

11                   (1) Financial receipts and expenditures to and from the fund; and

12                   (2) Mitigation projects completed and in progress.

13                   (k) The Department shall provide a copy of the annual report to the County Council,  
 14 MDNR, and make it available to the general public.

15 **Sec. 32-235. Expanded Buffer.**

16                   (a) The buffer for nontidal wetlands with adjacent areas containing steep slopes or highly  
 17 erodible soils shall be expanded to 100 feet.

18                   (b) Nontidal Wetlands with Steep Slopes and Highly Erodible Soils.

19                   (1) The following criteria may be used by the Department in designating nontidal  
 20 wetlands with steep slopes or highly erodible soils:

21                   (A) Slopes immediately adjacent to the nontidal wetlands in excess of 15  
 22 percent; or

23                   (B) Soils adjacent to a nontidal wetland with an erodibility factor greater than  
 24 0.35 as determined by the Prince George's Soil Conservation District.

25                   (2) Specific nontidal wetland sites with steep slopes and highly erodible soils  
 26 identified by the Department shall be designated by regulation.

27 **Sec. 32-236. Enforcement.**

28                   (a) Enforcement Authority. The Department shall have the duty and means of en-forcing  
 29 all regulations of this Ordinance.

30                   (b) Inspection and Complaints.

31                   (1) The Department shall conduct an Enforcement Program to assure continuing

1 compliance with this Ordinance.

2 (2) The Department shall conduct inspections and file reports for periodic inspections  
3 as necessary during the construction of permitted projects and approved mitigation plans to  
4 assure compliance with the permit or the Letter of Authorization.

5 (3) The Department shall perform a final inspection upon completion of the permit-  
6 ted project and mitigation plans approved by the Department. The final inspection will  
7 determine if the completed work has been constructed in accordance with the permit, the Letter  
8 of Authorization, and the approved mitigation plan.

9 (4) In addition to all other remedies provided by State or County law, the County  
10 Attorney, on behalf of the Department, may institute injunction, mandamus or other appropriate  
11 action.

12 (c) Violations and Penalties.

13 (1) The Department may revoke a permit for cause including violation of permit  
14 conditions, obtaining a permit by misrepresentation, failing to disclose a relevant or material fact,  
15 or a change in conditions. The Department shall notify the violator, in writing, and provide an  
16 opportunity for a hearing.

17 (2) The Department may issue a stop work order against any person who, or project  
18 that, violates any provision of this Ordinance, or any regulation, order, or permit under this  
19 Ordinance, related to a regulated activity.

20 (3) A person who violates any provision of this Ordinance, or any rule, regulation,  
21 order or permit under this Ordinance is liable for a penalty not exceeding \$10,000, which may be  
22 recovered in a civil action brought by the Department. Each day a violation continues is a  
23 separate violation under this Subsection.

24 (4) A person who violates any provision of, or fails to perform any duty imposed by,  
25 this Ordinance, or by a rule, regulation, order, or permit under this Ordinance, is guilty of a  
26 misdemeanor and, on conviction, is subject to:

27 (A) For a first offense, a fine not to exceed \$10,000; or

28 (B) For a second offense or subsequent offense, a fine not to exceed \$25,000.

29 (d) All enforcement fines, fees and bond forfeitures collected will be credited to the  
30 Wetland Compensation Fund as described in Section 32-234.

31 **Sec. 32-237. Permit Suspension and Revocation.**

1        (a) Grounds for Permit Suspension or Revocation.

2            (1) The Department may suspend or revoke a Unified Nontidal Wetland Permit, after  
 3 written notice to the permittee, if the Department determines that any of the following has  
 4 occurred:

5                    (A) The permittee has failed to post the bond required under Section 32-232(b);

6                    (B) The permittee has failed to comply with the requirements of an  
 7 administrative action or order under this Ordinance or for a violation of this Ordinance;

8                    (C) The permit application misrepresented or failed to disclose a relevant or  
 9 material fact;

10                   (D) The requirements of the permit have been violated;

11                   (E) There has been substantial deviation from the plans, specifications or  
 12 requirements of the permit or the Letter of Authorization;

13                   (F) The permittee has prevented a representative of the Department from  
 14 entering the activity site to make reasonable inspections; or

15                   (G) The permittee's rights under the permit have not vested and new  
 16 information, changes in site conditions, or amended regulatory requirements necessitate  
 17 revocation or suspension.

18        (b) Written notice.

19            (1) Except as provided for under Subsection (d), Emergency Action, the Department  
 20 may not suspend or revoke a nontidal wetland permit or Letter of Authorization unless the  
 21 Department notifies a permittee of the suspension or revocation by certified mail. The notice  
 22 shall include:

23                   (A) The specific facts that warrant the suspension or revocation; and

24                   (B) An opportunity for the permittee to appeal the action.

25        (c) Hearings.

26            (1) Upon receipt of written notice to suspend or revoke a permit, the permittee shall  
 27 have ten (10) days to request a contested case hearing.

28            (2) A hearing under this Subsection shall be conducted according to Section 32-  
 29 221(c).

30            (3) If the Department does not receive a request for a hearing, the permit shall be  
 31 revoked or suspended.

1 (d) Emergency Action.

2 (1) The Department may order the immediate suspension or revocation of a permit or  
 3 Letter of Authorization if the Department:

4 (A) Finds that public health, safety or welfare requires the emergency action; and

5 (B) Promptly gives the permittee written notice of the emergency action; and

6 (2) A notice of emergency action shall include a statement of:

7 (A) The specific facts upon which the emergency action is based; and

8 (B) The permittee's opportunity to be heard in accordance with Subsection (c).

9 **Sec 32-238. Nontidal Wetland Protection Program Reporting.**

10 (a) The Department shall submit an annual report to MDNR that evaluates the  
 11 administration of the program, coinciding with the State fiscal year. The report shall include the  
 12 following information:

13 (1) Number of permits issued, modified and denied;

14 (2) Types of activities;

15 (3) Location of activities;

16 (4) Number of violations identified plus the number and nature of enforcement

17 actions taken;

18 (5) Comments from the regulated community and members of the public, including  
 19 copies of any written complaints about the County's administration of the program;

20 (6) Acreage totals of nontidal wetland losses by type;

21 (7) Mitigation actions, including acreage totals of mitigation projects by type of

22 project;

23 (8) Examples of minimization efforts;

24 (9) Number of conditioned exemptions granted and nontidal wetlands lost as a result;

25 and

26 (10) A report on the Department's Nontidal Wetland Compensation Fund in  
 27 accordance with Section 23-269.

28 **Sec. 32-239. Nontidal Wetlands of Special State Concern.**

29 Maps of areas designated as Nontidal Wetlands of Special State Concern shall be  
 30 maintained by the Department and MDNR and available for public review. Areas designated in  
 31 Prince George's County as Nontidal Wetlands of Special State concern are:

	<b>Site Name</b>	<b>U.S.G.S. Quad Name</b>
(1)	Beck Woods	Laurel
(2)	Belt Woods	Lanham
(3)	Beltsville Airport Bog	Laurel
(4)	Beltsville Bottomland Forest	Laurel/Beltsville
(5)	Beltsville Forest and Meadow	Laurel
(6)	Beltsville Seasonal Pond	Laurel
(7)	Buck Lodge Road Bog	Beltsville
(8)	Chews Lake	Bristol
(9)	Fort Ravine	Mount Vernon
(10)	Johnson's Gully	Mount Vernon
(11)	Huntington Park Woods	Laurel
(12)	Magruder Ferry Seep	Lower Marlboro
(13)	Mockley Swamp	Mount Vernon
(14)	Patuxent Maple Swamp	Bowie
(15)	Patuxent W.R.C.	Laurel
(16)	Route I-95 Bog	Beltsville
(17)	Southwest Branch Bottomland Forest	Lanham/Upper Marlboro
(18)	Suitland Bog	Anacostia
(19)	Upper Patuxent Marshes Natural heritage Area	Bristol
(20)	Watkins Regional Park	Lanham
(21)	Zekiah Swamp	Brandywine

1           SECTION 4. BE IT FURTHER ENACTED that the provisions of this Act are hereby  
2 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,  
3 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of  
4 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining  
5 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this  
6 Act, since the same would have been enacted without the incorporation in this Act of any such  
7 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

8           SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)  
9 calendar days after it becomes law.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2010.

COUNTY COUNCIL OF  
PRINCE GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Thomas E. Dernoga  
Chair

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Jack B. Johnson  
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.

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