St. Mary’s County
Stormwater Management, Grading, Erosion and Sediment Control Ordinance

COMMISSIONERS OF ST. MARY’S COUNTY

Adopted: May 14, 2013
Effective: May 28, 2013
ORDINANCE

TO REPEAL AND RE-ENACT, AND CODIFY AS CHAPTER 261
OF THE CODE OF ST. MARY'S COUNTY, MARYLAND, THE ST.
MARY'S COUNTY STORMWATER MANAGEMENT, GRADING,
EROSION & SEDIMENT CONTROL ORDINANCE

WHEREAS, pursuant to §4-202 of the Environment Article of the Annotated Code of Maryland, the Commissioners of St. Mary's County are required to enact an ordinance necessary to implement a stormwater management plan that meets requirements established by the Maryland Department of the Environment and is consistent with the purposes of Subtitle 2 of Title 4 of the Environment Article of the Annotated Code of Maryland; and

WHEREAS, pursuant to §4-103(b) of the Environment Article of the Annotated Code of Maryland, the Commissioners of St. Mary's County are required to enact a grading ordinance necessary to carry out the provisions of Subtitle 1 of Title 4 of the Environment Article of the Annotated Code of Maryland; and

WHEREAS, pursuant to Article 25, §10J of the Annotated Code of Maryland, the Commissioners of St. Mary's County are authorized to enact by ordinance rules and regulations for erosion and siltation control requirement to facilitate sedimentation control within St. Mary's County; and

WHEREAS, a notice of a public hearing was advertised on January 4, 2013 and January 11, 2013 in The Enterprise, a newspaper of general circulation in St. Mary's County, and a public hearing was held on January 22, 2013 to receive public comment and consider adoption of an ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of St. Mary's County, pursuant to §§4-103(b) and 4-202 of the Environment Article and Article 25, §10J of the Annotated Code of Maryland, that:

SECTION I. Ordinance 2010-02 ("St. Mary's County Stormwater Management, Grading, Erosion & Sediment Control Ordinance") be repealed and re-enacted, and codified as Chapter 261 of the Code of St. Mary's County, Maryland, to read as follows:
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ARTICLE 1. GENERAL PROVISIONS

1.1 Title
This document shall be cited as the "St. Mary's County Stormwater Management, Grading, Erosion and Sediment Control Ordinance" (hereinafter the "Ordinance").

1.2 Authority
Pursuant to Article 25, §10-3; Article 25, §10-4; Environment Article, §4-103, et seq.; and Environment Article §4-202, et seq. of the Annotated Code of Maryland, the Commissioners of St. Mary's County have adopted this Ordinance.

1.3 Purpose
The purpose of this Ordinance is to protect and promote the public health, safety and general welfare, to implement the provisions of the Annotated Code of Maryland, to implement the St. Mary's County Comprehensive Plan, and to reduce the adverse effects of erosion, siltation, sedimentation, pollution, and local flooding on lands and within the watersheds of St. Mary's County (hereinafter the "County"), by establishing minimum requirements and procedures that control the adverse impacts associated with land disturbances, grading, and stormwater runoff.

1.4 Applicability
The provisions of this Ordinance shall apply to the development and use of all land within the unincorporated areas of the County, unless expressly and specifically exempted or provided otherwise in this Ordinance. No development shall be undertaken without prior authorization pursuant to this Ordinance. All development shall comply with the standards, criteria, and procedures of this Ordinance.

1.5 Minimum Standards
The provisions of this Ordinance are minimum standards necessary to accomplish the purposes of this Ordinance, and nothing herein is intended to prevent any development or land use from exceeding the minimum standards. Should the interpretation and application of any requirements in this ordinance be found to be in conflict with those imposed by other provisions of law, the more restrictive standards shall prevail.

1.6 Vested Rights
St. Mary's County recognizes vested rights in accordance with Maryland law.

1.7 Transitional Provisions
1. Transitional Provisions. The following "grandfathering" provisions are hereby adopted to provide for the continuance of certain development activities that would otherwise be subject to the requirements of this Ordinance:

a. Plan Approvals Prior to May 4, 2010. The approving authority may grant an administrative waiver to a development that received preliminary project approval prior to May 4, 2010. Administrative waivers expire according to Article 1.7.1.b. of this Ordinance, and may be extended according to Article 1.7.1.d. of this Ordinance. Those
projects that are granted an administrative waiver may proceed with development in accordance with the regulations in St. Mary's County Ordinance No. 02-11.

b. **Expiration of Administrative Waivers.** Administrative waivers shall expire on:

1. May 4, 2013, if the development project does not receive final approval by that date; or

2. May 4, 2017, if the development receives final project approval prior to May 4, 2013; or

3. The expiration or revocation date of the approval of the development pursuant to the St. Mary’s County Comprehensive Zoning Ordinance, but only if that expiration date is prior to the dates specified in Article I.7.1.a. of this Ordinance.

c. **Deadline for Construction Completion.** All construction authorized pursuant to an administrative waiver must be completed by May 4, 2017 or, if the waiver is extended as provided in Article I.7.1.d., by the expiration date of the waiver extension.

d. **Extension of Administrative Waivers.** Administrative waivers may be extended by the approving authority if the development project had received preliminary project approval by May 4, 2010, and the development project is subject to a Development Rights and Responsibilities Agreement, a Tax Increment Financing approval, an Annexation Agreement. Any extension granted under this paragraph shall expire when the Development Rights and Responsibilities Agreement, the Tax Increment Financing approval, the Annexation Agreement or the approved phasing plan expires.

2. **Continuation of Approvals.** Approvals that are grandfathered as set forth above shall be in accordance with the provisions of the St. Mary’s County Comprehensive Zoning Ordinance.

3. **Continuation of Project.** Project development under an administrative waiver may proceed in accordance with the plan approval unless such approval expires as provided above. In the case of re-approval after expiration, the project shall be in conformity with all provisions of this Ordinance.

1.8 **Effect of Previous Regulations**

To the extent that projects are “grandfathered” under this Article I.7, the provisions of the ordinance in effect at the time of plan approval shall remain in full force and effect.

1.9 **Rules for Construction of Language**

1. A reference to days is to calendar days unless otherwise indicated in this Ordinance, or specified by State law. If a deadline falls on a weekend or County holiday, the time for performing an act is extended to the next working day. A working day is defined as any day that is not a Saturday, Sunday, or Official County holiday.

2. Use of “shall,” “will” or “must” is mandatory; “should” and “may” are permissive.

3. Use of “including”, “includes”, “such as”, “additional”, or “supplemental” is illustrative and not intended as an exhaustive listing, unless the context clearly indicates the contrary.
1.10 Conflict with Other Laws and Regulations

Where a conflict occurs between this Ordinance and a state statute or another county ordinance or regulation, the more restrictive provision shall control.

1.11 Severability

If a court of competent jurisdiction holds any portion of this Ordinance invalid or unconstitutional, such portion shall not affect the validity of the remaining portions of this Ordinance.
ARTICLE 2. ADMINISTRATION

2.1 Board of County Commissioners

1. Powers and Duties. In addition to any authority granted by general or special law, the Board of County Commissioners reserves the following powers and duties under the provisions of this Ordinance:

a. To maintain and approve fee schedule(s) for plan review submissions and to ensure the appropriate levels of security are obtained;

b. To approve the processing of claims against security instruments as may be required or otherwise recommended by the approving authorities;

c. To suspend, revoke or cancel permits issued by the Department of Public Works & Transportation (hereinafter “DPW&T”) or Land Use and Growth Management (hereinafter “LUGM”); and

d. To review and consider appeals of final administrative decisions made by any official charged with the enforcement of this Ordinance.

2.2 Soil Conservation District (SCD)

a. Erosion and sediment control plans shall be approved by the SCD prior to the County’s issuance of grading or building permits;

b. Stormwater management plans requiring MD 378 Small Pond approval for Dam Safety shall be reviewed and approved by the SCD as directed by the Maryland Department of the Environment (MDE);

c. Removal of erosion and sediment control devices shall be approved by the MDE prior to the County releasing grading or building permits; and

d. To serve as a member of the Technical Evaluation Committee (TEC).

2.3 Director of Department of Public Works & Transportation

1. Duties and Responsibilities. The Director of the Department of Public Works & Transportation (hereinafter the “Director” or “Director of DPW&T”) shall administer the provisions of this Ordinance governing public roads, major subdivisions, site plans (excluding residential single-lot building permit site plans), and drainage/stormwater management approvals that propose limits of disturbances greater than 5,000 square feet or excavations and fills greater than a cumulative 1,000 cubic yards, and shall have the following duties and responsibilities:

a. To administer and enforce the applicable provisions of this Ordinance;

b. To approve or disapprove modifications and written requests for time extensions and waivers from provisions of this Ordinance, where specifically authorized;
c. To confirm that any application for a Grading Permit includes all required approvals from all appropriate agencies before the permit is issued;

d. To provide professional recommendations, technical assistance, and proposed text amendments of this Ordinance to the Board of County Commissioners, Planning Commission, Board of Appeals, SCD, the Department of Land Use and Growth Management or other boards and commissions upon request or as deemed necessary;

e. To provide expertise regarding the adequacy of public facilities (APF) with respect to stormwater management, grading, drainage and adequate outfall;

f. To establish, accept, and release security for the performance of obligations for permitted work and to require that application and inspection fees are paid for implementation of the stormwater management plan, sediment and erosion control measures, and permanent stabilization of all disturbed areas, and to issue and track Grading Permits;

g. To obtain all required documentation, including but not limited to executed Inspection and Maintenance Agreements, Notice of Construction Completion forms, and any approved as-built construction plans, prior to the release of security in connection with Grading Permits;

h. To prepare and issue design standards as may be authorized by the Maryland Department of the Environment;

i. To perform plan reviews, construction inspections, and materials testing in accordance with applicable infrastructure requirements, stormwater management specifications and standards;

j. To ensure compliance with this Ordinance and other laws, ordinances and regulations and:

1. Issue civil citations to any person, firm or corporation who shall violate the applicable provisions of this Ordinance;

2. Post “Stop Work” orders on any lot, parcel, site, structure or property which is in violation of this Ordinance or any other code relating to building and development, and:

(i) Require that all work and activity shall immediately cease on the designated premises;

(ii) Request the Director of LUGM to remove and suspend the Zoning Permit issued for the project until the violation is rectified; and

(iii) Fine, in accordance with the provisions of this or other applicable Codes, any person, firm or corporation who shall violate the stop work order, and

(iv) Investigate inquiries and complaints relating to the subjects of this Ordinance and to take action when appropriate; and
k. To amend, administer, promulgate, and enforce the standards and specifications of the St. Mary's County Department of Public Works & Transportation's *Manual of Design and Construction Standards*;

l. To execute right-of-entry agreements for the purpose of entering onto private property for the purpose of constructing public improvements (including necessary and appropriate indemnification and restoration provisions);

m. To execute easements from and to St. Mary's County concerning the construction of approved County capital improvement projects.

2. Records of DPW&T Director. The Director of DPW&T shall keep records of all applicable permits reviewed, issued and inspected under this Ordinance, subject to records retention policies adopted by the Board of County Commissioners.

2.4 Director of Land Use and Growth Management

1. Duties and Responsibilities. The Director of Land Use and Growth Management (hereinafter the “Director of LUGM”) shall administer the drainage, overlap grading, and stormwater management provisions of this Ordinance for all residential single lot development and all private drives that do not require grading permits. LUGM shall also administer the drainage, grading, and stormwater management provisions for all minor site plans that propose limits of disturbances less than or equal to 5,000 square feet, or less than or equal to 1,000 cubic yards, which do not require a grading permit, and shall have the following duties:

a. To administer and enforce the applicable provisions of this Ordinance;

b. To confirm that any application for a zoning or building permit includes all required approvals from all appropriate agencies before the permit is issued;

c. To confirm the site plan includes existing easements, approved driveway entrance pipe schedules, conditions, and other applicable notations on the subdivision plat, site plan or road construction plan;

d. To approve or disapprove modifications and written requests for time extensions and waivers from provisions of this Ordinance, where specifically authorized;

e. To require that Single Lot Residential Construction designs be prepared in accordance with applicable provisions of this Ordinance;

f. To require plan revisions where there is discrepancy between the application and the grading shown on the approved Erosion and Sediment Control plan;

g. To ensure that all requirements of this Ordinance and other applicable codes and regulations have been met prior to issuance of a zoning permit, building permit or certificate of use and occupancy;

h. To ensure that construction of all stormwater management facilities incorporated into buildings complies with this Ordinance; and
i. To collect plan review fees and to hold adequate instruments of financial security for stormwater management inspection and maintenance and to ensure maintenance responsibilities are fully reimbursable;

j. To perform required construction and maintenance inspections and materials testing in accordance with applicable infrastructure requirements, specifications and standards;

k. To secure the performance of corrective action(s) if maintenance is not performed by the property owner(s) or developer in accordance with all approved plans and executed Inspection and Maintenance Agreements regardless of the amounts of disturbance or cubic yards of earthwork;

l. To make recommendations to the Board of County Commissioners regarding amendments to the Ordinance,

m. To submit all required documentation including, but not limited to, Inspection and Maintenance Agreements, Notice of Construction Completion forms, and any approved as-built construction plans to the Department of Public Works & Transportation prior to the release of security for permits issued by LUGM;

n. To track the cumulative disturbance of building permits and minor site plans on all Sites that are exempt in accordance with Article 3.3.1.

2. Records of the Director of Land Use and Growth Management: The Director of Land Use and Growth Management shall keep records of all permits issued under this Ordinance as well as all information submitted with the application for such permits. The Director of Land Use and Growth Management shall make annual reports to the Board of County Commissioners concerning permits and regulations regarding stormwater management.

2.5 General Application Procedures

All applications required by this Ordinance shall be processed in accordance with the following procedures:

1. Determination of Completeness of Application. Applications for development approvals shall be submitted on the appropriate form set forth in this Ordinance. After receipt of an application, the applicable approving authority shall determine whether the application is complete. The time period allowed for review of an application shall not begin until the application is determined to be complete. If the application is not complete, the applicant shall be notified in writing within seven (7) calendar days, specifying the deficiencies of the application, the additional information that must be supplied, and advising the applicant that no further action will be taken by the County on the application until the deficiencies are corrected.

2. Remedy of Deficiencies. If the applicant fails to correct the specified deficiencies within ten (10) days of the notification of deficiency, the application for development approval shall be deemed withdrawn and will be returned to the applicant.

3. Extensions of Time. The approving authority, upon written request, may, for good cause shown and without any notice or hearing, grant extensions of any time limit imposed on an applicant by this Ordinance. The permit holder shall indicate the reasons and conditions which have delayed completion of the work authorized under the permit. Extensions shall be granted for a period of up to thirty (30) months. Subsequent requests for extension shall require payment of a fee by the applicant in accordance with the current schedule of fees.
4. **Re-approval of Plans.** In the event an approving authority does not grant an extension of time as allowed in Article 2.5.3, the approving authority may re-approve a plan for a specified period of time.

5. **Fees.** All applications shall be accompanied by all required fees in accordance with the schedule(s) established by the approving authority.

2.6 **Waivers**

   a. A person may request the Director for a waiver from the requirements of this Ordinance.

   b. **Application.** A written request for waiver shall be submitted to the Director by the applicant that states the specific waiver(s) sought, the reasons for the request, and sufficient justification supporting the request. The application shall contain such additional information as the Director or the Maryland Department of the Environment may require. A request for a stormwater management waiver shall be submitted to the approving authority prior to the approval of the stormwater management concept plan.

   c. **Standards for Granting a Waiver.** The Director may grant the waiver only when strict compliance with the terms of this Ordinance would result in unreasonable hardship because of unusual physical characteristics of the site, and a waiver would not: 1) violate the spirit and intent of the Ordinance; 2) cause or be likely to cause substantial injury to the public health, safety and general welfare; or 3) be injurious to other property or improvements in the neighborhood.

   d. **Decision.** The Director shall render a decision on the request within fifteen (15) days of receipt of the written request. The decision shall be in writing and provide a brief statement of the applicable law, the standards for waiver, and facts which support the decision. A decision on a request made in connection with an application for subdivision or site plan approval by the St. Mary's County Planning Commission is subject to action by the Planning Commission and is not a final administrative decision for the purpose of Article 2.1.

   e. **Notice.** The applicant shall send notice of the decision by registered or certified mail to all owners of contiguous property (as shown on the latest published records of the Maryland State Department of Assessments and Taxation), including lands across any public or private rights-of-way adjacent to the land subject to the application within 15 days of the decision. Notice shall be given to each individual property owner if an affected property is held in common ownership. Required notice shall also be given to a municipality if the application concerns land adjacent to its municipal boundaries. The applicant shall provide the Director, in an approved form, with the names and addresses of all property owners required to receive notice of the waiver decision pursuant to this Ordinance. The notice shall include either a statement that the decision of the Director is subject to action by the St. Mary's County Planning Commission in connection with an application for subdivision or site plan approval, or notice of a right to appeal the decision of the Director to the Board of County Commissioners, whichever is applicable. The notice shall identify the office and phone number where further information can be obtained.
2.7 Appeals

a. Generally. An appeal of any final administrative decision of any official charged with the enforcement of this Ordinance, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce the Ordinance in regard to a specific application may be filed by any person aggrieved by any order, requirement, decision, or determination made in regard to the administration or the enforcement of this Ordinance as may be amended from time to time.

b. Appeals of Administrative Decisions. Any person having a right to appeal a final administrative decision of the Director may appeal that decision to the Board of County Commissioners, or in accordance with procedures established by resolution of the Board of County Commissioners. An appeal must be filed in writing and state all basis for the appeal with clarity and detail. An appeal shall be timely if filed in writing within thirty (30) days of the date the mailing of the notice of the final administrative decision.

2.8 Conflict with Other Permits

Except as provided herein, no permit pertaining to the use of land or buildings shall be issued by any cooperating agency, department or employee unless a zoning permit, if required, has been issued by the Director of Land Use and Growth Management. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.
ARTICLE 3. STORMWATER MANAGEMENT

3.1 Purpose and Applicability

1. Purpose. The purpose of this Article is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements that control the adverse impacts associated with increased stormwater runoff. The purpose is to manage stormwater by using Environmental Site Design (ESD) to the maximum extent practicable (MEP) to maintain after development, as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding, and use appropriate structural best management practices (BMPs) only when necessary. This will restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property, and reduce the impacts of land development.

2. Applicability. The provisions of this Ordinance shall apply to development occurring within the unincorporated areas of St. Mary's County, Maryland.

3. Incorporation by Reference.

a. The 2000 Maryland Stormwater Design Manual Volumes I & II (Maryland Department of the Environment, April 2000) (hereinafter the “Design Manual”), and all subsequent revisions, is incorporated by reference into this Ordinance and shall serve as the official guide for stormwater principles, methods, and practices.


3.2 General Provisions.

1. No person shall develop or redevelop any land for residential, commercial, industrial, or institutional uses without providing stormwater management measures that control or manage runoff from such development, except as provided within this Article. Stormwater management measures must be designed consistent with the Design Manual and constructed according to an approved plan for new development or the policies stated in Article 3.5 of this Ordinance for redevelopment.

2. Unless the particular activity is exempted by this Ordinance, a person may not develop any land without an approved stormwater management plan from the approving authority and an approved sediment control plan from the SCD.

3. A grading, zoning, or building permit may not be issued for a property until a stormwater management plan has been approved. No grading or clearing permits shall be issued until final site or subdivision approval is granted by LUGM or the Planning Commission.

4. In the Critical Area, stormwater quality controls in accordance with and consistent with State regulations may be required in addition to any quantity controls necessary to comply with this Ordinance.
3.3 Exemptions and Waivers.

1. Exemptions. The following development activities are exempt from the provisions of this Ordinance:

a. Agricultural land management practices;

b. Additions, replacements, or modifications to existing single family detached residential structures that do not have a cumulative disturbance over 5,000 square feet of total land area;

c. Land development activities that do not have a cumulative disturbance over 5,000 square feet of total land area;

d. Land development activities regulated by a State law that requires the permittee to manage stormwater runoff;

e. Shoreline stabilization practices, including revetments, bulkheads, jetties, and living shorelines.

Land area disturbed for septic system construction or removal of existing impervious area(s) may be subtracted from the total land area disturbed provided the subtracted land area is re-vegetated.

2. Waivers.

a. The approving authority, upon written request, may grant stormwater management quantitative control waivers only to projects within areas in which watershed management plans have been developed consistent with Article 3.4 of this Ordinance. Written requests for quantitative stormwater management waivers shall contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that Environmental Site Design (ESD) has been implemented to the Maximum Extent Practicable (MEP). A separate written waiver request shall be required in accordance with the provisions of this Article for proposed additions, extensions, or modifications to a development for which a waiver has been granted.

b. If a watershed management plan in compliance with Article 3.4 of this Ordinance has not been developed, a stormwater management quantitative control waiver may be granted for:

(1) Direct discharges to tidally influenced receiving waters; or

(2) Infill development projects located in a Priority Funding Area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2009 regulatory requirements would result in a loss of the planned development density, provided that:

(i) Public water and sewer and stormwater conveyances exist;

(ii) The quantitative waiver applies only to the project for the impervious cover that previously existed on the site;
(iii) ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and

(iv) ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or

(3) circumstances that prevent the reasonable implementation of quantity control practices.

c. A quantitative waiver may be granted for solar energy panel and wind turbine installations that have a minimal impact to the receiving channel. These projects shall address ESD to the MEP for all impervious area other than the panels and blades, while the panels and blades shall address water quality volume only.

d. Stormwater management qualitative control waivers may be granted only for:

(1) In-fill development projects where ESD has been implemented to the MEP and other BMPs are not feasible;

(2) Redevelopment projects if the requirements of Article 3.4 of this Ordinance are satisfied; or

(3) Site development plans where circumstances prevent the reasonable implementation of ESD to the MEP.

e. Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the 2000 regulatory requirements and St. Mary’s County Ordinance 02-12 for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.

f. Unless otherwise granted under Article 3.3.2.d., a waiver shall be granted only if it has been demonstrated that ESD has been implemented to the MEP and:

(1) be on a case-by-case basis;

(2) the cumulative effects of waivers does not result in any adverse impacts to downstream properties;

(3) the plan addresses Mitigation Measures under Article 3.3.2.h.; and

(4) the development will not adversely impact stream quality.

g. If the approving authority has established an overall watershed management plan for a specific watershed, then the approving authority may develop quantitative waivers and redevelopment provisions that differ from Articles 3.3.2 and 3.5 of this Ordinance.

h. Mitigating Measures. The approving authority shall require mitigation measures as conditions of granting a waiver. Prioritized steps to mitigate adverse impacts resulting from the granting of a waiver shall include:

(1) Retrofitting of an existing facility, either upstream or downstream, to satisfy the full requirements of this Ordinance;

(2) Construction of a new facility on an adjacent site or as close as hydrologically possible, but within the same watershed; or
3.4 Watershed Management Plans. Watershed Management Plans developed for the purpose of implementing stormwater management policies for waivers and redevelopment shall:

1. Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;

2. Evaluate both quantity and quality management and opportunities for ESD implementation;

3. Include cumulative impact assessment of current and proposed watershed development;

4. Identify existing flooding and receiving stream channel conditions; and

5. Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;

6. Be conducted at a reasonable scale (1"=200' unless otherwise required);

7. Be consistent with the General Performance Standards for Stormwater Management in Maryland found in the Design Manual; and

8. Be approved by the Administration.

3.5 Redevelopment.

1. Stormwater management plans are required for all redevelopment, unless otherwise specified by watershed management plans developed according to Article 3.4 of this Ordinance. Stormwater management measures must be consistent with the Design Manual.

2. All redevelopment designs shall:

   a. Reduce impervious area within the limit of disturbance (LOD) by at least fifty (50) % according to the Design Manual;

   b. Implement ESD to the MEP to provide water quality treatment for at least fifty (50) % of the existing impervious area within the LOD; or

   c. Use a combination of Article 3.5.2.a. and Article 3.5.2.b. of this Ordinance for at least fifty (50) % of the existing impervious area.

3. Alternative stormwater management measures may be used to meet the requirements in Article 3.5.2 of this Ordinance if the owner or developer satisfactorily demonstrates to the approving authority that impervious area reduction has been maximized and ESD has been implemented to the MEP. Alternative stormwater management measures include, but are not limited to:

   a. An on-site structural BMP;

   b. An off-site structural BMP or retrofit project to provide water quality treatment for an area equal to or greater than fifty (50)% of the existing impervious area; or
c. A combination of impervious area reduction, ESD implementation, and an on-site or off-site structural BMP for an area equal to or greater than fifty (50) % of the existing site impervious area within the LOD.

4. If the requirements of Article 3.5.1 and Article 3.5.2 of this Ordinance cannot be met, and the applicant has demonstrated to the approving authority that it would not be feasible to provide on-site stormwater management to address the redevelopment portion of a site, the following may be required:

a. A combination of ESD and an on-site or off-site structural Best Management Practice (BMP);

b. Retrofitting including existing BMP upgrades, filtering practices, and off-site ESD implementation;

c. Pollution trading inside or outside of the limits of a development;

d. Participation in a stream restoration project;

e. Payment of a fee-in-lieu towards a stormwater management project, which project shall be:

f. Seventy five (75) % funded for construction within the current year of the County’s Capital Improvement Program;

g. Located within a watershed listed as impaired according to Maryland’s most recent 303(d) listing, and designed to improve the impaired aspects of the waterway; and

h. Sized for and treat an impervious drainage area equal to the impervious area needing treatment for all participating projects (or remove an equivalent volume of pollutants), in accordance with Article 3.5.2; or

i. Partial waiver of the treatment requirements if ESD is not practicable.

5. The determination of alternative stormwater management measures will be made by the approving authority prior to final project approval, and shall be based on (1) whether the development project is in an area targeted for development activities, such as a Priority Funding Area, a Transit Oriented Development area, or a designated Base Realignment and Closure Committee Revitalization and Incentive Zone; (2) whether the development project is necessary to accommodate growth consistent with the Comprehensive Plan; and (3) whether bonding and financing has already been secured based on an approved development plan.

3.6 Permits and Bonding

1. Permit Requirements.

a. A grading, construction, zoning, or building permit may not be issued for any parcel or lot requiring a stormwater management plan until final sediment and erosion control and stormwater management plans have been approved and all the requirements of this Ordinance (and any other applicable State regulation) have been met or waived by the approving authority.

b. A grading permit, construction permit, zoning permit, or building permit shall not be issued without final approval of subdivision plan or record plat.
c. A grading, construction, zoning, or building permit shall not be issued without required:
   (1) Recorded easements for the stormwater management facilities and adequate access
       from a public right-of-way for inspection and maintenance;
   (2) Stormwater Management NOCC Form(s), signed by the engineer;
   (3) Recorded stormwater management inspection and maintenance agreement;
   (4) Performance bond;
   (5) Permission from adjacent property owners where grading, drainage or other off-site
       improvements or easements are required; and
   (6) A certificate of title signed by an attorney admitted to practice in the State of
       Maryland certifying that there is good and marketable title, free of encumbrances, to
       all on-site and off-site easements required under this Ordinance.

d. A grading, construction, zoning, or building permit may not be issued for any parcel or
   lot in the Critical Area unless an Environmental Permit has been issued by LUGM.

2. Plan Review and Permit Fees. A non-refundable plan review fee is required at the time the
   stormwater management plan or application for a waiver is submitted. A permit fee is required
   upon submission of a grading permit application. A fee for inspection(s) of a project subject to
   Articles 3 and 4 of this Ordinance is required prior to issuance of a grading permit. A fee schedule
   shall be established by the Board of County Commissioners.

3. Permit Suspension and Revocation. Any grading or construction permit issued by the approving
   authority may be suspended or revoked after written notice is given to the permittee for any of the
   following reasons:
   a. Any violation(s) of the conditions of the stormwater management plan approval;
   b. Changes in site runoff characteristics upon which an approval or waiver was granted;
   c. Construction not in accordance with the approved plan;
   d. Noncompliance with correction notice(s) or stop work order(s) issued for the
      construction of the stormwater management facility; or
   e. An immediate danger in a downstream area in the opinion of the approving authority.

4. Bonding Requirements. The approving authority shall require a surety or cash bond, irrevocable
   letter of credit, or other means of security acceptable to the County Attorney prior to the issuance
   of any building or grading permit for development requiring a stormwater management plan
   facility. The amount of the security shall not be less than the total estimated construction cost of
   the stormwater management measures (structural and non-structural), erosion and sediment
   control, and stabilization, plus a ten (10) % contingency.
a. The required bond shall provide for:

(1) Forfeiture for failure to complete work specified in the approved stormwater management plans;

(2) Compliance with all of the provisions of this Ordinance, and other applicable State laws and regulations; and

(3) Time for performance.

b. Bond Release. The bond shall not be released without approval of as-built plans by the approving authority, and final inspection to verify that all work has been completed in accordance with the approved plans. Reduction of the surety deposit or amount of the bond by the approving authority may be permitted after various stages of construction have been completed, inspected and accepted by the approving authority.

c. Bond Deferral. If authorized by resolution by the Board of County Commissioners, the performance bond(s) may be deferred, but must be in place prior to the sale of any lot(s).

3.7 Stormwater Management Criteria

1. Minimum Control Requirements. The minimum control requirements established under this Ordinance and the Design Manual are as follows:

a. Planning techniques, non-structural practices, and design methods specified in the Design Manual shall be used to implement Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP). The use of ESD planning techniques and treatment practices must be exhausted before any structural Best Management Practice (BMP) is implemented. Stormwater management plans for development projects subject to this Ordinance shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the Design Manual. The MEP standard is met when channel stability is maintained, pre-development groundwater recharge is replicated, non-point source pollution is minimized. Structural stormwater management practices are to be used only if no other practices are determined to be adequate to address MEP.

b. Control of the ten (10)-year overbank flood protection and one hundred (100)-year extreme flood volume frequency storm events are required according to the Design Manual. In order for this determination to be made, the applicant must submit a complete design in accordance with Article 3.10.

c. The approving authority may require additional analysis and design if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.

d. Modifications to minimum control requirements may be adopted by the approving authority subject to Administration approval. The Administration shall require a demonstration that alternative requirements will implement ESD to the MEP. Alternative minimum control requirements or modification to minimum control requirements shall control flood damages, shall not accelerate stream erosion, shall not reduce water quality, and shall not increase the deposition of sedimentation. Comprehensive watershed studies may also be required.
2. **Stormwater Management Measures.** The ESD planning techniques and practices and structural stormwater management measures established in this Ordinance and the Design Manual shall be used, either alone or in combination, in a stormwater management plan. The applicant shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management plan.

   a. **ESD Planning Techniques.** The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in Article 3.7.1. of this Ordinance:

   1. Preserving and protecting natural resources;
   2. Conserving natural drainage patterns;
   3. Minimizing impervious area;
   4. Reducing runoff volume;
   5. Using ESD practices to maintain one hundred (100)% of the annual pre-development groundwater recharge volume;
   6. Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
   7. Limiting soil disturbance, mass grading, and compaction;
   8. Clustering development; and
   9. Any practices approved by the Administration.

   b. **ESD Treatment Practices.** The following ESD treatment practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Article 3.7.1. of this Ordinance:

   1. Disconnection of rooftop runoff;
   2. Disconnection of non-roof runoff;
   3. Sheet flow to conservation areas;
   4. Rainwater harvesting;
   5. Submerged gravel wetlands;
   6. Landscape infiltration;
   7. Infiltration berms;
   8. Dry wells;
(9) Micro-hyoretenion;
(10) Rain gardens;
(11) Swales;
(12) Enhanced filters; and
(13) Any practices approved by the Administration.

c. Structural Stormwater Management Measures. The following structural stormwater management practices, which include retention and extended detention structures, shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Article 3.7.1. of this Ordinance:

(1) Stormwater management ponds;
(2) Stormwater management wetlands;
(3) Stormwater management infiltration;
(4) Stormwater management filtering systems; and
(5) Stormwater management open channel systems.

d. The performance criteria specified in the Design Manual with regard to general feasibility, conveyance, pretreatment, treatment, geometry, environment, landscaping, and maintenance shall be considered when selecting structural stormwater management practices.

e. Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the County.

3. ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in Article 3.7.1. of this Ordinance must be recorded in the land records of St. Mary's County, Maryland, as covenants that run with the land, and remain unaltered by subsequent property owners. Prior approval from the approving authority shall be obtained before any stormwater management practice is altered.

4. Alternative ESD planning techniques and treatment practices and structural stormwater management measures may be used for new development runoff control if they meet the performance criteria established in the Design Manual and are approved by the Administration. Alternative stormwater management measures used for redevelopment projects shall be approved by St. Mary's County in accordance with Article 3.5.

3.8 Design Requirements

The design criteria, methodologies, and construction specifications shall be in accordance with the Design Manual and shall include, but not be limited to, the following.

1. Stormwater management facilities shall not be constructed within the mapped or calculated 100-year flood plain.
2. Structural stormwater management practices shall be located outside of existing or proposed public road rights-of-way unless approved by the approving authority. These practices shall be located within separate lots/parcels of record within residential subdivisions (not within building lots), and within dedicated stormwater management easements on commercial and other sites.

3. A site may qualify for development density increase, in accordance with the Comprehensive Zoning Ordinance, if at least fifty (50)% of the impervious surfaces are treated with bioretention.

4. The applicant shall compute the Recharge Volume (Re.), Environmental Site Design Volume (ESDv), Channel Protection Volume (CPh), the Overbank Flood Protection Volume (Qo), and Extreme Flood Volume (Qf) in accordance with the Design Manual Computations and shall submit such calculations for review by the approving authority.

   a. Flow from BMPs shall be at non-erosive velocities in accordance with the Design Manual.

   b. The design release rates of structures shall be modified if any increase in the flood levels or storm frequency, or downstream channel erosion, would result at a downstream dam, highway, storm drain system, structure, or natural point of restricted stream flow.

5. Adequate Outfall. For the purposes of modifying the minimum control requirements or design criteria, the applicant shall submit a written analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted stream flow. The analysis shall be conducted in the area between the point of drainage discharge and a point downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or to the stormwater management facility. The area of analysis shall be established with the concurrence of the approving authority, and may include review and analysis of historical flooding problems, downstream floodplain development, classification of existing public roads, soils condition, maximum permissible tractive forces, and adequacy of existing open and closed conveyance systems as further described in Article 3.10.2.h.

6. Retrofit. Permissible velocities for existing unlined outfall channels shall be non-erosive. Stormwater management measures, channel lining(s), and/or additional measures may be required to retrofit inadequate outfall conditions.

7. Safety. Special consideration for safety shall be made during the design of ponds including fencing, slope benching, access roads, and flattened side slopes. Fencing is not preferred. Fencing may be required when a water depth of over two (2) feet continues for over twenty four (24) hours after any design storm event, and safety benching cannot be provided. Where provided, fencing shall be in accordance with the St. Mary’s County Format Guidelines for Preparation of Development Plans for Submission to the approving authority (“Format Guidelines”) and the following general requirements:

   a. Fencing material may be PVC (black or dark green) coated galvanized steel, aluminized steel, aluminum, or wood. PVC plastic resin finish shall be a minimum seven (7)-mil (0.007 inches) thickness. A chain link fence shall have a maximum mesh size of 2¼ inches and a minimum No. 12 gauge measured before any coating application;
St. Mary's County Stormwater Management, Grading, Erosion and Sediment Control Ordinance

Article 3 Stormwater Management

8. Maintenance Design Considerations. Applicants shall include maintenance and operation of all stormwater management measures as one of the primary design considerations and shall include the following in the construction plans:

a. Accessways.

(1) All accessways shall remain cleared, graded and passable at locations designated on the approved plans and shall be constructed concurrently with the stormwater management facility.

(2) Specific access easements shall be recorded separately from drainage easements.

(3) Construction of fences or other structures within the access easement area(s) shall be prohibited unless a gate is included, and a key is provided to the Department of Land Use and Growth Management.

(4) In order to facilitate vehicular access and maintenance, grading of the access to and around facilities shall not create slopes with a grade of greater than 3 feet horizontal to 1-foot vertical.

(5) At least one cleared and passable access way with a minimum width of 10 feet and a cross slope of no more than six (6) % shall be provided.

(6) Multiple accesses should be provided on major facilities.

b. Design features.

(1) Principal spillways and other devices shall be designed to minimize tampering.

(2) The minimum dry pond bottom slope shall be designed to promote positive drainage to the outfall structure.

(3) A minimum of one (1) foot of freeboard above the one hundred (100)-year water surface elevation shall be maintained (MD 378 Pond Standards/Specifications may require additional freeboard in certain cases).

(4) Where trash racks are provided, they shall be removable as a unit by unbolting, without destroying the structure. Access to the structure shall be provided immediately above the rack in the underground chambers.
Where pipe storage is permitted, all pipes shall be water tight, with a fifty (50) year minimum design life.

Seepage considerations shall be addressed and include, but may not be limited to the following: the placement of impervious material or continuation of embankment materials, cut-off trenches, filter diaphragms, drains and anti-seep collars, drainage blankets, differential settlement, local groundwater conditions, and foundation under-seepage.

In accordance with the Design Manual, non-woven geotextile fabrics shall be utilized wherever filtering and infiltration practices are utilized. For the respective outfall channels, woven fabric is required to prevent erosion of the underlying soil(s).

To prevent clogging, low-flow discharge pipes with an orifice size less than three (3) inches shall be designed in accordance with the Design Manual Appendix D.8.4. In addition, the riser shall include stone protection around the pipe. If the riser is wrapped with fabric, ½" or larger hardware cloth shall be utilized.

Where the water quality volume is split from the total runoff to a stormwater management structure, the invert of the pipe to the water quality facility shall be at least six (6) inches below the bypass weir elevation, and shall have a minimum twelve (12) inches diameter to convey the water quality flow to the BMP. The respective bypass weir elevation/invert shall be designed at the water quality elevation.

In selecting BMPs the applicant shall consider site suitability and land use within and adjacent to the site, minimize maintenance frequency, and reduce the potential for nuisances.

c. Underground Chambers.

The use of underground chambers is not preferred. If used, underground chambers shall be appurtenant structures to the site. These stormwater management facilities shall not be incorporated as an in-line system, but shall be designed as a parallel or perpendicular appurtenance structure.

Underground chambers shall provide a smooth contoured bottom to facilitate silt and debris removal.

Underground chambers shall provide more than one access point each with a 4' x 4' access door for ventilation and cleaning, and shall be large enough to accommodate equipment. Additional access ports shall be provided as necessary (no further than 150 feet apart in each pipe run) to assure the entire structure may be regularly cleaned. The minimum interior height shall be seventy two (72) inches in order to facilitate maintenance.

d. Trees, Shrubs and Wetland Plantings.

Planting shall be prohibited on dam embankment side slopes and within 15 feet of the toe of a dam.
(2) Trees and shrubs and other landscaping shall be provided in accordance with the Design Manual and MD 378 Small Pond Specifications. In addition, a dense cover (i.e., for bioretention, a minimum of four hundred (400) plants per acre of each facility with a 3:1 shrub to tree ratio and balance of area with appropriate grasses, and a minimum of two hundred (200) woody plants per acre of facility for wet ponds with sustainable grasses on the aquatic bench) shall be provided for all facilities requiring landscaping.

(3) Underwater grasses may require training to help assure initial growth.

3.9 Drainage System Design

1. General Design Standards. In a development where impervious surfaces are limited to fifteen (15) % of the lot area or lot frontage on the roadway is one hundred (100) feet or greater, and where open grassed channels can safely handle storm water runoff, an open drainage system is preferred. Where quantity of flow, topographic, soil or natural channel conditions preclude open systems, then the system may be fully or partially enclosed. The standards of the Road Ordinance shall apply.

2. Private Development. Private storm drain system materials shall be appropriate for the development conditions. Pipe materials should be designed for a minimum thirty (30)-year life. Where the private system serves runoff from a public system, the materials shall meet public system standards. Soil testing may be necessary to determine the appropriateness of a particular material. Where corrugated metal pipe is specified, aluminized steel pipe is encouraged. Materials used in stormwater management facilities shall be in conformance with MD 378 Specifications (steel pipe is not allowed).

3.10 STORMWATER MANAGEMENT PLANS


   a. The design of stormwater management plans shall be prepared by an Design Professional who is licensed by the State of Maryland to prepare such plans.

   b. Geotechnical and structural design components designed under this Ordinance must be designed by a professional engineer licensed in the State of Maryland.

   c. A separate certification shall be submitted with each plan submittal certifying that the plans and computations have been prepared in accordance with this Ordinance, the St. Mary's County DPW&T Format Guidelines for Development Plan Submittals (hereinafter the "Format Guidelines"), and sound engineering practice, and that the plans have been reviewed for accuracy and completeness prior to submission.

   d. The designer shall consider the condition of site development as of July 1, 2001 (i.e., amount of impervious coverage and the extent to which the project is single and complete) when preparing the stormwater management plan.

2. Application Requirements. The design of stormwater management plans shall conform to the following requirements:
For any proposed development, the applicant shall submit phased stormwater management plans to the approving authority for review and approval, unless otherwise exempted by this Ordinance. At a minimum, plans shall be submitted for the concept, site development, and final stormwater management construction phases of project design. Each plan submitted shall include the minimum content specified in Article 3.10.3. of this Ordinance and meet the requirements of the Design Manual and Articles 3.7, 3.8, and 3.9 of this Ordinance.

New Minor Subdivisions. For all new minor lot residential subdivisions and for any subdivision with devices to be installed as part of home construction (such as dry wells and roof-top disconnect), the following note shall appear on the respective subdivision plats: "Prior to issuance of a Building Permit for lot(s) shown hereon, stormwater management and over-lot grading shall be provided in accordance with the Stormwater Management, Grading, Erosion and Sediment Control Ordinance."

The stormwater management plans shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed from the entire development.

In addition to an executed Inspection and Maintenance Agreement, an operation and maintenance plan shall be required as a condition of stormwater management plan approval.

If a stormwater management plan involves direction of some or all runoff from the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any easements or other necessary property interests concerning flow of water prior to plan approval. Approval of a stormwater management plan does not create any right to direct runoff onto adjacent property without the property owner's permission.

The applicant shall give consideration to incorporating the use of natural topography and land cover existing prior to development as part of the stormwater management strategy.

A Stormwater Management Notice of Construction Completion (NOCC) Form for each stormwater management device, signed by the Design Professional, is required prior to issuance of the grading permit.

Any existing storm drainage systems that are considered inadequate to accommodate the proposed development must be improved prior to development. Any waiver of stormwater management does not relieve the applicant of providing an adequate storm drainage conveyance system. This provision may be applied to correct an existing inadequate outfall, and to meet the requirement for adequate drainage as described in Article 3.8.5.

The visual impact of stormwater management facilities shall be considered in the overall design of the site and specific design of the facilities. The appropriateness of the design, the shape, and form of the structures, excavated material, plantings, and fencing shall be considered and shall be designed to relate to the surroundings and their functions.

If off-site construction is required to obtain adequate outfall, a grading permit will not be issued until necessary easements have been obtained. If the adjacent owner refuses to grant such easement, the owner or developer may request condemnation of the land by
the County at the applicant's cost. Condemnation can proceed only if a public need is demonstrated.

k. Storm drains shall be directed into areas least likely to erode.

3. Contents of the Plan. The contents of the Stormwater Management Plan shall conform to the Format Guidelines and the following requirements.

a. Concept Plan. The applicant shall submit a concept plan through the TEC process that provides sufficient information for an initial assessment of the proposed project and a determination that stormwater management can be provided according to Article 3.7.2. of this Ordinance and the Design Manual. Plans submitted for concept approval shall include, but are not limited to:

(1) A map at a scale specified by the approving authority showing site location, existing natural features, water and other sensitive resources, topography, and natural drainage patterns;

(2) The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;

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

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

(5) Topographic and visual assessment of all existing and proposed outfall channels;

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

(7) Any other information required by the approving authority.

b. Site Development Plan. Following concept plan approval by the Director of LUGM or St. Mary's County Planning Commission, the applicant shall submit site development plans that reflect comments received during the previous review phase. Plans submitted for site development approval shall be in sufficient detail to allow site development to be reviewed and include, but not be limited to:

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

(2) Site layout, impervious area locations and acreages, existing and proposed topography, layout of stormwater conveyance measures, preliminary drawings for each structural and non-structural stormwater management device and outfall improvement and stormwater volume computations for ESD practices, and quality/quantity control structures;

(3) Full size drainage area maps for each drainage structure, for each ESD and structural device, and for each point of discharge from the site.
A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources, and an overlay plan showing the types and locations of ESD and erosion and sediment control facilities to be used;

Soil test results;

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

Any other information required by the approving authority.

c. **Final Design Plans.** Following site development, the applicant shall submit final erosion and sediment control and final stormwater management plans that reflect the comments received during the previous review phase. Plans submitted for final approval shall be submitted in sufficient detail to allow all approvals and perims to be issued and as follows:

1. Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05;

2. Final stormwater management plans shall be submitted for approval in the form of construction drawings and be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.

d. **Reports.** Reports submitted for final stormwater management plan approval shall include, but are not limited to:

1. A narrative that describes the development, supports the site development design, describes how ESD will be used to meet the minimum control requirements, justifies any proposed structural stormwater management measure, and describes existing and proposed outfall conditions;

2. Geotechnical investigations including soil maps, borings, water table elevation, site specific recommendations, and any additional information necessary for the final stormwater management design;

3. Drainage Area Maps (DAMs) depicting pre-development and post-development runoff flow path segmentation and land use;

4. Hydrologic and hydraulic computations of the applicable ESD and structural devices, and unified sizing criteria according to the Design Manual for all points of discharge from the site;

5. Drainage and runoff calculations and assumptions shall be provided in an acceptable format for both closed and open systems, including area, size, quantity, velocity, slope, and depth of flows and hydraulic gradient. All closed storm drain systems will be reviewed using the Rational Method. All cross culverts and stormwater management facilities draining more than five (5) acres and facilities designed under MD 378 Pond Standards/Specifications will be reviewed using the TR-20 computer program or the TR-55 tabular Hydrograph Method;
(6) Hydraulic and structural calculations, including computations for reinforcing, anti-floatation, trash rack, and structure classifications for all structural stormwater management measures to be used; and

(7) Any other information required by the approving authority.

e. Construction Drawings. The final construction plans shall include, but are not limited to:

(1) A vicinity map;

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

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

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

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

(6) The delineation, if applicable, of the 100-year floodplain and any on-site wetlands;

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

(8) All necessary construction specifications;

(9) A sequence of construction;

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

(11) Summary Table. A stormwater management summary table showing the ESD and structural devices, listing acreage of impervious areas (including pre-development and post-development), method of quality control, unified sizing volume criteria per the Design Manual, required and provided ESD volume, water recharge volume, channel protection volume, overbank flood protection volume, and extreme flood volume for the overall development, each drainage area by phase of development, pre-development and post-development runoff rates for the 1, 2, 10, 25, and 100-year storm events, where applicable, as well as cumulative acreage and weighted runoff curve number for incremental development of a watershed for a regional stormwater management facility, where applicable;

(12) Hydraulic Gradient. The hydraulic gradient must be calculated and shown on the storm drain and open channel profiles in accordance with the current State Highway Administration methodology. The hydraulic gradient is a line connecting points to which water will rise in manholes and inlets during the ten (10) year recurrent interval storm;

(13) A table of materials to be used for stormwater management facility planting;
(14) All soil boring logs and locations;

(15) An inspection and maintenance schedule;

(16) Certification by the owner/developer that all stormwater management construction will be done according to this plan;

(17) An as-built certification signature block to be executed after project completion in accordance with Articles 3.14.6. and 4.13.2.;

(18) Hydrologic Information. Descriptions of all water courses, impoundments, and wetlands on or adjacent to the site;

(19) Adequate Outfall. The approving authority shall have the right to require further downstream analysis where the submitted narrative and all related plans and plats are insufficient to show the impact of the development on other downstream properties as further described in Articles 3.8 and 3.10. SCD may also require additional analysis to address potential erosion issues;

(20) Additional Data. Any other information required by this Ordinance, the Director of LUIGM, DPW&T, or the SCD shall also be provided by the applicant;

(21) Construction drawings submitted for stormwater management plan approval shall be folded and prepared in accordance with the Format Guidelines; and

(22) As-built submission requirements shall be prepared in accordance with the provisions in this Ordinance and the Format Guidelines. After submitted, all as-built drawings shall be reviewed by the approving authority, and scheduled for final inspection.


a. The approving authority shall review the application package to determine completeness prior to acceptance of the package for processing. Incomplete applications shall be returned to the applicant. Complete applications shall be reviewed to determine compliance with the requirements of this Ordinance. The approved plan shall serve as the basis for all subsequent construction.

b. The approving authority shall perform a comprehensive review of the stormwater management plans for each phase of site design. Coordinated comments will be provided for each plan phase that reflects input from all appropriate agencies including, but not limited to, SCD. All comments from all review agencies shall be addressed and approval received at each phase of project design before subsequent submissions.

c. SCD shall review the stormwater management plans for compliance with the NRCS-MD Code No. 378 Pond Standards and Specifications, Sediment and Erosion Control Standards and Specifications, and Sediment and Erosion Control requirements of Article 4 of this Ordinance.

d. Notification of approval or reasons for disapproval or modification shall be given to the applicant within thirty (30) days after submission of the completed stormwater
management plan. If a decision is not made within thirty (30) days, the applicant shall be
informed of the status of the review process and the anticipated completion date. The
stormwater management plan shall not be considered approved without the inclusion of
the signature and date of signature of the approving authority on the plan.

3.11 Drainage Easements

1. Where a natural drainage course or stream traverses a development, a drainage easement, a
minimum of fifty (50) feet in width, shall be provided conforming substantially to the line of such
watercourse for the purpose of maintaining, improving and protecting such drainage course or
stream. This easement area shall be designed to the one hundred (100)-year flood plain level.

2. Drainage easements shall be provided for the ten (10)-year design storm, unless otherwise
specified.

3. Required storm drainage easements and surface drainage easements should be identified and
recorded as a part of the record plat. Stormwater management facility easements shall be
identified and recorded as a part of the record plat or site plan. Maintenance for surface drainage
and stormwater management easements shall be identified as the responsibilities of the landowner
or homeowners association.

4. Where topography or other conditions make impractical the inclusion of drainage facilities within
road rights-of-way, perpetual unobstructed easements, a minimum of twenty (20) feet in width, for
such drainage facilities shall be provided across property outside the road right-of-way and with
satisfactory access to the road. Easements shall be indicated on the record plat or site plan.
Drainage easements shall be carried from the road to a natural watercourse or to other drainage
facilities.

5. When a proposed drainage system will carry water across private land outside the subdivision or
where off-site construction is required to obtain adequate outfall, in accordance with
Article 3.10.2.c., appropriate drainage and access easements must be secured and indicated on the
recorded plat or site plan. Maintenance responsibility for drainage-ways and swales shall be
clearly designated on the recorded plat or site plan.
3.12 Over-lot Grading

1. Grading plans for construction of all buildings and dwelling units shall be provided and approved prior to issuance of a building permit by LUGM. The plans shall show existing and proposed easements and lot contours, on-site drainage swales, minimum first floor/basement/walk-out elevations, spot shots around the building perimeter to demonstrate accommodations of the ten (10)-year and one hundred (100)-year flows and elevations, delineation of soil types, and retention and infiltration areas to assure that adequate drainage is provided. An example of such detail is set forth at Figure 3.11.

![Figure 3.11 Sample Detail Required For Overlot Grading Plans](image)

2. All residential and accessory structures shall be located at least twelve (12) inches above the one hundred (100)-year storm elevation. All drainage easements shall be shown on the plan. Where the on-site construction raises the water surface elevation on upstream properties, the applicant shall provide or obtain a drainage easement for the ten (10)-year storm elevation, and provide calculations that establish that the one hundred (100)-year water surface elevation does not encroach on any existing structures.

3. Compliance with the grading plan shall be required. Over-lot grading plans shall include the approved septic field location(s) and well location(s).

4. Design of surface runoff across lots shall not result in erosive velocities. If a storm sewer is provided, it shall not outfall in the front yard, but shall extend to a point to the rear of the house or lot. The building shall not be located so as to allow culvert outfalls to direct flow toward the structure. The existing and finished grades at all driveway/street intersections and on adjacent lots may be required to ensure that drainage will not be directed towards a building or dwelling unit.

5. Lots shall be graded so that surface runoff does not cross more than three (3) lots before it is collected into a retention and infiltration area or a storm drain system. The storm drain system may be an open channel, closed conduit, or a combination of both. The approving authority may approve an open channel where the preservation of a natural drainage-way is desirable or the use of the open channel will not interfere with the use of the property.
6. In areas that are susceptible to a high water table (permanent, perched, or seasonal) the engineer shall provide pavement design criteria and measures to assure dry basements and to preclude wet yards.

7. Over-bank flood protection measures shall be incorporated into the design plans.

8. Adequate compaction of fill embankments at ninety five (95) % density shall be required to ensure proper stability of the slopes, which shall be no steeper than two feet horizontal to one vertical. Use of retaining walls in connection with site plan or subdivision developments shall be shown at the time of building permit application.

9. In general, two-foot contour intervals shall be utilized. However, for subdivisions with lots greater than one acre, topographic data with five-foot contour intervals at a scale no greater than one (1) inch equals one hundred (100) feet shall be acceptable. Scale shall be large enough to ensure that an accurate representation is shown on the plans.

10. If lot sizes are greater than one (1) acre, and the disturbance on each lot is less than one-half (½) acre, and contiguous lots are not being developed concurrently by the same owner, builder, or developer, a Standard Erosion and Sediment Control plan will be required by SCD. If lot sizes are one (1) acre or less, or contiguous lots of any size are being developed concurrently by the same owner, builder, or developer, an Engineered Erosion and Sediment Control Plan for the single lot development shall be required by SCD and shall contain the provisions of this Article. Building permit applications shall demonstrate conformance with the approved erosion and sediment control plan. The Director of LUGM shall compare building permit applications with the approved plan and shall disapprove building permit applications if significant deviations are noted unless revisions have been otherwise approved by SCD.

11. All building permit applications subject to this Article 3.12 shall state and show calculations of the chosen method of addressing the provisions of this Article. This may be accomplished with an attached sketch or specific reference (page/appendix number, etc.) from the Design Manual and the results of simple design calculations shown in the “notes” section of the building permit applications.

12. Designs with walk-out basements shall be prohibited where sump conditions are created and adequate drainage cannot be properly demonstrated by the applicant.

13. Lots shall be generally graded so that surface runoff is directed along property lines and shall preclude the ponding of water on adjacent lots unless specifically approved otherwise. In accordance with Article 3.10.2.1., contours of the finished surfaces are to be blended with adjacent natural terrain to achieve a consistent grade and natural appearance.

14. A building permit may not be issued by LUGM for any parcel of land, parcel of record or lot unless a stormwater management plan and erosion and sediment control plan has been approved or the requirements therefore waived by the approving authority. The issuance of a permit shall also require:

a. Recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way; and
15. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection so as not to create a hazard. Lots shall be graded so as to drain surface water away from foundation walls. The grade away from foundation walls shall fall a minimum of six (6) inches within the first ten (10) feet.

16. If warranted by site conditions, reasonable restrictions may be placed on the number of lots or grading units area (square footage) that may be disturbed/graded at any point in time, and on mass grading operations through phasing and sequencing of construction activity to minimize disturbed/graded areas.

3.13 Inspection and Maintenance Agreement

1. **Maintenance Responsibility.** Prior to the issuance of any grading permit for which stormwater management is required, the approving authority shall require the applicant or owner to execute an Inspection and Maintenance Agreement binding on the owner and all subsequent owners of land served by the private stormwater facility.

   a. **Reasonable Access.** The agreement shall provide for access to the facility at reasonable times for regular inspection by LUGM and DPW&T and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provisions made part of the approval. A minimum 20-foot access easement shall be shown on the plan and on the record plat for all structural practices.

   b. **Maintenance.** The agreement shall require the owner, and all its successors and assigns, of the property served by any private stormwater management facilities (structural and/or non-structural), to maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices. Such repairs, restoration and maintenance shall be in accordance with approved plans.

      (1) Annual mowing is required only along maintenance rights-of-way and embankment.

      (2) Sediment removed from ponds should be disposed of per sediment and erosion control regulations in effect from time to time.

   c. **Maintenance Schedule.** A maintenance schedule shall be developed for the life of any stormwater management facility/measure (structural and non-structural). The maintenance schedule shall state the maintenance to be completed, the time period for completion, and the party shall perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan and shall conform to the Design Manual.

   d. **Inspections.** The schedule for inspection shall be one (1) year following final approval of construction completion and every three (3) years thereafter. If repairs, restoration and maintenance are needed to assure proper operation of the facility, the owner shall be
notified and shall have ninety (90) days to complete the required work. Extensions may be granted due to weather or other extenuating circumstances.

e. **Failure to correct violations.** The agreement shall provide that if, after notice of a failure to perform repairs, restoration and maintenance, satisfactory corrections are not made by the responsible party within thirty (30) days, LUGM or DPW&T may perform all necessary repairs, restoration and maintenance. The party responsible for the facility shall be liable for the cost of the work. The agreement shall provide that a court of competent jurisdiction, after due notice, shall order a lien for the cost of the work be placed on each property served by the stormwater management facility.

f. **Recording.** The agreement shall be recorded by the applicant in the Land Records of St. Mary’s County.

g. **Transfer of Maintenance Responsibility.** Prior to transfer of maintenance responsibility, a new Inspection and Maintenance Agreement must be recorded in the Land Records of St. Mary’s County.

3.14 **Construction Inspection**

The permittee shall be responsible for the work to be performed in accordance with the approved plans and specifications and in conformance with the provisions of this Ordinance. The permittee shall engage consultants, if required, to provide professional inspections and materials testing on a timely basis. In the event of changed conditions, the permittee shall be responsible for informing the approving authority of such change and shall provide revised plans for approval.

1. **General.**

   a. The permittee shall provide:

   (1) Written notification to the approving authority that is received at least two (2) working days prior to commencing any work in conjunction with the stormwater management system construction;

   (2) Any necessary third party inspection reports and data; and

   (3) A certified as-built plan, prior to final acceptance of the work authorized under the permit, documenting the adherence to construction requirements contained in approved plans.

b. Each ESD practice and structural BMP shall be separately documented upon completion of final grading, establishment of permanent stabilization, and before issuance of use and occupancy approval.

2. **Inspection Reports.**

   a. Inspections of each ESD practice and structural BMP shall be conducted during construction by the approving authority.
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(1) Periodic inspections shall be documented and reports shall be provided to the
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approving authority.
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(2) Written reports shall be prepared after every inspection and include:
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(i) The date and location of the inspection; and
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(ii) Whether construction was in compliance with the approved stormwater
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management plan; and
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(iii) Any variations from the approved construction specifications; and
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(iv) Any violations that exist and the type of enforcement action taken.
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(3) The applicant and on-site personnel shall be notified in writing when violations
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are observed. Written notification shall describe the nature of the violation and
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the required corrective action.
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(4) No additional work shall proceed until the County inspects and approves the
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work previously completed and furnishes the applicant with the results of the
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inspection reports.
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3. **Inspection Requirements During Construction.** The Developer or its representative shall assure
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that inspections are made and documented, and that approvals are obtained, at the following
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specified stages of construction:
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a **Ponds.** Inspections shall be made at each of the following stages of construction:
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(1) Upon completion of temporary sediment and erosion control measures;
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(2) Upon completion of excavation to sub-foundation and, when required, installation of structural supports or reinforcement for structures, including but not limited to:
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(i) Core trenches for structural embankments;
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(ii) Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes;
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(iii) Trenches and compaction for enclosed storm drainage facilities; and
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(iv) Filter fabric, observation wells, and base aggregate material;
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(3) During placement of structural fill, concrete, and installation of piping and catch basins;
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(4) During backfill of foundations and cut-off trenches;
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(5) During embankment construction, final excavation, placement of surface layers; and
(6) Upon completion of final grading and establishment of permanent stabilization.

b. *Wetlands.* At the stages specified for pond construction in this Ordinance, during and after wetland reservoir area planting.

c. *Infiltration Trenches.* Inspections shall be made at each of the following stages of construction:

(1) During excavation to sub-grade;
(2) During placement and backfill of under-drain systems and observation wells;
(3) During placement of geo-textiles and all storage/filter media;
(4) During construction of appurtenant conveyance systems such as diversion structures, pre-filters and filters, inlets, outlets, and flow distribution structures; and
(5) Upon completion of final grading and establishment of permanent stabilization.

d. *Infiltration Basins.* At the stages specified for pond construction in this Ordinance and during placement and backfill of under-drain systems.

e. *Filtering Systems.* Inspections shall be made at each of the following stages of construction:

(1) During excavation to sub-grade;
(2) During placement and backfill of under-drain systems;
(3) During placement of geo-textiles and all filter media;
(4) During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, check dams, diaphragms, and flow distribution structures; and
(5) Upon completion of final grading and establishment of permanent stabilization.

f. *Open Channel Systems.* Inspections shall be made at each of the following stages of construction:

(1) During excavation to sub-grade;
(2) During placement and backfill of under-drain systems for dry swales;
(3) During installation of diaphragms, check dams, or weirs; and
(4) Upon completion of final grading and establishment of permanent stabilization.

g. *ESD Practices.* Rooftop and non-rooftop runoff disconnects, sheet flow to conservation areas, and rainwater harvesting shall be inspected. Submerged gravel wetlands shall be inspected as both an infiltration trench and wetlands. Landscape infiltration, infiltration
berms, and dry wells shall be inspected as an infiltration trench. Micro-bioretention, rain gardens, and enhanced filters will be inspected as a filtering system.

h. The Developer or his representative shall provide additional inspection, testing, and/or reports as field conditions may warrant, as determined by the Inspector.

4. Inspection Staff. The permittee shall pay the cost of any third party inspector utilized by the County. If an as-built certification is not provided by the permittee, the County, at its option, may perform destructive or non-destructive testing at the expense of the permittee.

5. Materials Testing Requirements. The Developer shall be responsible for making all necessary arrangements for the testing of materials required at specific stages of construction of stormwater management facilities. Materials tests are required, and shall be performed by a licensed professional. A report by the licensed professional shall be provided to the Inspector, and shall be accompanied by supplier certifications for all materials. The following materials tests and certifications shall be required:

- Classification and compaction ratio of core trench materials and fill material for embankments;
- Certification of all topsoil and filter media specifications (i.e., percentage of organic material, pH, salt content, nutrients, gradation);
- Certification that all geo-textile meets specifications;
- Certification that all plant materials are disease and pest free;
- Void ratio of gravel used for storage of runoff, and
- Any other test the inspector requires.

6. As-Built Certifications. Once construction is complete, an as-built certification shall be submitted to the approving authority for approval. The as-built certification shall be prepared and sealed by a Registered Professional Engineer or Professional Land Surveyor licensed to practice in Maryland. Design plan drawings, computations, and reports shall be submitted to ensure that constructed stormwater management practices and conveyance systems comply with the specifications contained in the approved plans. As-built certification shall include a set of drawings, in accordance with the Formal Guidelines, comparing the approved stormwater management plan with the facilities as constructed. The as-built plan certification shall contain a statement that the stormwater management devices have been constructed, inspected, and completed in accordance with the approved plans, and that the as-built drainage areas to each stormwater management device are substantially in compliance with the approved drainage area maps. The approving authority may require additional information.

7. Notice of Construction Completion. The approving authority shall submit a NOCC Form to the Administration for each stormwater management practice within forty-five (45) days of construction completion and final as-built certification. If BMPs requiring SCD approval are constructed, notice of construction completion shall also be submitted to the SCD.
3.15 Inspections

1. Inspections During Construction. The approving authority is responsible for inspections during construction.

2. Inspections After Construction. LUGM shall inspect all ESD treatment systems and structural stormwater management measures.
   a. The party responsible for the stormwater management facility shall perform or cause to be performed preventive repairs, restoration and maintenance of all completed stormwater management facilities to insure proper operation. Stormwater management facilities and structural and non-structural BMPs shall be visually inspected by the party responsible for the stormwater management facility at least twice a year and after major storms.
   b. LUGM shall perform inspections, or cause to be performed, inspections of private stormwater management facilities one (1) year following final approval of construction completion and every three (3) years thereafter. A fee may be charged for this service in accordance with the adopted Fee Schedule. LUGM shall maintain all inspection reports for all ESD treatment systems and all structural stormwater management measures and shall provide the Director of DPW&T with a copy of the inspection reports shall contain the following information:

   (1) The date of inspection;
   (2) Name of inspector; and
   (3) An assessment of the quality of the stormwater management system related to ESD treatment system efficiency and the control of runoff to the MEP; and
   (4) Description of needed repairs, restoration and maintenance; and
   (5) The condition of:

      (i) maintenance access and landscaping;
      (ii) vegetation and filter media;
      (iii) fences and other safety devices including safety benches and trash racks;
      (iv) spillways, valves, and other control structures including low orifices, risers, and forcbays; and
      (v) embankments, slopes, and safety benches;
      (vi) reservoir and treatment areas;
      (vii) inlet and outlet channels and structures;
      (viii) underground drainage;
(ix) sediment and debris accumulation in storage and forebay areas;

(x) differential settlement of the structures;

(xi) any other item that could affect the proper function of the stormwater management system including non-structural facilities and BMPs to the extent practicable.

c. Inspection reports shall be maintained by the Director of LUGM.

d. If repairs, restoration and maintenance are needed to assure proper operation of the facility, the owner shall be notified and shall have ninety (90) days to complete the required work. Extensions may be granted due to weather or other extenuating circumstances. The approving authority shall conduct a subsequent inspection to ensure completion of the repairs:

(1) Wetlands. Inspections shall be conducted during the second growing season to verify a vegetation survival rate of at least fifty (50) %.

(2) ESDs. All landscaping materials shall be inspected one (1) year after final approval of construction to assure a survival rate of at least seventy five (75) %.

e. If, after notice of a failure to perform repairs, restoration and maintenance, satisfactory corrections are not made by the responsible party within thirty (30) days, LUGM or DPW&T may perform all necessary repairs, restoration and maintenance. The party responsible for the facility shall be assessed the cost of the work. The County may petition a court of competent jurisdiction, after due notice, to order a lien for the cost of the work be placed on each property served by the stormwater management facility.

3. Re-inspections and Special Inspections. Re-inspections for acceptance of permitted work and special inspections for a reduction in surity as requested by the permittee are subject to fees in accordance with the established Fee Schedule.
ARTICLE 4.  EROSION, SEDIMENT CONTROL & GRADING

4.1  Purpose and Authority

1.  Purpose. The purpose of this Article is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with land disturbances. The purpose is to minimize soil erosion and prevent off-site sedimentation by using soil erosion and sediment control practices designed in accordance with the Code of Maryland Regulations (COMAR) 26.17.01, the 2011 Maryland Standards and Specifications (hereinafter the “Standards and Specifications”) and the Stormwater Management Act of 2007 (hereinafter the “Act”). Implementation of this Ordinance will reduce the negative impacts of land development on water resources, maintain the chemical, physical, and biological integrity of streams, and minimize damage to public and private property.

2.  Authority. The provisions of this Article are authorized pursuant to Title 4, Subtitle I of the Environment Article of the Annotated Code of Maryland. The application of this Ordinance and the provisions herein shall be the minimum erosion and sediment control requirements and shall not be deemed a limitation or repeal of any other powers granted to the County by law.

4.2  Applicability and Validity

1.  No person shall disturb land without implementing an approved soil erosion and sediment control plan in accordance with the requirements of this Article and the Standards and Specifications except as otherwise provided within this Ordinance.

2.  The approving authority for review and approval of sediment and erosion control plans is the St. Mary’s Soil Conservation District (hereinafter the “SCD”).

3.  A grading or building permit may not be issued for a property unless an erosion and sediment control plan has been approved that is consistent with State law, State regulations, and this Ordinance.

4.3  Sediment and Erosion Control Plan Exemptions

The following activities are exempt from the requirement to prepare a sediment and erosion control plan:

1.  Agricultural land management practices and the construction of agricultural structures, including those regulated under COMAR 26.17.03;

2.  Clearing or grading activities that disturb less than five thousand (5,000) square feet of land area and disturb less than one hundred (100) cubic yards of earth; and

3.  Clearing or grading activities subject exclusively to State approval and enforcement.

4.4  General Design, Review, and Approval of Sediment Control Plans

1.  The approving authority shall review erosion and sediment control plans to determine compliance with this Ordinance and the Standards and Specifications prior to approval. In approving the plan, the approving authority may impose such conditions that may be deemed necessary to ensure
compliance with the provisions of this Ordinance, COMAR 26.17.01, the Standards and Specifications, and the preservation of public health and safety.

2. The review and approval process shall be in accordance with the comprehensive and integrated plan approval process described in the Standards and Specifications, this Ordinance, and the Act.

3. The final erosion and sediment control plan shall not be considered approved without the inclusion of the signature and date of signature of the approving authority on the plan.

4. Approved plans remain valid for two (2) years from the date of approval unless extended or renewed by the approving authority.

5. **Transitional Provisions.**

   a. Any plans that receive final approval after January 9, 2013 must be in compliance with the requirements of this Ordinance and the Standards and Specifications.

   b. A plan that received final approval on or before January 9, 2013 may be re-approved pursuant to provisions in effect at the time of original approval if grading activities have begun on the site on or before January 9, 2015, with the exception of stabilization requirements.

   c. Stabilization practices on all sites must be in compliance with the requirements of this Ordinance and the Standards and Specifications on and after January 9, 2013, regardless of when an erosion and sediment control plan was approved.

6. **Modifications of Sediment and Erosion Control Plans.**

   a. The approving authority may revise approved plans as necessary. Modifications may be requested by the owner/developer, the inspection agency, or DPW&T in accordance with COMAR 26.17.01.09(H) Plan Modifications.

   b. The approving authority may develop a list of minor modifications that may be approved as field revisions by the inspection agency. Any list of minor modifications must be approved by the Administration prior to its implementation.

7. **Standard Erosion and Sediment Control Plan.**

   a. The approving authority may adopt a standard erosion and sediment control plan for activities involving minor earth disturbances, such as single-family residences, small commercial and other similar building sites, minor maintenance grading, and minor utility construction.

   b. A standard erosion and sediment control plan must meet the requirements of this Ordinance and the Standards and Specifications and be approved by MDE prior to its adoption.

4.5 **Grading Provisions**

1. No person shall grade, strip, excavate, clear or fill land, or create borrow pits, spoil areas, quarries, material processing facilities or any other facility without first obtaining a grading or building permit from the respective approving authority unless exempt from the requirement to prepare a sediment and erosion control plan pursuant to Article 4.3 of this Ordinance.

2. The approving authority for issuance of a Grading Permit is the St. Mary's County Department of Public Works & Transportation.
3. **Exceptions.**

A grading permit shall not be required for the following:

a. Any road construction for which St. Mary's County has issued a road construction permit. A road construction permit may not be issued unless an erosion and sediment control plan has been approved by SCD.

b. Excavations below finished grades for basements, retaining walls, and footings of individual dwellings authorized by a valid building permit. Requirements for a building permit shall include an erosion and sediment control plan approved by SCD.

c. Any surface mining operation and the affected land covered by a surface mining permit issued by MDE.

d. Any other excavation that:

   (1) Does not impair existing surface drainage, constitute a potential erosion hazard, or act as a source of sedimentation to any adjacent land or water course; and

   (2) Does not result in a cumulative quantity (sum of cut and fill) more than one thousand (1,000) cubic yards of material within any site; and

   (3) Is less than four (4) feet in vertical depth at its deepest point as measured from the natural ground surface; and

   (4) Has no final slopes steeper than three (3) feet horizontal to one (1) foot vertical; and

   (5) Has all disturbed areas promptly seeded or sodded within seven (7) days of the last disturbance; and

   (6) Includes appropriate stormwater management measures in accordance with this Ordinance, each such measure having a drainage area less than or equal to five thousand (5,000) square feet (except grass channels, which shall have a drainage area of less than one (1) acre to qualify).

e. A fill that:

   (1) Does not impair existing surface drainage, constitute a potential erosion hazard or act as a source of sedimentation to any adjacent land or water course, and

   (2) Is placed on a surface having a slope not steeper than five (5) feet horizontal to one (1) foot vertical; and

   (3) Does not result in a cumulative quantity (sum of cut and fill) more than one thousand (1,000) cubic yards of material within any site; and

   (4) Is less than four (4) feet in vertical height at its deepest point as measured from the natural ground surface; and

   (5) Has no final slope steeper than three (3) feet horizontal to one (1) foot vertical; and
(6) Has all disturbed areas seeded or sodded within seven (7) days of the last disturbance; and

(7) Includes appropriate stormwater management measures in accordance with this Ordinance.

f. Construction of agriculture structures; accepted agricultural land management practices such as plowing; and nursery operations such as the removal and/or transplanting of cultivated sod, shrubs and trees and tree cuttings at or above the existing ground, leaving the stump, ground cover and root mat intact, if the cumulative sum of cut and fill does not exceed one thousand (1,000) cubic yards. Agricultural activities that do not require an erosion and sediment control plan shall require an approved Soil Conservation and Water Quality Plan.

g. Stockpiling, of raw or processed sand, stone or gravel with slopes at a natural angle of repose at concrete and asphalt processing plants and storage yards, provided an approved erosion and sediment control plan has been implemented to protect against offsite damages.

h. Refuse disposal areas or sanitary landfills operated and conducted in accordance with the requirements, rules and ordinances adopted by St. Mary's County and the State of Maryland.

i. Grading and trenching for utility installation within:

   (1) County or State rights-of-way; or

   (2) Utility easements immediately adjacent to road or street rights-of-way or the area on an abutting lot to accommodate the house connections provided no grading or trenching permanently alters the existing grade and the utility company restores to its original condition any previously existing erosion and sediment control measure disturbed or destroyed during the course of utility operations.

j. Individual private septic system which does not permanently alter the existing grade.

k. Grading on existing developed lots or parcels for maintenance or landscaping purposes, provided:

   (1) The aggregate of area so affected, or bared at any one time, does not exceed 0.5 acre (21,780 square feet); and

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

   (3) All bare earth is seeded, sodded or otherwise effectively protected from erosive actions within seven (7) days; and

   (4) The grading does not involve a quantity of material in excess of one thousand (1,000) cubic yards; and

   (5) Grading does not result in increased runoff to highly erodible soils; and
(6) Slopes do not exceed twenty five (25) % or fifteen (15) % on highly erodible soils.

4.6 Grading Permit Requirements

1. A grading, zoning, or building permit may not be issued for a property unless (a) an erosion and sediment control plan has been approved by SCD, and (b) any grading within the one hundred (100)-year floodplain of any stream or water course has been approved by MDE, unless exempt from the requirement to prepare a sediment and erosion control plan pursuant to Section 4.3 of this Ordinance.

2. No grading or clearing permits shall be issued on a site until:
   a. The final site plan approval is granted by LUGM; or
   b. The subdivision plat is approved by the St. Mary's County Planning Commission or Director of LUGM and recorded in the Land Records of the County.

3. A permit may cover the grading and other site work on a single lot, or on a combination of contiguous lots in a single block, or on continuous blocks.

4. Application Requirements. Prior to the issuance of a grading permit, the applicant shall submit to the approving authority the following:
   a. An application form.
      (1) A separate application shall be required for each grading permit;
   b. Specifications, construction sequencing and timing schedules;
   c. A copy of the approved MDE Waterway Permit(s), where applicable, and evidence of any other required wetlands permits or approvals.
      (1) Any proposed disturbance of a wetland requires review by MDE and any disturbance exceeding five thousand (5,000) square feet requires a joint permit. Any disturbance or development in the Chesapeake Bay Critical Area requires review by LUGM.
   d. Any bond required under this Article;
   e. The fee(s) for administration and inspection; and
   a. A copy of the most current deed for the property.

5. Plan Requirements. The grading plan and erosion and sediment control plan shall address site activities during all phases of construction and shall include the following:
   a. The proposed area of development and limits of disturbance;
   b. Delineation of grading units;
   c. The volume of proposed grading:
d. The necessary drainage, erosion and sediment control, vegetative establishments and stormwater management facilities;

e. The "Standard Stabilization Note" stating:

"Following the initial soil disturbance or re-disturbance, permanent or temporary stabilization must be completed within:

(1) Three (3) calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter slopes, and all slopes steeper than three (3) feet horizontal to one (1) foot vertical (3:1); and

(2) Seven (7) calendar days as to all other disturbed or graded areas on the project site not under active grading";

f. A statement requiring the owner/developer or representative to contact the Maryland Department of the Environment or its agent at the following stages of the project or in accordance with the approved erosion and sediment control plan, grading permit, or building permit:

(1) Prior to the start of earth disturbance;

(2) Upon completion of the installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading;

(3) Prior to the start of another phase of construction or opening of another grading unit; and

(4) Prior to the removal of sediment control practices;

g. Certification by the owner/developer that any clearing, grading, construction, or development will be done pursuant to the approved erosion and sediment control plan.

The certification must also require that the responsible personnel involved in the construction project have a Certificate of Training at an MDE approved training program for the control of erosion and sediment prior to beginning the project. The Certificate of Training for Responsible Personnel may be waived by the approving authority on any project involving four or fewer residential lots. Additionally, the owner/developer shall allow right of entry for periodic on-site evaluation by SCD, LUGM, DPW&T, and MDE;

h. Certification by a professional engineer, land surveyor, landscape architect, architect, or forester (for forest harvest operations only) registered in the State that the plans have been designed in accordance with erosion and sediment control laws, regulations, and standards, if required by the approving authority or the Administration;

i. Sequence of Construction narrative providing that:

(1) All disturbed areas shall be included in the Sequence of Construction narrative;

(2) All limits of disturbance shall provide adequate control of erosion and sediment during all phases of construction;
(3) Erosion and sediment control measures must be coordinated with the stages of construction; and

(4) The installation of erosion and sediment control measures must occur prior to the commencement of construction or development;

j. A schedule for sequentially phased controls of erosion and sediment;

k. The staging of operations to ensure that an area being developed will not be exposed for an extended period of time without stabilization, and that any disturbed area is completely stabilized before another area is open; and

l. Other information as required by:

(1) St. Mary's County Format Guidelines for Preparation of Development Plans for Submission to the approving authority (“Format Guidelines”);

(3) SCD Submittal requirements; and

(4) Any other state or federal permits or requirements;

6. Conditions of Approval or Denial. The approving authority shall have the right to deny issuance of a grading permit if the proposed grading would create conditions adverse to the public safety and welfare. In granting any grading permit, the approving authority may impose conditions reasonably necessary to prevent a nuisance or unreasonable hazard to persons or to public or private property. Such conditions may include, but need not be limited to the following:

a. Improvement of any existing grading to meet the standards required under this Ordinance for new grading and for erosion and sediment control;

b. Designation of easements for drainage facilities and for the maintenance of slopes; and

b. Adequate control of dust by watering or other control methods acceptable to the approving authority and in conformance with applicable air pollution regulations.

4.7 Site Development Standards

1. Standards. All grading plans and specifications shall be in accordance with the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control and any subsequent revisions, and shall meet the following standards:

a. Topography. The development shall be fitted to the topography and soils so as to create the least erosion potential;

b. Natural Vegetation. The natural vegetation shall be retained and protected wherever possible;

c. Stabilizations. The smallest practical area shall be exposed for the shortest practical period of time. Earth disturbances must be temporarily or permanently stabilized as soon as possible and as dictated by the approved plan.
d. **Natural Resources.** Protection of natural resources such as wetlands, springheads, floodplains, Tier II watersheds, steep slopes and highly erodible soils;

e. **Perimeter Controls.** Erosion control practices, such as earth dikes, perimeter dikes/swales, sediment traps and silt fences shall be installed to minimize soil and water losses;

f. **Sensitive Areas.** Temporary vegetation or mulching shall be used to protect sensitive areas exposed during the time of development;

g. **Runoff Control.** During and after development, provisions shall be made to effectively accommodate the increased runoff caused by changeable soil and surface conditions and to prevent siltation of the receiving stream;

h. **Inspection.** Provisions for inspecting and maintaining sediment controls; and

i. **Steep Slopes.** In accordance with the Standards set forth in the Comprehensive Zoning Ordinance, in order to prevent abnormal or excessive grading, the following additional requirements shall pertain to those areas where steep slopes exist:

1. The extent of cutting and filling that will be permitted on any lot will be based on the soil condition of the site, as determined by the approving authority and SCD;

2. All roads and streets shall be placed as close to the contour as possible to minimize cutting or filling;

3. The construction of all structures shall be preceded by the installation of storm drainage system(s) and stabilization measures; and

4. Runoff directed to steep slopes and highly erodible soils shall be conveyed to an acceptable outlet after being treated by ESD's to the MEP. Such outlets shall be designed to protect the receiving slopes and channel from erosion.

2. **Vegetative Erosion and Sediment Control Measures.** The 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control and any subsequent revisions are incorporated herein.

a. **Temporary Vegetative Stabilization.** Where soil is subject to erosion or consecutive days of inactivity as a result of grading or filling operations, temporary stabilization by seeding shall be provided in accordance with Article 4.6.5.e. The requirements for temporary seeding are as follows:

1. Seedbed preparation;

2. Lime and fertilizer as required;

3. Seeding; and

4. Mulching and mulch anchoring as required.
b. **Temporary Mulch Stabilization.** Temporary mulch stabilization is acceptable only when seeding is not feasible. The requirements for temporary mulch stabilization are as follows:

1. Straw mulch applied at a rate of two (2) tons per acre, with a loose depth of one (1) to two (2) inches, or wood cellulose fiber applied at a dry weight of one thousand five hundred (1,500) pounds per acre. Mulch shall be placed on a friable soil; and

2. Mulch anchoring as required.

c. **Mulching Final Grade.** Where permanent seeding after final grading is delayed until the next season, protection of soil from erosion is required as follows:

1. A minimum of four (4) inches of top soil, or approved equivalent;

2. Application of required lime and fertilizer;

3. Preparation of final seedbed;

4. Temporary seeding;

5. Mulching as required; and

6. Mulch anchoring as required.

d. **Permanent Vegetative Stabilization.** Permanent seeding shall be established where soil is subject to erosion or consecutive days of inactivity as a result of grading or filling operations in accordance with Article 4.6.5.e. Adapted grasses, legumes, and other plants shall be utilized to stabilize exposed areas. The final choice of species should be determined by considering such factors as adaptability to climate, soils and terrain and degree of maintenance. The requirements to establish permanent vegetative stabilization are as follows:

1. Install required erosion control practices;

2. Apply required lime and fertilizer;

3. Prepare adequate seedbed;

4. Seed or sod; and

5. Apply mulch and anchor.

1. **Structural Erosion and Sediment Control Measures.** All erosion and sediment control measures shall be in accordance with the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control and any subsequent revisions, and any additional controls SCD deems necessary to achieve the purposes of this Article including the following:

a. Private driveways serving multiple lots shall be designed and shown on the approved erosion and sediment control plans; and

b. Private driveways shall require an improved surface material on intermittent slopes in excess of twelve (12)% The surface material shall be crushed concrete, asphalt, CR-6, blue-chip or an equivalent surface treatment acceptable to SCD.
2. **Fills and Classification.** The grading plans and specifications shall specify and delineate the use and extent of fills in accordance with the following classifications:

a. **Type 1 Fill.** Load bearing fills proposed for support of buildings, walls, and other structures, which would be especially impaired by settlement.

b. **Type 2 Fill.** Load bearing fills proposed for support of roadways, pavements, utility lines, and structures, which would not be significantly impaired by moderate settlement.

c. **Type 3 Fill.** Common fills proposed for landscaping or for other non-load bearing usage.

3. **Materials.** All load bearing fills shall meet the following requirements:

a. No inclusions of organic or other deleterious materials which may be subject to decay shall be permitted;

b. All fills shall be free of inclusions of ice or snow; and

c. No rock or similar irreducible material with a maximum dimension greater than eight (8) inches shall be buried or placed in any load bearing fill within two (2) feet of finished grade or within two (2) feet of foundation base elevation. When rock or similar irreducible material is placed in other fill areas, it shall be performed under the direction and supervision of a Professional Engineer.

8. **Preparation of Ground.**

a. The natural ground surface shall be prepared to receive fill by removing all organic surface materials, non-complying fill and unsuitable soils in accordance with the following provisions, except as otherwise permitted by the approving authority based on the recommendation of the Professional Engineer.

b. Prior to placing Type 1 and Type 2 Fills, the ground surface, if within 5 feet of finished grade or foundation base elevation, shall be compacted to achieve at least 90% of maximum density. The top six (6) inches as follows: All Type 1 and Type II Fills shall be compacted, respectively, to at least 95% and 90% of maximum density as determined in the laboratory by ASTM Proctor Test. Type 3 fill shall be compacted sufficiently so as to be stable and to prevent an erosion hazard. In place (field) density shall be determined by ASTM Test or AASHTO equivalent tests methods, or by an equivalent test approved by a licensed geo-technical or structural engineer. All Fills shall be placed in approximately horizontal layers, each layer having a loose thickness of not more than eight (8) inches.

c. No fill shall be placed on frozen ground.

9. **Compaction.** All fill will be compacted in accordance with the following provisions:

a. All Type 1 and Type 2 Fills shall be compacted to a minimum of 95% and 90%, respectively, of maximum density as determined in the laboratory by ASTM Test Method D1557 - 66%, also known as the Proctor Test. Type 3 fill shall be compacted sufficiently so as to be stable and to prevent an erosion hazard.
b. in place (field) density shall be determined by ASTM Test or American Society of
Highway Officials equivalent tests method D1 56-64T method or by an equivalent test
approved by LUGM.

c. Fills shall be placed in approximately horizontal layers, each layer having a loose
thickness of not more than eight (8) inches.

10. Structural Rock Fills. Fills constructed predominately of large rock (such as sandstone and iron
concretions) will be permitted only if the specifications for such fill are prepared by, and
construction for such fill is certified to be in compliance by, a licensed Professional Engineer.

11. Maximum Slope for Fills.

a. No fill shall be made which creates an exposed surface steeper than a slope of three
(3) feet horizontal to one (1) foot vertical without prior approval.

b. The approving authority may require that the fill be constructed with an exposed surface
with a grade less steep than three (3) feet horizontal to one (1) foot vertical.

c. Fills toeing out on natural slopes at a grade steeper than three (3) feet horizontal to one
(1) foot vertical shall not be made without prior approval.

12. Maximum Slope for Cut. Finish cuts shall not be made steeper than a slope of two (2) feet
horizontal to one (1) foot vertical without prior approval.


a. Cut and fill slopes in excess of twenty (20) feet in height or depth shall be benched or
terraced according to the Maryland Standards and Specifications for Erosion and
Sediment Control.

b. Cuts and fills shall be set back from property lines, and buildings shall be set back from
cut or fill slopes, at a minimum distance of six (6) feet.

c. All benches shall be a minimum width of six (6) feet and shall drain to a stable outlet.

d. The setbacks established by this Section may be increased by the approving authority
based on recommendations by a licensed Professional Engineer if necessary for safety or
stability or to prevent possible damage from water, soil or debris.

14. Drainage. The following provisions apply to the conveyance and disposal of surface water runoff:

a. Disposal. All drainage facilities shall be designed to convey surface water in such a
manner as to prevent erosion, overflow or ponding. Said water shall be conveyed
according to an approved design criteria, standards and procedures as required by this
Ordinance. The ponding of water shall not be permitted above the cut or fill slopes or on
drainage terraces. Adequate drainage facilities shall be provided to prevent such ponding.

b. Erosion Prevention. The applicant and the owner shall make adequate provision to
prevent any surface or ground waters from materially damaging the face of any cut or fill.
All slopes shall be protected from surface runoff from above by berms or swales.
c. Grading Around Buildings. All areas around buildings shall be graded to provide for positive drainage in accordance with the building code and shall provide a minimum fall of six (6) inches within the first ten (10) feet away from structures.

d. Stormwater management shall be performed on each site in accordance with this Ordinance and regulations of the State of Maryland.

4.8 Erodible Soils Standards

1. In areas where the erodible soil types, as set forth in the Comprehensive Zoning Ordinance, are present, the applicant shall submit an engineered erosion and sediment control plan to SCD which provides for long-term management of the runoff and erosion in the vicinity.

2. Where highly erodible soil types, as defined in the Comprehensive Zoning Ordinance, predominate on-site or in off-site areas that will receive runoff from proposed impervious surfaces, proposed grading, or other activity, applicants for a grading permit shall:

   a. Identify and locate all highly erodible soil type map units within and down slope of the area of proposed grading or other activity;

   b. Identify and locate existing gully areas, active and inactive, within proposed development and areas down slope of proposed grading or other activity;

   c. Map all proposed stormwater discharges downstream from proposed development, identifying the presence of existing gullies, steep slopes, and areas of increased concentrated flow;

   d. Document flow paths on-site from discharge source to existing blue line stream channels, and

   e. Determine and document all stormwater runoff discharges from areas proposed for development, including but not limited to roads, any impervious area, any area designated for land use change, or areas proposed for mass grading. Discharge shall be determined in each sub-watershed exiting the development area based on runoff generated from a 10-year frequency storm.

3. Designs shall use low impact stormwater management practices to simulate runoff rates, infiltration and flow patterns of forest cover for the site, whether or not the site is currently forested.

4. Design plans that result in concentrated runoff shall include measures necessary to safely convey 10-year frequency storm peak flows from discharge points within proposed development areas downstream to existing on- or off-site blue line stream(s) or tidal waters. Particular attention shall be paid to avoid stormwater conveyance through existing gullies, across steep slopes, and through areas where concentrated storm flow did not previously occur.

4.9 Permits and Bonding

1. Permit. The issuance of a grading permit shall constitute an authorization to do only the work set forth in the application for the permit, or in the site plans and specifications submitted and approved as part of the application. All work performed by the person to whom the permit is
issued or by his successor shall be in accordance with the requirements of this Ordinance. Application for permits shall authorize the County to enter upon the land for restoration of the site upon default by the landowner or applicant. All inspection, application and plan review fees must be paid to the appropriate agencies in accordance with the current fee schedules prior to issuance of permits or authorization for additional work.

2. Time Limitations. A grading permit expires two (2) years from the date of issuance. The applicant shall fully complete all of the work required pursuant to the grading permit prior to expiration of the permit. At least thirty (30) days prior to the expiration of a grading permit, the permittee may request in writing an extension of the permit setting forth the reasons for the requested extension. Where, in the discretion of the approving authority and SCD, such an extension is warranted, an extension may be granted if the permit has not yet expired. If the permit expires, the grading and erosion and sediment control plan must be resubmitted for review and approval, and a new permit issued, prior to any additional work being undertaken.

3. Bonding. A grading permit shall not be issued for grading involving the movement of more than five thousand (5,000) cubic yards of soil (total cut and fill) unless the applicant shall first post with the approving authority a performance bond executed by the owner and a corporate surety with authority to do business in this State as a surety. The bond shall be in a form approved by the County Attorney and in an amount not less than the estimate by the approving authority of the total cost of the erosion and sediment control, stabilization work, and construction of stormwater management facilities authorized by the permit.

a. The bond shall include the following provisions:

(1) The applicant shall comply with all of the terms and conditions of the grading permit and this Ordinance;
(2) Any extension of time for completion time shall not release the applicant’s surety on the bond;
(3) Failure to complete the erosion and sediment control, stabilization, or stormwater management work required by the grading permit shall constitute a default under the grading permit and grounds for forfeiture of the bond; and
(4) Upon default, the application and surety shall continue to be firmly bound under a continuing obligation, to the extent of the amount of the bond, for the payment of all necessary costs and expenses or liabilities which may be incurred or expedited by the approving authority on behalf of St. Mary’s County to meet the minimum requirements of this Ordinance with particular emphasis on stability, safety and erosion control.

b. The bond shall remain in full force and effect until the completion of the work to the specifications required and submission of the as-built plan. If all work under the permit is not completed prior to expiration of the permit, or violates any other term or condition, forfeiture of the bond to St. Mary’s County will be sought.

c. In lieu of a surety bond, the applicant may deposit with the approving authority cash or letter of credit or other security approved by the County Attorney in the amount estimated pursuant to Article 4.9.3.
d. In the event that the posted bond or collateral is insufficient to cover the cost of restoration of the site or damage caused by a default, the County shall be entitled to damages.

e. Upon the satisfactory completion of the work specified in the grading permit, any remaining portion of a cash deposit shall be refunded to the applicant.

f. In addition to the maintenance bond requirements in Article 3.14.7., security to provide for long term maintenance of installed BMPs and performance bonding to correct problems arising from the development may be required as a condition of approval for the grading permit.

4.10 Waivers

The approving authority may only grant a waiver from the requirements of the Standards and Specifications when strict adherence will result in exceptional hardship and a waiver is consistent with the intent of this Ordinance. The owner/developer shall submit a written request for a waiver to the approving authority.

4.11 Plan Referrals, Modifications and Revisions

1. Referrals. Prior to issuance of a grading permit, three (3) copies of the approved Erosion and Sediment Control Plan shall be forwarded by SCD to the approving authority for issuance of appropriate permits.

2. Modifications. Major modifications of the approved grading plans shall be submitted to the approving authority and SCD and reprocessed in the same manner as the original plan and referred in accordance with Article 4.11.3 of this Ordinance. Field modifications of a minor nature may be authorized by the approving authority, provided that written authorization is given to the person performing the work with copies forwarded within fifteen (15) days to the applicant and SCD. Minor field modifications for erosion and sediment control are the responsibility of the Maryland Department of the Environment.

3. Revisions. Any proposed revision to approved plans and profiles shall be submitted to and approved by the approving authority. The following procedures shall be required for the submission and approval of a revision:

   a. A letter of transmittal shall accompany each revision submitted for review and approval, describing the revision in detail and its general location;

   b. The submitting engineer shall seal, date and certify all revisions to ensure that no other changes have been made on the plan or profile except those previously approved;

   c. All revisions under this Article 4.11, shall be clearly shown and circled in red;

   d. A revision block shall be incorporated as part of the title block for a plan or profile sheet. Revisions shall be indicated by a numbered “delta” in the vicinity of the change on the plan and described in the revision block beside the corresponding number;

   e. Where significant construction deviation is noted and no plan revision was approved, the County, at its option, may accept in lieu of an approved plan revision an "as-built" plan
and survey, prepared and certified by a Design Professional at the same scale as the
original plan and showing all improvements and final grades.

4.12 Construction Responsibilities

1. Responsibility of Permittee. During grading operations, the permittee shall be responsible for the
prevention of damage to any public utilities or services within the limits of grading and along any
routes of travel of equipment. No person shall grade on land so close to the property line as to
endanger any adjoining public street, sidewalk, alley or any other public or private property
without supporting and protecting such property from settling, cracking or other damage which
might result. Grading may take place on adjacent property if an easement is secured from the
property owner. Storm drains must terminate in an acceptable outfall.

2. Removal of Debris. No debris shall be deposited in floodplains, watercourses, public streets,
highway, sidewalks, or other public thoroughfares; and the permittee shall promptly remove all
soil, miscellaneous debris or other materials spilled, dumped or otherwise deposited in floodplains,
watercourses, public streets, highways, sidewalks, or other thoroughfares during transit or
operation.

3. Maintenance of Protective Measures. The owner of any property on which grading or other work
has been done pursuant to the provisions of this Article shall maintain and promptly repair or
restore all graded surfaces, erosion control measures, vegetative covers or other protective
measures if disturbed or destroyed during construction. Such repair or restoration shall be in
accordance with the approved plans and specifications as required by this Ordinance unless
alternative permanent measures are approved by the approving authority.

4. Erosion & Sediment Control. A permittee shall implement the measures contained in the approved
erosion and sediment control plan, conduct the construction as specified in the sequence of
construction and implement any sediment control measures reasonably necessary to control
sediment run-off.

4.13 Inspections and Notices

1. Inspection Schedule. The inspection schedule shall be as established and published by the
approving authority.

2. Documentation of Completion. Upon completion of permitted work authorized under this
Ordinance, the approving authority may require the following:

a. An "as-built" plan and survey, meeting the requirements of the Format Guidelines,
prepared and certified by a Professional Land Surveyor or Professional Engineer at the
same scale as the original plan and showing all improvements and final grades for
stormwater management; and

b. Certification by the permittee that all grading, drainage, erosion control measures and
facilities and vegetative measures have been completed in conformance with the
approved plans and specifications; and

c. A report summarizing the inspection reports, field and laboratory tests and locations of
tests.
d. Maintenance bonding in accordance with Article 4.9.4.d.

3. **Final Inspection.** The permittee shall notify the approving authority when the grading operation is ready for final inspection. Final inspection requires completion of all work (including installation of all drainage structures and erosion protective devices) as well as the required vegetative stabilization and the submission of all required reports.

4. **Notice to Comply.** If at any stage the work does not conform to the grading permit, or to any requirements of the approving authority or MDE, a written notice to comply shall be given to the applicant. Such notice shall set forth the corrections required and the time within which corrections shall be made. Upon the failure to comply with the notice, the permittee shall be considered in violation of this Ordinance, in which case the bond, or other security, may be forfeited.
ARTICLE 5. ENFORCEMENT

It shall be the duty of the Directors of Public Works & Transportation and Land Use and Growth Management to enforce this Ordinance and to bring to the attention of the Planning Commission, Board of County Commissioners, or County Attorney any violations or lack of compliance herewith.

5.1 Violation of Ordinance

a. It shall be unlawful for any person, whether or not acting as owner, lessee, principal, agent, or employee of another, to violate any provisions of this Ordinance, to permit any such violation, or to fail to comply with the requirements of this Ordinance, including but not limited to the following:

1. failure to obtain approval or permits as required by laws or ordinances;
2. failure to give proper notice of initiation of work;
3. performance of work without authorization;
4. failure to adhere to approved plans;
5. failure to take corrective action after notice; or
6. failure to complete work for which a permit was issued prior to expiration of a permit, including any extension thereof.

5.2 Notice of Violation

a. A notice of violation shall be issued for noncompliance with the requirements of this Ordinance specifying the required corrective action and the time for compliance.

b. If satisfactory action specified in a notice of violation is not completed within the time for compliance:

1. a stop work order may be issued for the site by the approving authority;
2. the permit may be suspended for an indefinite period;
3. the permit may be revoked; and
4. demand upon a surety or resort to other security may be made.

5.3 Prosecution of Violations

a. The Departments of Public Works & Transportation and Land Use and Growth Management are responsible for the enforcement of this section.

b. No citation for a municipal infraction shall be issued until the expiration of thirty (30) days after the issuance of a Notice of Violation.
c. After the expiration of thirty (30) days after the issuance of a Notice of Violation, the Department may issue a citation for a municipal infraction. The citation for a municipal infraction shall be prosecuted in the same manner and to the same extent as set forth in Article 23A, §3(b) of the Annotated Code of Maryland.

d. Each day in which any such violation occurs, or in which such person fails to perform the duties required of him or to comply with the provisions of this Ordinance or the Notice of Violation, shall constitute a separate offense.

e. Each violation of this Ordinance shall be a municipal infraction punishable by a fine not to exceed One Thousand Dollars ($1,000.00).

5.4 Actions to Remedy Violations

In addition to the imposition of any penalties provided in this Ordinance, the County may initiate an action for injunction, mandamus, abatement or any other appropriate judicial action to compel compliance with the provisions of this Ordinance.
ARTICLE 6. DEFINITIONS

For the purpose of this Ordinance, the following terms have the following meanings:

Acceptable Outfall means the tidewater or that point where stormwater can be released to a channel without causing scouring, erosion, or resulting sedimentation to the receiving channel or its floodplain.

Administration means the Maryland Department of the Environment (MDE), Water Management Administration.

Administrative Waiver means a waiver that allows the construction of the development to be governed by the stormwater management ordinance in effect as of May 4, 2010.

Adverse Impact means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or suitability for human or natural uses which is or may be potentially harmful or injurious to, or which may unreasonably interfere with health, welfare, safety, outdoor recreation or property, or to biological productivity, diversity, or stability.

Agricultural Land Management Practices means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources. Logging and timber removal operations are not to be considered a part of this definition.

Applicant means any person (including an engineer, developer or owner), firm, or governmental agency that executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

Approval means a documented action by the approving agency following a review indicating compliance with requirements or standards. “Approval” does not mean an acknowledgement by the approving authority that submitted materials have been received for review.

Approving Authority means the department or agency to which approval authority is delegated by law.

Aquifer means a porous water bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

Bench Terraces means an area (less than a three (3) % grade) constructed on sloping land according to designed dimensions and grades. Bench terraces are applied along the contour with the length and width controlled by the natural terrain and required erosion and sediment controls.

Best Management Practice (BMP) means an approved structural device or non-structural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

Channel Protection Storage Volume (Cp,) means the volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the 2006 Maryland Stormwater Design Manual, Volumes I & II.
CIP means Capital Improvement Program for St. Mary's County.

Clear and Clearing mean any activity that removes vegetative ground cover while leaving the root mat intact but shall not include the ordinary mowing of grass.

COMAR means the Code of Maryland Regulations.

Concept Plan means the first of three required plan approvals that are described in COMAR 26.17.02, and that includes the information necessary to allow an initial evaluation of a proposed project.

Construction means land clearing, grubbing, topsoil stripping, soil movement, grading, cutting and filling, transporting or otherwise disturbing land for any purpose.

Cumulative Disturbance means the sum of successive occurrences of development related soil disturbance on a Site since July 1, 2001.

Design Professional means a professional registered and authorized by the State of Maryland responsible for the preparation and submission of plans and plans on behalf of a developer.

Design Manual means the 2000 Maryland Stormwater Design Manual, Volumes I & II, and all subsequent revisions, that serves as the official guide for stormwater management principles, methods, and practices.

Detention Structure means a permanent structure for the temporary storage of runoff designed so as not to create a permanent pool of water.

Developer means a person with freehold, possessory or contractual interest in land proposed for development.

Direct Discharge means the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in the Critical Area.

Drainage Area means the area contributing runoff to a single point measured in a horizontal plane which is enclosed by a ridgeline.

Easement means a grant or reservation of a non-possessory right in land.

Environmental Permit means a permit issued, or to be issued, by the County after approval by the Environmental Planner, authorizing work of any type in resource protection areas, sensitive areas, the Critical Area or tidal waters.

Environmental Site Design (ESD) means small-scale stormwater management practices, non-structural techniques, and site planning to replicate natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Methods for designing ESD practices are specified in the Design Manual.

Erosion means the process by which the ground surface is degraded or worn away by the action of wind, water, ice, or gravity.

Erosion and Sediment Control means a system of structural and vegetative measures that minimizes soil erosion and off-site sedimentation.
Erosion and Sediment Control Plan means a strategy or plan designed to minimize erosion and prevent off-site sedimentation.

Excavation means any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated and includes the conditions resulting therefrom.

Existing Grade means the vertical location of the existing ground surface prior to excavating or filling.

Extended Detention means a stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events. Methods for designing extended detention BMPs are specified in the Design Manual.

Extreme Flood Volume (Qₘₐₓ) means the storage volume required to control infrequent large storm events in which overbank flows reach or exceed the boundaries of the 100-year floodplain.

Fill means a deposit of materials of any kind placed by artificial means.

Final Project Approval means approval of the final stormwater management, grading, and erosion and sediment control plan required to construct a project's stormwater management and erosion and sediment control facilities, and includes payment of fees and approval of security instruments for construction.

Final Sediment and Erosion Control Plan means, along with the final stormwater management plan, the last of three plans submitted under the comprehensive review and approval process required by this Ordinance and described in COMAR 26.17.09. Final erosion and sediment control plans shall be prepared and approved in accordance with the requirements of the approving authority and this Ordinance and designed in accordance with the Standards and Specifications.

Final Stormwater Management Plan means the last of three required plan approvals that includes the information necessary to allow all approvals and permits to be issued by the approving authority.

Finished Grade means the final grade or elevation of the ground surface conforming to the proposed design.

Format Guidelines means the St. Mary's County DPW&T Format Guidelines for Development Plan Submittals.

Grade and Grading means disturbance of earth by, including but not limited to, excavating, filling, stockpiling, grubbing, removing root mat or topsoil, or any combination thereof.

Grading Unit means the maximum contiguous area allowed to be graded at a given time. For the purposes of this Ordinance, a grading unit is twenty (20) acres or less.

Highly Erodible Soils means those soils with a slope greater than fifteen (15) %, or those soils with a K (erosivity) value greater than 0.35 and on slopes greater than five (5) %.

Impervious Surfaces means all buildings, roads, parking and driveways, paving, patios, decks, sidewalks, stoops, porches, steps, walkways, piers, swimming pools constructed on a lot which reduce the infiltration capacity of the land or result in increased storm water runoff.
Inspection Agency means the Administration of St. Mary's County.

Infiltration means the passage or movement of water into the soil surface.

Maximum Extent Practicable (MEP) means a stormwater management system design that utilizes all reasonable ESD planning techniques and treatment practices and implements a structural BMP only when necessary.

Off-Site Stormwater Management means the design and construction of a facility necessary to control stormwater from more than one development.

One (1) -Year Design Storm means, in St. Mary's County, a rainfall event that produces 2.8 inches of rain in a twenty four (24)-hour period, causing a one-year flood. The rainfall depth is termed the one (1)-year design storm.

One Hundred (100) -Year Design Storm means a flood that has a one (1) % chance of occurring in any given year. In St. Mary's County, 7.7 inches of rain in a twenty four (24)-hour period produces a one hundred-year flood. The rainfall depth is termed the 100-year design storm.

On-Site Stormwater Management means the design and construction of systems necessary to control stormwater within a single development.

Owner/Developer means a person or entity who is an applicant or permittee.

Overbank Flood Protection Volume (Qo) means the volume controlled by structural practices to prevent an increase in the frequency of out of bank flooding generated by development. Methods for calculating the overbank flood protection volume are specified in the Design Manual.

Permittee means any person to whom a permit is issued pursuant to the provisions of this Ordinance.

Person means the federal government, the State of Maryland, a municipal corporation, or a political subdivision of the State, or an individual, agent, receiver, trustee, guardian, executor, administrator, fiduciary, partnership, firm, association, public or private corporation, or any other entity.

Pollution Trading means equivalent reductions in nutrients, and other pollutants at a location other than where the pollutants are generated.

Preliminary Project Approval means an approval as part of the preliminary development or planning review process of a plan that includes: 1) the number of planned dwelling units or lots and proposed density; 2) the proposed size and location of all land uses in the project; 3) a plan that identifies the proposed drainage patterns, locations of all points of discharge from the site, and the type, location, and size of all stormwater management controls based upon site-specific computations of stormwater management requirements; 4) the proposed alignment, location and construction type and standard for all proposed roads, access ways, and areas of vehicular travel; 5) a demonstration that the methods by which the development will be supplied with water and wastewater services are adequate; 6) the size type, and location of all proposed wastewater and water system infrastructure; and 7) any other information deemed necessary by the approving authority to adequately review the proposal.
Principal Spillway means the primary outlet device for a stormwater impoundment BMP, including retention, extended-detection, and detention facilities. The principal spillway is designed and sized to regulate the allowable discharge from the impoundment facility.

Recharge Volume (Re.) means that portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the Design Manual.

Redevelopment means any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional, or multi-family residential and existing impervious area exceeds forty (40) %.

Retention Structure means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.

Retrofitting means the construction of a structural BMP in a previously developed area, the modification of an existing structural BMP, or the implementation of a non-structural practice to improve water quality over current conditions.

SCD means the St. Mary's Soil Conservation District.

Sediment means soils or other surficial materials transported or deposited by the action of wind, water, ice, gravity, or artificial means.

Site means any tract, lot or parcel of land or combination of tracts, lots, or parcels of land, which are in one ownership, or are contiguous and in diverse ownership where development is to occur.

Site Development Plan means the second of three plans submitted under the comprehensive review and approval process required by this Ordinance and described in COMAR 26.17.02. A site development plan shall include the information necessary to allow a detailed evaluation of a proposed project.

Soil Conservation and Water Quality Plans means land use plans for farms that show farmers how to make the best possible use of their soil and water resources while protecting and conserving those resources for the future.

Stabilization means the protection of exposed soils from erosion by the application of seed and mulch, seed and matting, sod, other vegetative measures, and/or structural means.

Standard Erosion and Sediment Control Plan means an erosion and sediment control plan that may be used for single family development when the proposed disturbed area exceeds five thousand (5,000) square feet or one hundred (100) cubic yards of material but does not exceed 0.5 acres (2,178 square feet) and contiguous lots are not being developed by the same owner, builder or developer.

Standards and Specifications means the "2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control" or any subsequent revisions.

Steep Slope means a slope, which is characterized by increased runoff, erosion and sediment hazards for slopes as defined in the St. Mary's County Comprehensive Zoning Ordinance.
Stormwater means water that originates from a precipitation event.

Stormwater Management Plan means a set of drawings or other documents submitted by a person as a prerequisite to obtaining a stormwater management approval, which contain all of the required information and specifications pertaining to stormwater management.

Stormwater Management System means natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.

Structure means anything constructed or erected, other than a fence or retaining wall, which requires location on the ground or is attached to something having a location on the ground.

Ten (10)-Year Design Storm means a flood that has a ten (10) % chance of occurring in any given year. In St. Mary’s County, 5.4 inches of rain in a twenty four (24)-hour period produces a ten-year flood. The rainfall depth is termed the ten (10)-year design storm.

Topography means the existing configuration of the earth’s surface including the relative relief, elevation, and position of land features.

Two (2)-Year Design Storm means a flood that has a fifty (50) % chance of occurring in any given year. In St. Mary’s County, 3.4 inches of rain in a twenty four (24)-hour period produces a ten (10)-year flood. The rainfall depth is termed the two (2)-year design storm.

Waiver means the modification of the minimum stormwater management requirements of this Ordinance.

Watercourse means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash, including any adjacent area that is subject to inundation from overflow or flood water.

Watershed means the total drainage area contributing runoff to a single point.

Water Quality Volume (WQV) means the volume needed to capture and treat the runoff from ninety % (90%) of the average annual rainfall at a development site. Methods for calculating the water quality volume are specified in the Design Manual.
Subject: Stormwater & Erosion Control - To Repeal and Re-Enact, and Codify as Chapter 261 of the Code of St. Mary's County, Maryland, the St. Mary's County Stormwater Management, Grading, Erosion & Sediment Control Ordinance

SECTION II. This Ordinance shall be effective upon the date written below.

Those voting Aye: 5
Those voting Nay: 0
Those Abstaining: 0
Date of Adoption: 5/14/13
Effective Date: 5/38/13

ATTEST:

Rebecca Bridget
County Administrator

COMMISSIONERS OF ST. MARY'S COUNTY

Francis Jack Russell, President
Lawrence D. Jarboe, Commissioner
Cynthia L. Jones, Commissioner
Todd B. Morgan, Commissioner
Daniel L. Morris, Commissioner

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

George R. Sparling
County Attorney