

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2011 Legislative Session, Legislative Day No. : November 22, 2011

Bill No.: 1213

Expiration Date: January 26, 2011

Introduced by: Mr. Bartlett, Mr. Duncan, Mr. Hollis, Mr. Pack, Ms. Price

A BILL TO REPEAL CHAPTER 164, TALBOT COUNTY CODE, ***STORMWATER MANAGEMENT***, IN ITS ENTIRETY, AND RE-ENACT A NEW ORDINANCE TO IMPLEMENT NEWLY ADOPTED STORMWATER MANAGEMENT REQUIREMENTS MANDATED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) IN ACCORDANCE WITH MDE'S MODEL STORMWATER MANAGEMENT ORDINANCE, AS MODIFIED

By the Council: November 22, 2011

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, December 13, 2011 at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By Order 
Susan W. Moran, Secretary

**A BILL TO REPEAL CHAPTER 164, TALBOT COUNTY CODE, STORMWATER
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IMPLEMENT NEWLY ADOPTED STORMWATER MANAGEMENT REQUIRE-
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MENT ORDINANCE, AS MODIFIED**

KEY

- Boldface**..... Heading or defined term.
- Underlining..... Added to existing law by original bill.
- ~~Strikethrough~~..... Deleted from existing law by original bill.
- Double underlining..... Added to bill by amendment.
- ~~Double strikethrough~~Deleted from bill by amendment.
- * * *Existing law unaffected.

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT
COUNTY, MARYLAND, that Chapter 164, of the Talbot County Code entitled *Stormwater
Management*, shall be and is hereby repealed and re-enacted as set forth herein.

Chapter 164 Stormwater Management

Contents

1	§ 164-1.0 PURPOSE AND AUTHORITY	4
2	§ 164-1.1 Criteria.....	4
3	§ 164-1.2 Incorporation by reference	4
4	§ 164-1.3 Grandfathering	4
5	§ 164-2.0 DEFINITIONS	6
6	§ 164-3.0 APPLICABILITY	11
7	§ 164-3.1 Scope	11
8	§ 164-3.2 Exemptions.....	11
9	§ 164-3.3 Waivers/Watershed Management Plans.....	11
10	§ 164-3.4 Redevelopment.....	13
11	§ 164-3.5 Variance	15
12	§ 164-4.0 STORMWATER MANAGEMENT CRITERIA.....	15
13	§ 164-4.1 Minimum Control Requirements	15
14	§ 164-4.2 Stormwater Management Measures	16
15	§ 164-4.3 Specific Design Criteria	18
16	§ 164-5.0 STORMWATER MANAGEMENT PLANS	18
17	§ 164-5.1 Review and Approval of Stormwater Management Plans	19
18	§ 164-5.2 Contents and Submission of Stormwater Management Plans.....	19
19	§ 164-5.3 Preparation of Stormwater Management Plans.....	22
20	§ 164-6.0 PERMITS	22
21	§ 164-6.1 Permit Requirement.....	22
22	§ 164-6.2 Permit Fee	23
23	§ 164-6.3 Permit Suspension and Revocation	23
24	§ 164-6.4 Permit Conditions.....	23
25	§ 164-7.0 PERFORMANCE BOND	23
26	§ 164-8.0 INSPECTION.....	24
27	§ 164-8.1 Inspection Schedule and Reports	24
28	§ 164-8.2 Inspection Requirements During Construction	24
29	§ 164-9.0 MAINTENANCE.....	27
30	§ 164-9.1 Maintenance Inspection.....	27
31	§ 164-9.2 Maintenance Agreement	28
32	§ 164-9.3 Maintenance Responsibility	29
33	§ 164-10.0 APPEALS.....	29
34	§ 164-11.0 SEVERABILITY	29
35	§ 164-12.0 PENALTIES.....	29
36		

§ 164-1.0 PURPOSE AND AUTHORITY

This Ordinance is adopted to protect, maintain, and enhance public health, safety, and welfare, and establish minimum requirements to manage stormwater runoff by using environmental site design (ESD) to the maximum extent practicable (MEP). The goal is to maintain post development as nearly as possible to the predevelopment runoff characteristics: to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding; and use appropriate structural best management practices (BMPs) only when necessary.

This Ordinance is adopted pursuant to the requirements of Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 2009 replacement volume, and shall apply to all development within the unincorporated area of Talbot County. The County Engineer shall be responsible for the coordination and enforcement of this Ordinance.

§ 164-1.1 Criteria

The County Council, by resolution, may adopt, Criteria as a guide to administrating this Stormwater Management Ordinance.

§ 164-1.2 Incorporation by reference

For the purpose of this Ordinance, the following documents are incorporated by reference:

- A. The 2000 Maryland Stormwater Design Manual, Volumes I & II (Maryland Department of the Environment, April 2000), and all subsequent revisions, is incorporated by reference by Talbot County and shall serve as the official guide for stormwater management principles, methods, and practices.
- B. USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000).
- C. Talbot County Stormwater Management Evaluation & Implementation Criteria, as approved by resolution of the County Council.

§ 164-1.3 Grandfathering

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

(1) Administrative waiver.

- (a) "Administrative waiver" means a decision by the County Engineer to allow construction of a project to be governed by the stormwater management ordinance and 2009 regulatory requirements in effect immediately prior to the effective date of this Ordinance.

(b) "Administrative waiver" is distinct from a waiver granted pursuant to § 164-3.3 of this Ordinance.

(2) Approval.

(a) "Approval" means a favorable decision by the County that a project meets requirements for a specific stage in the development review process.

(b) "Approval" does not include an acknowledgement by the County Engineer that submitted material has been received for review.

(3) Final project approval.

(a) "Final project approval" means approval of the final stormwater management plan and erosion and sediment control plan required to construct a stormwater management system.

(b) "Final project approval" also includes execution and delivery of a public works agreement for stormwater management systems, if required by the County Engineer.

(4) "Preliminary project approval" means a favorable decision in a preliminary development review process that included, at a minimum:

(a) The number of planned dwelling units or lots;

(b) The proposed project density;

(c) The proposed size and location of all land uses for the project;

(d) A plan that identifies:

(i) The proposed drainage patterns;

(ii) The location of all points of discharge from the site; and

(iii) The type, location, and size of all stormwater management measures based on site-specific stormwater management requirement computations; and

(e) Any other information that was required by the County including, but not limited to:

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

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

(iii) The size, type, and general location of all proposed wastewater and water system infrastructure.

B. The County Engineer may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010. Administrative waivers expire according to § 164-1.3 C. of this Ordinance and may be extended according to § 164-1.3 D. of this Ordinance.

C. Expiration of Administrative Waivers.

(1) Except as provided for in § 164-1.3 D. of this Ordinance, an administrative waiver shall expire on:

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

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

(2) All construction authorized pursuant to an administrative waiver must be completed by May 4, 2017, or, if the waiver is extended as provided in § 164-1.3 D. of this Ordinance, by the expiration date of the waiver extension.

D. Extension of Administrative Waivers.

(1) Except as provided in § 164-1.3 D. (2) of this Ordinance, an administrative waiver shall not be extended.

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

(a) Has received a preliminary project approval; and

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

(3) Administrative waivers extended according to § 164-1.3 D. (2) of this Ordinance shall expire when the Development Rights and Responsibilities Agreement, the Tax Increment Financing approval, or the Annexation Agreement expires.

§ 164-2.0 DEFINITIONS

A. The following definitions are provided for the terms used in this Ordinance:

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- (1) "Administration" means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).
 - (2) "Adverse impact" means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
 - (3) "Agricultural land management practices" means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
 - (4) "Applicant" means the owner, including successors in title or interests, of land which is the subject of an application for development or a permit to carry out construction of a stormwater management system, facility, or structure pursuant to this chapter, or a representative of the owner who has received written authority to act on behalf of the owner.
 - (5) "Approving Agency" means the Talbot County Department of Public Works.
 - (6) "Aquifer" means a porous water bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.
 - (7) "Best management practice (BMP)" means a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding and reduce pollution.
 - (8) "Channel protection storage volume (Cp_v)" means the volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the 2000 Maryland Stormwater Design Manual.
 - (9) "Clearing" means the removal of trees, their stumps, and brush from the land but shall not include the ordinary mowing of grass.
 - (10) "Concept plan" means the first of three required plan approvals (concept, site development and final) that includes the information necessary to allow an initial evaluation of a proposed project.
 - (11) "County" means Talbot County, Maryland.

- (12) "County Engineer" means the Director of the Talbot County Department of Public Works, or an authorized representative of the Talbot County Department of Public Works.
- (13) "Design manual" means the 2000 Maryland Stormwater Design Manual, and all subsequent revisions, that serves as the official guide for stormwater management principles, methods, and practices.
- (14) "Detention structure" means a permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water.
- (15) "Develop land" or "Land Development" or "Development" means to change the runoff characteristics of a parcel of land in conjunction with construction or alteration.
- (16) "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.
- (17) "Drainage area" means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.
- (18) "Environmental site design (ESD)" means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimizes the impact of land development on water resources. Methods for designing ESD practices are specified in the Design Manual.
- (19) "Exemption" means those land development activities that are not subject to the stormwater management requirements contained in this Ordinance.
- (20) "Extended detention" means a stormwater design feature that provides gradual release of a volume of water 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.
- (21) "Extreme flood volume (Q_f)" means the storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the 100-year floodplain.
- (22) "Final stormwater management plan" means the last of three required plan approvals (concept, site development and final) that includes the information necessary to allow all approvals and permits to be issued by the approving agency.
- (23) "Flow attenuation" means prolonging the flow time of runoff to reduce the peak discharge.

- (24) "Grading" means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.
- (25) "Guide" means the Talbot County Stormwater Management Process & Implementation Guide.
- (26) "Impervious area" means any surface that does not allow stormwater to infiltrate into the ground.
- (27) "Infiltration" means the passage or movement of water into the soil surface.
- (28) "Maximum extent practicable (MEP)" means to design a stormwater management system to exhaust all reasonable opportunities to use ESD planning techniques and treatment practices, and to use structural BMPs only where absolutely necessary.
- (29) "Off-site stormwater management" means the design and construction of a facility necessary to control stormwater from more than one development.
- (30) "On-site stormwater management" means the design and construction of systems necessary to control stormwater within an immediate development.
- (31) "Overbank flood protection volume (Q_p)" means the volume controlled by structural practices to prevent an increase in the frequency of out-of-bank flooding generated by development. Methods for calculating the overbank flood protection volume are specified in the Design Manual.
- (32) "Person" means the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.
- (33) "Public Works" means Talbot County Department of Public Works.
- (34) "Planning techniques" means a combination of strategies employed early in project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.
- (35) "Recharge volume (Re_v)" means that portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the Design Manual.
- (36) "Redevelopment" means any construction, alteration, or improvement on sites where existing land use is commercial, industrial, institutional, or

multifamily residential and existing site impervious area exceeds 40 percent.

- (37) "Retention structure" means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.
- (38) "Retrofitting" means the implementation of ESD practices, the construction of a structural BMP, or the modification of an existing structural BMP in a previously developed area to improve water quality over current conditions.
- (39) "Sediment" means soils or other surficial materials eroded, transported or deposited by the action of wind, water, ice, or gravity.
- (40) "Site" means any tract, lot, or parcel of land, or combination of tracts, lots, parcels of land that are in single ownership, or are contiguous and in separate ownership, where development is to be performed as part of a unit, subdivision, or project.
- (41) "Site development plan" means the second of three (3) required plan approvals (concept, site development and final) that includes the information necessary to allow a detailed evaluation of a proposed project.
- (42) "Stabilization" means prevention of soil movement by any of various vegetative and/or structural means.
- (43) "Stormwater" means water that originates from a precipitation event.
- (44) "Stormwater management system" means the network of ESD planning techniques, ESD practices and structural practices and conveyance facilities and any other structure through which stormwater flows, infiltrates, or discharges from a site.
- (45) "Stripping" means any activity that removes the vegetative surface cover including tree removal, clearing, grubbing, and storage or removal of topsoil.
- (46) "Technical Advisory Committee" or "TAC" means the government departments and agencies having review and approval authority over aspects of an application for development activities, as defined in Chapter 190, *Zoning, Subdivision and Land Development*, of the County Code.
- (47) "Variance" means the modification of the minimum stormwater management requirements for specific circumstances where strict adherence to the requirements would result in unnecessary hardship and would not fulfill the intent of this Ordinance.
- (48) "Waiver" means the reduction of stormwater management requirements by the County Engineer based upon specific circumstances of a development.

- (49) "Watercourse" means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.
- (50) "Water quality volume (WQ_v)" means the volume needed to capture and treat 90 percent of the average annual rainfall events at a development site. Methods for calculating the water quality volume are specified in the Design Manual.
- (51) "Watershed" means the total drainage area contributing stormwater runoff to a single point.

§ 164-3.0 APPLICABILITY

§ 164-3.1 Scope

No person shall develop land without obtaining a final project approval in accordance with § 164-1.3A.(3) to control or manage runoff from such development except as provided within § 164-3.0. Stormwater management measures shall be designed consistent with the Design Manual and constructed according to an approved plan.

§ 164-3.2 Exemptions

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

- A. Agricultural land management practices;
- B. Additions or modifications to existing single family detached residential structures if they comply with § 164-3.2 C. of this Ordinance;
- C. Any developments that do not disturb over 5,000 square feet of land area; and
- D. Land development activities that the Administration determines will be regulated under specific State laws, which provide for managing stormwater runoff.

§ 164-3.3 Waivers/Watershed Management Plans

- A. Except as provided in § 164-3.3. B. and D. of this Ordinance, the County Engineer shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with § 164-3.3 G. of this Ordinance. Requests for quantitative stormwater management waivers shall be in writing and shall contain sufficient descriptions, drawings, and other information necessary to demonstrate that ESD has been implemented to the MEP. A separate written waiver request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development that has received a waiver.
- B. Except as provided in § 164-3.3 D. of this Ordinance, if watershed management plans

consistent with § 164-3.3 G. of this Ordinance have not been developed, a stormwater management quantitative control waiver may be granted to the following types of projects provided that ESD has been implemented to the MEP:

- (1) That have direct discharge to tidally influenced receiving waters; or,
- (2) That are in-fill development located in a Priority Funding Area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2009 regulatory requirements would result in a loss of the planned development density, provided that:
 - (a) Public water and sewer and stormwater conveyance exist;
 - (b) The quantitative waiver is applied only to the impervious cover that previously existed on the site;
 - (c) ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and
 - (d) ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or
- (3) When the approving agency determines that existing circumstances reasonably prevent implementation of quantity control practices.

C. Except as provided in § 164-3.3 D. of this Ordinance, stormwater management qualitative control waivers apply only to:

- (1) In-fill development projects where ESD has been implemented to the MEP and other BMPs are not feasible;
- (2) Redevelopment projects where the requirements of § 164-3.4 of this Ordinance are satisfied; or
- (3) Sites where the approving agency determines that existing circumstances reasonably prevent implementation of ESD to the MEP.

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

E. Waivers shall be granted only when it has been demonstrated that ESD has been implemented to the MEP. Waivers shall:

- 436
437 (1) Be based on the unique circumstances of a specific development on a case-by-case
438 basis;
439
440 (2) Consider the cumulative effects of any previous County waiver; and
441
442 (3) Reasonably ensure the development will not adversely impact stream quality.
443
444 F. If the County has established an overall watershed management plan for a specific
445 watershed, then the County may develop quantitative waiver and redevelopment
446 provisions that differ from § 164-3.3 B and § 164-3.4 of this Ordinance.
447
448 G. A watershed management plan developed for the purpose of implementing different
449 stormwater management policies for waivers and redevelopment shall:
450
451 (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph
452 timing;
453
454 (2) Evaluate both quantity and quality management and opportunities for ESD
455 implementation;
456
457 (3) Include a cumulative impact assessment of current and proposed watershed
458 development;
459
460 (4) Identify existing flooding and receiving stream channel conditions;
461
462 (5) Be performed on a reasonable scale;
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464 (6) Specify where on-site or off-site quantitative and qualitative stormwater
465 management practices are to be implemented;
466
467 (7) Be consistent with the General Performance Standards for Stormwater
468 Management in Maryland of the Design Manual; and
469
470 (8) Be approved by the Administration.
471
472

473 **§ 164-3.4 Redevelopment**
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- 475 A. Stormwater management plans are required by the County for all redevelopment, unless
476 otherwise specified by watershed management plans adopted pursuant to § 164-3.3 G. of
477 this Ordinance. Stormwater management measures must be consistent with the Design
478 Manual.
479
480 B. All redevelopment designs shall either:
481

- 482 (1) Reduce impervious area within the limit of disturbance (LOD) by at least 50
483 percent according to the Design Manual; or
484
485 (2) Implement ESD to the MEP to provide water quality treatment for at least 50
486 percent of the existing impervious area within the LOD; or
487
488 (3) Use a combination of § 164-3.4 (1) and § 164-3.4 (2) above for at least 50 percent
489 of the existing site impervious area.
490

491 C. Alternative stormwater management measures may be used to meet the requirements in
492 § 164-3.4 B. of this Ordinance if the applicant demonstrates to the satisfaction of the
493 County Engineer that impervious area reduction has been maximized and ESD has been
494 implemented to the MEP. Alternative stormwater management measures include,
495 without limitation:
496

- 497 (1) On-site structural BMPs;
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499 (2) Off-site structural BMPs that provide water quality treatment for an area equal to
500 or greater than 50 percent of the existing impervious area; or
501
502 (3) A combination of impervious area reduction, ESD implementation, and on-site or
503 off-site structural BMPs for an area equal to or greater than 50 percent of the
504 existing site impervious area within the LOD.
505

506 D. The County may develop separate policies for providing water quality treatment for
507 redevelopment projects if the requirements of § 164-3.4 B. and C. of this Ordinance
508 cannot be met. Any separate redevelopment policy shall be reviewed and approved by
509 the Administration and may include, without limitation:
510

- 511 (1) A combination of ESD and on or off-site structural BMPs;
512
513 (2) Retrofitting, including upgrades to existing BMPs, filtering practices, and off-site
514 ESD implementation;
515
516 (3) Participation in a stream restoration project;
517
518 (4) Pollution trading;
519
520 (5) Payment of a fee-in-lieu; or
521
522 (6) A partial waiver of the treatment requirements if ESD is not practicable.
523

524 E. If the County Engineer determines that it is not practical to meet the 2009 regulatory
525 requirements using ESD on a specific redevelopment project, the County Engineer shall
526 consider alternatives in § 164-3.4D. (1) through (6) above, in order of priority in deciding

what alternatives shall be required. The County Engineer's decision may consider without limitation:

- (1) Whether the project is in an area targeted for development incentives such as a Priority Funding Area, a designated Transit Oriented Development area, or a designated Base Realignment and Closure Revitalization and Incentive Zone;
- (2) Whether the project is necessary to accommodate growth consistent with County Comprehensive Plan; or
- (3) Whether bonding and financing have already been secured based on an approved development plan.

F. For any net increase in impervious area on a redevelopment project stormwater management shall be treated as new development in accordance with § 164-4.0.

§ 164-3.5 Variance

The County Engineer may grant, in writing, a variance from any requirement of § 164-4.0, Stormwater Management Criteria, if there are unique physical characteristics of the site such that strict adherence to the requirements of this Ordinance will cause unnecessary hardship. The applicant shall submit a written request for a variance to the County Engineer, which shall fully describe the specific variance sought, and reasons for the request. The County Engineer shall not grant a variance without satisfactory evidence that implementation of ESD to the MEP has been investigated thoroughly and the above requirements for a variance have been met.

§ 164-4.0 STORMWATER MANAGEMENT CRITERIA

§ 164-4.1 Minimum Control Requirements

A. The minimum control requirements established in this section and the Design Manual are as follows:

- (1) Planning techniques, nonstructural practices, and design methods specified in the Design Manual shall be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. Stormwater management plans for development projects subject to this 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, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.
- (2) Control of the 2-year or 10-year frequency storm event may be required according to the Design Manual if the County Engineer determines that additional

stormwater management is necessary because historical flooding problems exist or are anticipated.

- (3) Without limitation of the foregoing, the County Engineer may require more than the minimum control requirements specified in this Ordinance if hydrologic, topographic or stream channel conditions warrant.

- B. Alternate minimum control requirements may be adopted subject to County and Administration approval if alternative requirements will implement ESD to the MEP and control flood damage, accelerated stream erosion, water quality, and sedimentation. Comprehensive watershed studies may also be required.

§ 164-4.2 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 system. A developer shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing a stormwater management system.

- A. ESD Planning Techniques and Practices.

- (1) The following ESD planning techniques shall be incorporated into the stormwater management plan as necessary to satisfy minimum control requirements established in § 164-4.1 of this Ordinance, to:

- (a) Preserve and protect natural resources;
- (b) Conserve natural drainage patterns;
- (c) Minimize impervious area;
- (d) Reduce runoff volume;
- (e) Maintain 100 percent of the annual predevelopment groundwater recharge volume;
- (f) Use green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
- (g) Limit soil disturbance, mass grading, and compaction; and
- (h) Clustering development;

613 (2) The following ESD treatment practices shall be incorporated into the stormwater
614 management plan as necessary to satisfy minimum control requirements
615 established in § 164-4.1 of this Ordinance:

- 616 (a) Disconnection of rooftop runoff;
- 617 (b) Disconnection of non-rooftop runoff;
- 618 (c) Sheetflow to conservation areas;
- 619 (d) Rainwater harvesting;
- 620 (e) Submerged gravel wetlands;
- 621 (f) Landscape infiltration;
- 622 (g) Infiltration berms;
- 623 (h) Dry wells;
- 624 (i) Micro-bioretenion;
- 625 (j) Rain gardens;
- 626 (k) Swales; and
- 627 (l) Enhanced filters;

629 (3) The Guide shall be used for evaluation and selection of ESD planning techniques
630 and treatment practices. Also, the Guide details the interrelationship between the
631 Planning & Zoning development review process and the review and approval of
632 stormwater management plans.

633 (4) ESD planning techniques and practices or treatment practices not specified in this
634 § 164-4.2(A) may be considered if approved by the Administration and allowed
635 by the County Engineer.

636 (5) The use of ESD planning techniques and treatment practices specified in this
637 section shall not conflict with existing State or local law or local ordinances,
638 regulations, or policies.

639 B. Structural Stormwater Management

640 (1) The following structural stormwater management practices shall be incorporated
641 into the stormwater management plan as necessary to satisfy the minimum control
642 requirements established in § 164-4.1 of this Ordinance:

- 648
- 649 (a) Stormwater management ponds;
- 650
- 651 (b) Stormwater management wetlands;
- 652
- 653 (c) Stormwater management infiltration;
- 654
- 655 (d) Stormwater management filtering systems; and
- 656
- 657 (e) Stormwater management open channel systems.
- 658
- 659 (2) The performance criteria specified in the Design Manual with regard to general
- 660 feasibility, conveyance, pretreatment, treatment and geometry, environment and
- 661 landscaping, and maintenance shall be considered when selecting structural
- 662 stormwater management practices.
- 663
- 664 (3) Structural stormwater management practices shall be selected to accommodate the
- 665 unique hydrologic or geologic regions of the County.
- 666
- 667 C. A stormwater maintenance and inspection agreement incorporating the approved
- 668 stormwater management system shall be recorded in the County Land Records. A
- 669 stormwater management system shall remain functional and shall be unaltered by
- 670 subsequent property owners. Prior approval from the County Engineer shall be obtained
- 671 before any stormwater management system is altered.
- 672
- 673 D. Alternative ESD planning techniques and treatment practices and structural stormwater
- 674 measures may be used to control runoff from new development if they meet performance
- 675 criteria established in the Design Manual and are approved by the Administration and
- 676 allowed by the County Engineer. Practices used for redevelopment projects shall be
- 677 approved by the County Engineer
- 678
- 679 E. To modify any minimum control requirement or design criteria, an applicant shall submit
- 680 an analysis of the impact of stormwater flows downstream to the County Engineer. The
- 681 analysis shall include hydrologic and hydraulic calculations necessary to determine the
- 682 impact of hydrograph timing modifications of the proposed development upon a dam,
- 683 highway, structure, or natural point of restricted streamflow. The point of investigation
- 684 shall be established, with concurrence of the County Engineer, downstream of the first
- 685 downstream tributary whose drainage area equals or exceeds the contributing area to the
- 686 project or stormwater management facility.
- 687

688 **§ 164-4.3 Specific Design Criteria**

689

690 The design, methodologies, and construction specifications, subject to the approval of the

691 County Engineer, shall be as specified in the Design Manual and this Ordinance.

692

693 **§ 164-5.0 STORMWATER MANAGEMENT PLANS**

694 **§ 164-5.1 Review and Approval of Stormwater Management Plans**
695

- 696 A. For any proposed development, the applicant shall submit phased stormwater
697 management plans to Public Works for review and approval. At a minimum, plans shall
698 be submitted for concept, site development, and final stormwater management phases of
699 project design. Each submittal shall include the content specified in § 164-5.2 of this
700 Ordinance and meet all requirements of the Design Manual and § 164-4.0 of this
701 Ordinance.
702
- 703 B. The County shall perform a technical review of the stormwater management plans for each
704 phase of site design and provide coordinated comments as may be required from
705 appropriate agencies such as Talbot County Soil Conservation District (SCD) and the
706 Departments of Planning & Zoning, and Public Works. The applicant shall adequately
707 address all comments from Public Works and other agencies, subject to Public Works
708 review and approval, at each phase of project design before subsequent submissions will
709 be accepted.
710

711 **§ 164-5.2 Contents and Submission of Stormwater Management Plans**
712

- 713 A. Concept Plan
714 The applicant shall submit a concept plan that provides sufficient information for
715 initial assessment of the proposed project to determine whether stormwater management
716 can be provided according to § 164-4.2 of this Ordinance and the Design Manual. Plans
717 submitted for concept approval shall include, without limitation:
718
- 719 (1) A map at a scale specified by the County Engineer showing site location, existing
720 natural features, water and other sensitive resources, topography, and natural
721 drainage patterns;
722
 - 723 (2) The anticipated location of all proposed impervious areas, buildings, roadways,
724 parking, sidewalks, utilities, and other site improvements;
725
 - 726 (3) The location of the proposed limit of disturbance, erodible soils, steep slopes, and
727 areas to be protected during construction;
728
 - 729 (4) Preliminary estimates of stormwater management requirements, the selection and
730 location of ESD practices to be used, and the location of all points of discharge
731 from the site;
732
 - 733 (5) A narrative that supports the concept design and describes how ESD will be
734 implemented to the MEP; and
735
 - 736 (6) Any other information required by the County Engineer.
737
- 738 B. Site Development Plan
739 Following concept plan approval by the County Engineer, the applicant shall

submit a site development plan that addresses all previous comments and that contains sufficient detail to allow appropriate review, including without limitation:

- (1) All information provided during the concept plan review;
- (2) Final site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;
- (3) A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;
- (4) A narrative that supports the site development design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure; and
- (5) Any other information required by the County Engineer.

C. Final Plan

Following site development approval by the County Engineer, the applicant shall submit final erosion and sediment control and stormwater management plans that address all comments received during the previous review. Plans submitted for final approval shall include sufficient detail to allow all approvals and permits to be issued as follows:

- (1) Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05; and
- (2) Final stormwater management plans shall be submitted for approval in the form of construction drawings and be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.

D. Reports submitted for final stormwater management plan approval shall include without limitation:

- (1) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;
- (2) Drainage area maps depicting predevelopment and post development runoff flow path segmentation and land use;
- (3) Hydrologic computations of the applicable ESD and unified sizing criteria according to the Design Manual for all points of discharge from the site;

- 787
788
789
790
791
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793
794
795 E. Construction drawings submitted for final stormwater management plan approval shall
796 include, but are not limited to:
797
798 (1) A vicinity map;
799
800 (2) Existing and proposed topography and proposed drainage areas, including areas
801 necessary to determine downstream analysis for proposed stormwater
802 management facilities;
803
804 (3) Any proposed improvements including location of buildings or other structures,
805 impervious surfaces, storm drainage facilities, and all grading;
806
807 (4) The location of existing and proposed structures and utilities;
808
809 (5) Any easements and rights-of-way;
810
811 (6) The delineation, if applicable, of the 100-year floodplain and any on-site
812 wetlands;
813
814 (7) Structural and construction details including representative cross sections for all
815 components of the proposed drainage system or systems, and stormwater
816 management facilities;
817
818 (8) All necessary construction specifications;
819
820 (9) A sequence of construction;
821
822 (10) Data for total site area, disturbed area, new impervious area, and total impervious
823 area;
824
825 (11) A table showing the ESD and unified sizing criteria volumes required in the
826 Design Manual;
827
828 (12) A table of materials to be used for stormwater management facility planting;
829
830 (13) All soil boring logs and locations;
831
832 (14) An inspection and maintenance schedule;
833

- 834 (15) Certification by the applicant that all stormwater management
835 construction will be done according to this plan;
836
837 (16) An as-built certification signature block to be executed after project completion;
838 and
839
840 (17) Any other information required by the County Engineer.
841

842 F. The applicant shall obtain any easements or other property rights or interests from
843 affected adjacent property owners concerning modification of water flow and drainage, in
844 accordance with the Design Manual, from the site. Approval of a stormwater management plan
845 does not create any new right to collect or direct runoff onto adjacent or downstream property.
846 The County's adoption and implementation of stormwater management controls through this
847 Ordinance is required by Maryland state law and is a governmental function. The County shall
848 have no liability in tort to any applicant, any third person, firm, corporation, or other entity in
849 connection with the review, approval, or disapproval of any plan, stormwater management
850 system, stormwater management measure, technique, or structure, or any amendments,
851 modifications, or changes thereto, or for any other decision or action in connection with or
852 resulting from application of this chapter.
853
854

855 **§ 164-5.3 Preparation of Stormwater Management Plans**

856

- 857 A. The design of stormwater management plans shall be prepared by an individual whose
858 qualifications are acceptable to the County Engineer. The County Engineer may require
859 that the design be prepared by either a professional engineer, professional land surveyor,
860 or landscape architect licensed in the State, as necessary to protect the public or the
861 environment.
862
863 B. If a stormwater BMP requires either a dam safety permit from MDE or small pond
864 approval from the Talbot County Soil Conservation District, the design shall be
865 prepared by a professional engineer licensed in the State.
866

867 **§ 164-6.0 PERMITS**

868 **§ 164-6.1 Permit Requirement**

869

870 A grading or building permit may not be issued for any parcel or lot unless final erosion and
871 sediment control plans have been approved by Talbot County Soil Conservation District and
872 stormwater management plans have been approved by the County Engineer that meet all the
873 requirements of the Design Manual and this Ordinance. Where appropriate, a building permit
874 may not be issued without:
875

- 876 A. Recorded easements for the stormwater management facility and easements to provide
877 adequate access for inspection and maintenance from a public right-of-way;
878

- 879 B. A recorded stormwater management maintenance agreement as described in § 164-9.2 of
880 this Ordinance; and
881
882 C. A performance bond as described in § 164-7.0 of this Ordinance.
883

884 **§ 164-6.2 Permit Fee**
885

886 Non-refundable permit fees will be collected at each phase of stormwater management plan
887 submittal. Permit fees will provide for the cost of plan review, administration, management of
888 the permitting process, and inspection of all projects subject to this Ordinance. A permit fee
889 schedule shall be established by the County Council based upon the relative complexity of the
890 project and may be amended from time to time.

891 **§ 164-6.3 Permit Suspension and Revocation**
892

893 Any permits or approvals issued to the applicant for the project by the County associated with an
894 approved stormwater management plan may be disapproved, suspended or revoked after written
895 notice to the permittee for any of the following reasons:
896

- 897 A. Any violation(s) of the conditions of the approved stormwater management plan;
898
899 B. Changes in site runoff characteristics for which a waiver was granted;
900
901 C. Construction other than in accordance with the approved plan;
902
903 D. Noncompliance with correction notice(s) or stop work order(s) issued for any stormwater
904 management practice or system; or
905
906 E. An immediate danger exists in a downstream area.
907

908 **§ 164-6.4 Permit Conditions**
909

910 In granting an approval for any phase of site development, the County Engineer may impose
911 such conditions that may be deemed necessary to ensure compliance with the provisions of this
912 Ordinance and the preservation of public health and safety.
913

914 **§ 164-7.0 PERFORMANCE BOND**

915 The County Engineer shall require from the applicant a surety or cash bond, irrevocable letter of
916 credit, or other security acceptable to the County prior to the issuance of any building or grading
917 permit for the construction of a project requiring stormwater management. The amount of
918 security shall not be less than one hundred twenty-five percent (125%) of the total estimated
919 construction cost of all stormwater management facilities. The bond required in this section
920 shall include provisions relative to forfeiture for failure to complete work specified in the
921 approved stormwater management plan, compliance with all of the provisions of this Ordinance
922 and other applicable laws and regulations, and any time limitations. The bond shall not be fully
923 released without a final inspection of the completed work acceptable to the County Engineer,

submission of "as-built" plans, and certification of completion by the applicant that all stormwater management facilities comply with the approved plan and the provisions of this Ordinance.

§ 164-8.0 INSPECTION

§ 164-8.1 Inspection Schedule and Reports

- A. The applicant shall notify the County Engineer at least 48 hours before commencing any work in conjunction with site development, the stormwater management plan, and upon completion of the project.
- B. The applicant shall perform and document inspections for each ESD planning technique and practice at the stages of construction specified in the Design Manual. Inspections shall be performed and certified by the applicant or a professional engineer licensed in the State of Maryland as specified by the County Engineer. At a minimum, all ESD and other nonstructural practices shall be inspected upon completion of final grading, the establishment of permanent stabilization, and before issuance of final project approval by Public Works.
- C. Written inspection reports shall include:
 - (1) The date and location of the inspection;
 - (2) Certification that construction is in compliance with the approved stormwater management plan, except as noted;
 - (3) All changes, variations or deviations from the approved construction plan or specifications; and
 - (4) Any violations that exist.
- D. No work shall proceed on the next phase of development until the County Engineer has reviewed and approved the inspection report for all work previously completed.
- E. The County shall give the applicant written notice of violations which shall describe the nature of the violation, the corrective action required and any stop work order(s).

§ 164-8.2 Inspection Requirements During Construction

- A. At a minimum, the applicant shall make and document inspections at the following stages of construction:
 - (1) For ponds:
 - (a) Upon completion of excavation to sub-foundation and, when required,

970 installation of structural supports or reinforcement for structures, including
971 but not limited to:

- 972
973 (i) Core trenches for structural embankments;
974
975 (ii) Inlet and outlet structures, anti-seep collars or diaphragms, and
976 watertight connectors on pipes; and
977
978 (iii) Trenches for enclosed storm drainage facilities;
979

980 (b) During placement of structural fill, concrete, and installation of piping and
981 catch basins;

982
983 (c) During backfill of foundations and trenches;

984
985 (d) During embankment construction; and

986
987 (e) Upon completion of final grading and establishment of permanent
988 stabilization.

989
990 (2) Wetlands – at the stages specified for pond construction in § 164-8.2 A (1) of this
991 Ordinance, during and after wetland reservoir area planting, and during the
992 second growing season to verify a vegetation survival rate of at least 50 percent.
993

994 (3) For infiltration trenches:

995
996 (a) During excavation to subgrade;

997
998 (b) During placement and backfill of under drain systems and observation
999 wells;

1000
1001 (c) During placement of geotextiles and all filter media;

1002
1003 (d) During construction of appurtenant conveyance systems such as diversion
1004 structures, pre-filters and filters, inlets, outlets, and flow distribution
1005 structures; and

1006
1007 (e) Upon completion of final grading and establishment of permanent
1008 stabilization.

1009
1010 (4) For infiltration basins – at the stages specified for pond construction in § 164-8.2
1011 A. (1) of this Ordinance and during placement and backfill of under drain
1012 systems.

1013
1014 (5) For filtering systems:

1015
1016 (a) During excavation to subgrade;

- 1017
- 1018 (b) During placement and backfill of under drain systems;
- 1019
- 1020 (c) During placement of geotextiles and all filter media;
- 1021
- 1022 (d) During construction of appurtenant conveyance systems such as flow
- 1023 diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow
- 1024 distribution structures; and
- 1025
- 1026 (e) Upon completion of final grading and establishment of permanent
- 1027 stabilization.
- 1028
- 1029 (6) For open channel systems:
- 1030
- 1031 (a) During excavation to subgrade;
- 1032
- 1033 (b) During placement and backfill of under drain systems for dry swales;
- 1034
- 1035 (c) During installation of diaphragms, check dams, or weirs; and
- 1036
- 1037 (d) Upon completion of final grading and establishment of permanent
- 1038 stabilization.
- 1039

1040 B. The County may, enforce this Ordinance by any one or a combination of the following

1041 remedies. Pursuit of one remedy does not preclude pursuit of others:

1042

- 1043 (1) A notice of violation describing the corrective action required;
- 1044
- 1045 (2) A stop work order may be issued;
- 1046
- 1047 (3) Bonds or sureties may be enforced;
- 1048
- 1049 (4) Administrative abatement orders;
- 1050
- 1051 (5) Administrative assessment of civil penalties;
- 1052
- 1053 (6) In addition to any other sanctions, a civil action seeking damages, declaratory,
- 1054 injunctive or other relief.
- 1055
- 1056 (7) Chapter 58, Talbot County Code, "Enforcement of Code," shall be applied to
- 1057 violations of this Ordinance.
- 1058

1059 C. Once construction is complete, the applicant shall submit "as-built" plan certification by

1060 either a professional engineer or professional land surveyor licensed in the State of

1061 Maryland, as approved by the County Engineer, to ensure that ESD planning techniques,

1062 treatment practices, and structural stormwater management measures and conveyance

1063 systems comply with the specifications contained in the approved plans. At a minimum,

"as-built" certification shall include a set of drawings identifying all differences between the approved stormwater management plan and actual construction. The County Engineer may require additional information.

- D. The applicant shall prepare and submit to the County notice of construction completion for submission to the Administration on a form supplied by the Administration for each structural stormwater management practice within 45 days after construction has been completed and inspected, and has been approved by the County. The type, number, total drainage area, and total impervious area treated by all ESD techniques and practices shall be reported to the Administration on a site by site basis. If BMPs requiring SCD approval are constructed, notice of construction completion shall also be submitted to the appropriate SCD.

§ 164-9.0 MAINTENANCE

§ 164-9.1 Maintenance Inspection

- A. The applicant shall ensure that preventative maintenance is performed for all privately owned ESD treatment systems and structural stormwater management measures in accordance with a maintenance agreement as described in § 164-9.2 of this Ordinance. The County shall inspect all ESD treatment systems and structural stormwater management measures during the first year of operation and at least once every 3 years thereafter to ensure the approved stormwater management system remains intact and functional, and is in compliance with the maintenance agreement. The applicant(s), jointly and severally shall reimburse the County for the reasonable costs of such inspections in accordance with a fee schedule set, established, and amended by the County Council from time to time.
- B. Inspection reports shall be maintained by Public Works for all ESD treatment systems and structural stormwater management measures.
- C. Inspection reports for ESD treatment systems and structural stormwater management measures shall include the following:
- (1) The date of inspection;
 - (2) Name of inspector;
 - (3) An assessment of the quality of the stormwater management system related to ESD treatment practice efficiency and the control of runoff to the MEP;
 - (4) The condition of:
 - (a) Vegetation or filter media;
 - (b) Fences or other safety devices;

- (c) Spillways, valves, or other control structures;
- (d) Embankments, slopes, and safety benches;
- (e) Reservoir or treatment areas;
- (f) Inlet and outlet channels or structures;
- (g) Underground drainage;
- (h) Sediment and debris accumulation in storage and forebay areas;
- (i) Any nonstructural practices to the extent practicable; and
- (j) Any other item that could affect the proper function of the stormwater management system.
- (5) Description of needed maintenance.
- D. The applicant shall have 30 days, unless extended by the County Engineer, from the date of notice of the results of inspection to repair or correct any deficiencies. The County shall inspect all repairs to ensure satisfactory completion.
- E. If an inspection by the County discloses that the condition of a stormwater management system presents an immediate danger to public health or safety the County may take such action as necessary to protect the public. Any cost incurred by the County shall be assessed against the applicant, as provided in § 164-9.2 C. of this Ordinance.
- § 164-9.2 Maintenance Agreement**
- A. Prior to the issuance of any building permit for which stormwater management is required, the County shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a privately owned stormwater management system. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the County Engineer to ensure that the facility is maintained in proper working condition to meet design standards.
- (1) The agreement shall also provide that the applicant shall indemnify the County and hold the County harmless from and against any liability, costs, or expenses in connection with the operation or maintenance of the stormwater management facility.
- (2) The agreement shall also provide that all amounts due the County in connection with the administration or implementation of this chapter shall be billed to the owner, applicant, or other responsible party and shall be payable in full within thirty (30) days.

1155
1156 B. The agreement shall be recorded by the applicant or owner in the land records of Talbot
1157 County.
1158

1159 C. The agreement shall also provide that, if after notice by the County Engineer to correct a
1160 violation requiring maintenance work, satisfactory corrections are not made by the
1161 owner(s) within a reasonable period of time (30 days maximum), the County or its
1162 designee may perform all necessary work to place the facility in proper working
1163 condition or to perform the maintenance. The owner(s) of the facility shall be assessed
1164 the cost of the work, including reasonable overhead, and any penalties.
1165

1166 **§ 164-9.3 Maintenance Responsibility**
1167

1168 A. The property owner or any other person or agent in control of property that contains
1169 stormwater management systems shall maintain all ESD practices, grade surfaces, walls,
1170 drains, dams and structures, vegetation, erosion and sediment control measures, and other
1171 protective devices in good condition and shall promptly repair and restore the same to
1172 comply with all applicable requirements.
1173

1174 B. A maintenance schedule is required for the life of any structural stormwater management
1175 facility or system and ESD practice. It shall set forth the maintenance to be completed,
1176 the time period for completion, and the party responsible to perform the maintenance, and
1177 shall be set forth on the approved stormwater management plan.
1178

1179 **§ 164-10.0 APPEALS**

1180 Any person aggrieved by the action of any official in the administration or enforcement of this
1181 Ordinance, shall have the right to appeal to the Talbot County Board of Appeals. The appeal
1182 shall be filed and processed in the manner prescribed for administrative appeals under Chapter
1183 20, *Board of Appeals*, Talbot County Code.
1184

1185 **§ 164-11.0 SEVERABILITY**

1186 The parts and sub-parts of this Ordinance are intended to be severable. If any Court of competent
1187 jurisdiction should determine by a valid and final judgment that any part of this Ordinance, or the
1188 application thereof to any person or circumstance, is unconstitutional, illegal, or void for any
1189 reason, then, notwithstanding that determination, the remaining provisions hereof and the
1190 application thereof to all other persons and circumstances shall remain in full force and effect.
1191

1192 **§ 164-12.0 PENALTIES**

1193 Any person convicted of violating the provisions of this Ordinance shall be guilty of a
1194 misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than Five
1195 Thousand Dollars (\$5,000.00) for each such violation, not to exceed a total of Fifty Thousand
1196 Dollars (\$50,000.00), or imprisonment not exceeding one (1) year for each violation, or both,
1197 with costs imposed in the discretion of the court. Each day that a violation continues shall be a
1198 separate offense. In addition, The County may institute injunctive, mandamus or other

1199 appropriate action or proceedings of law to correct violations of this Ordinance. Any court of
1200 competent jurisdiction shall have the right to issue temporary or permanent restraining orders,
1201 injunctions or mandamus, or other appropriate forms of relief.
1202

1203 Without limitation of the foregoing, violation of this Ordinance is also subject to the provisions
1204 of Chapter 58, Talbot County Code, as amended from time to time, which creates additional,
1205 supplemental, and non-exclusive alternative remedies for enforcement as set forth therein.

SECTION TWO: BE IT FURTHER ENACTED, that this Ordinance shall take effect sixty (60) days from the date of its passage.

SECTION THREE: AND BE IT FURTHER ENACTED, That if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of this Ordinance are declared severable.

PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. _____ having been published, a public hearing was held on _____.

BY THE COUNCIL

Read the third time.

ENACTED _____

By Order _____
Susan W. Moran, Secretary

Bartlett -

Hollis -

Pack -

Price -

Duncan -