

ORDINANCE NO. 2023-02

Town of Rising Sun

Cecil County, Maryland

AN ORDINANCE OF THE TOWN OF RISING SUN, ("TOWN") CECIL COUNTY, MARYLAND, AMENDING THE GENERAL LAWS OF THE TOWN OF RISING SUN BY AMENDING AND ADDING LANGUAGE TO CHAPTER 13 TITLED STORMWATER MANAGEMENT ORDINANCE, FOR THE PURPOSE OF ADDING CLARITY TO THE WAIVER AND VARIANCE PROCESS ASSOCIATED WITH LAND DEVELOPMENT PROJECTS AND STORMWATER MANAGEMENT COMPLIANCE, AND TO REPEAL ANY AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

WHEREAS the Town, located in Cecil County, Maryland is a municipality organized under the provisions of the Maryland Constitution and governed under the provisions of the Local Government Article of the Annotated Code of Maryland; and

WHEREAS the Town is proclaimed as a perpetual entity with the right to pass laws; and

WHEREAS, the Town of Rising Sun is currently responsible for ensuring that all development occurring within the incorporated limits of the Town are designed and constructed in a manner that is consistent with the State of Maryland's Stormwater management regulations pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 2009 replacement volume; and

WHEREAS, the Town of Rising Sun recently passed ordinance 2023-01 which transferred the formal review and inspection of Stormwater Management Projects within the incorporated Town of Rising Sun from the Cecil County Department of Public Works, to the Town of Rising Sun; and

WHEREAS, the Town has received some comments from the Maryland Department of the Environment requesting reordering of the required code sections, increase in fines and penalties for non-compliance and the process for considering and granting of waivers and variances as provided for in Maryland Stormwater Management Guidelines, for State & Federal Projects (Maryland Department of the Environment, April 15, 2010); and

WHEREAS, the changes also clarify responsibilities for the maintenance of SWM facilities, the structure of maintenance agreements, charges for inspections and transfer of Performance Guaranties of existing facilities under the purview of the Cecil County Public Works department.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the authority of the Mayor and Commissioners of the Town of Rising Sun, Cecil County, Maryland, that Chapter 13 of the Codified Ordinances of the Town of Rising Sun, shall be modified as follows:

SECTION 1

New text language will be highlighted in red with double underline in the attached document titled Chapter 13 - Stormwater Management Code. Words or text that has been deleted will be indicated with a strikethrough line.

SECTION 2

All ordinances or parts thereof inconsistent herewith are repealed, rescinded, canceled, and annulled.

SECTION 3.

Should any provision, section, paragraph, or subparagraph of this Ordinance, including any code or text adopted hereby, be declared null and void, illegal, unconstitutional, or otherwise determined to be unenforceable for a court having jurisdiction, the same shall not affect the validity, legality, or enforceability of any other provision, section, paragraph, or subparagraph hereof, including any code text adopted hereby. The Town of Rising Sun hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared null and void, illegal, unconstitutional, or otherwise determined to be unenforceable. Each such provision, section, paragraph, or subparagraph is expressly declared to be and is deemed severable.

SECTION 4.

That nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION 5.

If passed and adopted, the Rising Sun Town Clerk is hereby ordered and directed to cause this ordinance to be published in a newspaper in general circulation.

SECTION 6.

BE IT FURTHER ENACTED that this Ordinance is being considered for adoption as an emergency ordinance as provided for by code and if adopted shall become effective immediately.

SECTION 7.

NOW THEREFORE BE IT RESOLVED that this ordinance was introduced on this 14th Day of March 2023.

SECTION 8.

NOW THEREFORE BE IT FURTHER RESOLVED that the Mayor and Commissioners of the Town of Rising Sun passed, approved, and adopted this ordinance on this 14th day of March 2023.

AYES: (3) Commissioner Pierson, Commissioner Warnick and Commissioner Braun

NAYES: (0)

ABSTAIN: (0)

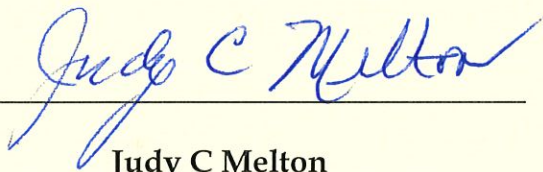
MOTION PASSED

THE MAYOR AND COMMISSIONERS
OF THE TOWN OF RISING SUN

BY: 

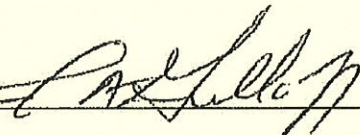
Travis Marion, Mayor

ATTEST:



Judy C Melton
Town Clerk

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY THIS 13th DAY OF MARCH 2023

BY: 

Jack A. Gullo, Jr., - Town Attorney

CHAPTER 13

STORMWATER MANAGEMENT CODE

ARTICLE 1. PURPOSE AND AUTHORITY

Section 13-101 Purpose and Authority

The purpose of this Code is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures that control the adverse impacts associated with increased stormwater runoff. The goal is to manage stormwater by using environmental site design (ESD) to the maximum extent practicable (MEP) to maintain after development as nearly as possible, the predevelopment 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 the streams, minimize damage to public and private property, and reduce the impacts of land development.

The provisions of the Code, pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 2009 replacement volume, are adopted under the authority of the Code of the Town of Rising Sun and shall apply to all development occurring within the incorporated areas of the Town of Rising Sun. The application of this Code and the provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by the State statute. The Town of Rising Sun shall be responsible for the coordination and enforcement of the provisions of this Code. ~~This Code applies to all new and redevelopment projects that have not received a grading permit for erosion and sediment control by March 10, 2023.~~

The 2000 Maryland Stormwater Design Manual, Volume I & II (Maryland Department of the Environment, April 2000), and all subsequent revisions is incorporated by reference by the Town of Rising Sun and shall serve as the official guide for stormwater management principles, methods, and practices.

Projects shall be reviewed considering the interpretations presented in the Maryland Stormwater Management Guidelines, For State & Federal Projects (Maryland Department of the Environment, April 15, 2010), and all subsequent revisions.

USDA Natural Resources Conservation Service, Maryland Conservation Practice Standard Pond Code 378 (January 2000) shall serve as the official guide for design and management of stormwater ponds.

Section 13-102. Effective Date of the Code

This Code shall take effect April 10, 2023, and shall include any and all properties that were regulated by the Cecil County Department of Public Works (CCDPW) prior to the adoption of this code and will now be transitioned from CCDPW oversight to the Town of Rising Sun, as per the agreed upon transition schedule.

ARTICLE 2. DEFINITIONS

Section 13-201 General.

13-201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

13-201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

13-201.3 Terms defined in other codes. Where terms are not defined in this code but are defined in the *Town's Zoning Code*, *Land Development Code*, and the most recent versions of the *International Zoning Code*; or *Maryland Stormwater Design Manual, Volume I & II*, *USDA Natural Resources Conservation Service, Maryland Conservation Practice Standard Pond Code 378*, or any definitions found in the *Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland*; such terms shall have the meanings ascribed to them as in those codes and references.

13-201.4 Terms in Conflict. Where there is a conflict between terms, the terms in this code shall prevail.

13-201.5 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

Section 13-202 General Definitions

For the purpose of this Code, the following definitions describe the meaning of the terms used in this Code:

Administration. The word "administration" shall mean the Maryland Department of the Environment (MDE) Water Management ~~and Science~~ Administration (WMAWSA).

Adverse impact. The words "adverse impact" shall mean 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, including outdoor recreation.

Agent. The word agent shall mean any individual or entity employed or hired by the town to act as an agent for the Town for the administration, management,

plan/document review and inspection of work performed in relation to this Chapter.

Agricultural land management activities. The words "agricultural land management activities" shall mean 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.

Applicant. The word "applicant" shall mean any person, firm, or governmental agency, to include the owner, buyer or agent thereof, including but not limited to a contractor, realtor, broker, engineer or other consultant, who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

Approving Agency. The words "Approving Agency" shall mean the Town of Rising Sun or designated agency thereof, responsible for the review and approval of stormwater management plans.

Aquifer. The word "aquifer" shall mean a porous water-bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

Best management practice (BMP). The words "best management practice (BMP)" shall mean a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

CCDPW. The term "CCDPW shall mean the Cecil County Department of Public Works

Channel protection storage volume (Cpv). The words "channel protection storage volume (Cpv)" shall mean 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.

Clearing. The word "clearing" shall mean the removal of trees and brush from the land but shall not include the ordinary mowing of grass.

Concept Plan. For the purposes of this Chapter, the words "Concept Plan" shall mean the first of three required Storm Water Management plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.

Design Manual. The words "Design Manual" shall mean the 2000 Maryland Stormwater Design Manual, and all subsequent revisions, that serves as the official

guide for stormwater management principles, methods, and practices.

Detention structure. The words "detention structure" shall mean a permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water.

Develop land. The words "develop land" shall mean to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.

Direct discharge. The words "direct discharge" shall mean the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in the Critical Area.

Drainage area. The words "drainage area" shall mean that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

Easement. The word "easement" shall mean a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement. Note this term shall include any designated easements shown on a recorded plat or land record regardless of whether a text version has been recorded in the Cecil County land records.

Environmental site design (ESD). The words "environmental site design (ESD)" shall mean using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of the land development on water resources. Methods for designing ESD practices are specified in the Design Manual.

Exemption. The word "exemption" shall mean those land development activities that are not subject to the stormwater management requirements contained in this Section.

Extended detention. The words "extended detention" shall mean 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 (Q_f). The words "extreme flood volume (Q_f)" shall mean 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.

Final stormwater management plan. The words "final stormwater management

plan” shall mean the last of the three required plan approvals that includes the information necessary to allow approvals and permits to be issued by the approving agency.

Flow attenuation. The words “flow attenuation” shall mean prolonging the flow time of runoff to reduce the peak discharge.

Grading. The word “grading” shall mean any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.

Impervious area. The words “impervious area” shall mean any surface that does not allow stormwater to infiltrate into the ground.

In-fill development. The words “in-fill development” shall mean a vacant lot or parcel in a developed area.

Infiltration. The word “infiltration” shall mean the passage or movement of water into the soil surface.

Maximum extent practicable (MEP). The words “maximum extent practicable (MEP)” shall mean designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and only where absolutely necessary, a structural BMP is implemented.

Off-site stormwater management. The words “off-site stormwater management” shall mean the design and construction of a facility necessary to control stormwater from more than one development.

On-site stormwater management. The words “on-site stormwater management” shall mean the design and construction of systems necessary to control stormwater within immediate development.

Overbank flood protection volume (Qp). The words “overbank flood protection volume (Qp)” shall mean 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.

Person. The word “person” shall mean An individual, heirs, executors, administrators or assigns, and a firm, partnership or corporation, partnership or it’s or their successors or assigns, or the agent of any of the aforesaid; the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual receive, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any

partnership, firm, association, public or private corporation, or any other entity.

Planning techniques. The words "planning techniques" shall mean 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.

Preliminary site development plan. The words "preliminary site development plan" shall mean the second of three required plan approvals that includes the information necessary to allow a detailed evaluation of a proposed project.

Recharge volume (Rev). The words "recharge volume (Rev)" shall mean 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. The word "redevelopment" shall mean any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional, or residential and existing site impervious area exceeds 40 percent.

Retention structure. The words "retention structure" shall mean a permanent structure that provides for the storage of runoff by means of a permanent pool of water.

Retrofitting. The word "retrofitting" shall mean the implementation of ESD practices, the construction of a structural BMP, or the modification of an existing structural BMP in a previously development area to improve water quality over current conditions.

Sediment. The word "sediment" shall mean soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

Site. The word "site" shall mean any tract, lot, or parcel of land, or combination of tracts, lots, parcels of land that are in one ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project.

Stabilization. The word "stabilization" shall mean the prevention of soil movement by any various vegetative and/or structural means.

Stormwater. The word "stormwater" shall mean water that originates from a precipitation event.

Stormwater management system. The words "Stormwater management system"

shall mean natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.

Stripping. The word "Stripping" shall mean any activity that removes the vegetative surface cover including tree removal, clearing, grubbing, and storage or removal of topsoil.

Town. The word "Town" shall mean the Town of Rising Sun or designated Representative.

Variance. For the purposes of this Chapter, the word "Variance" shall mean the modification of the minimum stormwater management requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this chapter.

Waiver. For the purposes of this Chapter, ~~the~~ the word "Waiver" shall mean the reduction of stormwater management requirements by the Town for a specific development on a case-by-case review basis.

Watercourse. The word "Watercourse" shall mean 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.

Water quality volume (WQv). The words "Water quality volume (WQv)" shall mean 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.

Watershed. The word "Watershed" shall mean the total drainage area contributing runoff to a single point.

Article 3. Applicability

Section 13-301. Scope

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

Section 13-302. Exemptions

The following development activities are exempt from the provisions of this Code and the requirements of providing stormwater management:

- (a) Agricultural land management activities;
- (b) Additions or modifications to existing single family detached residential structures if they comply with §13-302 (c) of this Code;
- (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.

Section 13-303. Waivers

The following standards for waivers have been established in accordance with the State's 2009 Stormwater Management Regulations and Maryland Stormwater Management Guidelines for State & Federal Projects dated April 15, 2010, or as subsequently revised.

- (a) Except as provided in §13-303 (f) and (h) of this Code, the Mayor and Commissioners shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with §13-303(i). Upon payment of all fees associated with SWM waivers as detailed in the Town's fee schedule, a written requests for quantitative stormwater management waivers shall be submitted to the Town Administrator ~~Mayor and Commissioners~~ that contain sufficient descriptions, drawings, and any other information that is necessary to

demonstrate that ESD has been implemented to the MEP. The request for a waiver shall include a completed application indicating the appropriate waiver category which is available in the Appendix of the Maryland Stormwater Management Guidelines for State & Federal Projects document. A separate written waiver and application request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development receiving a waiver. Once complete, a request for a waiver and the completed application packet shall be submitted to the Mayor and Commissioners for consideration.

- (b) The Mayor and Commissioners shall hold a special public hearing to discuss the merits of the waiver request and shall advertise for a public hearing in the same manner that meetings are advertised by the Board of Zoning Appeals. Meetings shall be conducted in accordance with Chapter 2 of the Town Code. A majority vote of the board of commissioners present, shall be required to approve a waiver. The Mayor and Commissioners may deny a request for any reason, including, but not limited to, observed existing stormwater management deficiencies at the subject location.
- (c) Waivers should be considered using the clear mandate found in the Act for implementing ESD to the MEP to change the prevailing mindset of seeking ways to avoid stormwater management in project design to looking for all opportunities to provide it. The Mayor and Commissioners may grant a waiver of all quality and quantity stormwater management control requirements where an applicant can demonstrate to the satisfaction of the Mayor and Commissioners that the disturbed area for certain pipeline projects, conduit projects, underground projects, landscaping projects, maintenance projects, etc. will be returned to the existing condition and will have no hydrologic change. When in doubt, decisions made must consider the MEP standard and be made in favor of control. A written notice from the Administration must be received for a waiver to be valid. For projects with multiple points of investigation (POI), the waiver applies to the POI and not to the entire project. ~~Except as provided for in §13-303 (d), the Mayor and Commissioners may grant waivers to the specific minimum requirements established under this Chapter upon assurance by the applicant in writing, that the granting of such waiver will not have a substantially adverse effect upon any property adjoining such proposed project or cause any stormwater related issues in the community at large.~~

All request for waivers shall be limited to claims that:

- ~~(1) The true intent of this code or the rules legally adopted there under have been incorrectly interpreted; or~~

- ~~(2) The provisions of this code do not fully apply; or~~
 - ~~(3) The requirements of this code are adequately satisfied by other means.~~
 - ~~(4) The minimum requirement, if applied to the proposed project, would impose an unreasonable burden upon the applicant.~~
- (d) The Mayor and Commissioners may not grant waivers to procedural requirements, time frames, or standards contained in this Chapter except where specifically provided.
- (e) In granting any waiver from the requirements of these regulations, the Mayor and Commissioners may prescribe such conditions and safeguards as it shall deem necessary to fulfill the purpose and intent of these regulations. Violations of such conditions upon which any waiver is granted shall be deemed a violation of these regulations and punishable under the provisions hereof.
- (f) If watershed management plans consistent with §13-303(i) have not been developed, stormwater management quantitative control waivers may be granted to the following projects provided that it has been demonstrated that ESD has been implemented to the MEP:
- (1) That have direct discharges to tidally influenced receiving waters; or
 - (2) That are in-fill development located in a Priority Funding Area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2023 regulatory requirements would result in a loss of the planned development density provided that:
 - a. Public water and sewer and stormwater conveyance exist;
 - b. The quantitative waiver is applied to the project for the impervious cover that previously existed on the site only
 - c. ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and
 - d. ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or

- (3) When the approving agency determines that circumstances exist that prevent the reasonable implementation of quantity control practices.
- (g) Stormwater management qualitative control waivers apply only to:
- (1) In-fill development projects where ESD has been implemented to the MEP and it has been demonstrated that other BMPs are not feasible;
 - (2) Redevelopment projects if the requirements of §13-304 of this chapter are satisfied.
 - (3) Site where the approving agency determines that circumstances exist that prevent the reasonable implementation of ESD to the MEP.
- (h) Waivers shall only be granted when it has been demonstrated that ESD has been implemented to the MEP and must:
- (1) Be on a case-by-case basis;
 - (2) Consider the cumulative effects of the Town waiver policy; and
 - (3) Reasonably ensure the development will not adversely impact stream quality which includes downstream properties.
- (i) If the Town has established an overall watershed management plan for a specific watershed, then the Town may develop quantitative waiver and redevelopment provisions that differ from §13-303(f) and §13-304 of this chapter.
- (j) A watershed management plan developed for the purpose of implementing different stormwater management policies for waivers and redevelopment shall:
- (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
 - (2) Evaluate both quantity and quality management and opportunities for ESD implementation;
 - (3) Include a cumulative impact assessment of current and proposed watershed development;

- (4) Identify existing flooding and receiving stream channel conditions;
- (5) Be conducted at a reasonable scale;
- ~~(6)~~ Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;
- ~~(67)~~ Be consistent with the General Performance Standards for Stormwater Management in Maryland found in the Design Manual; and
- ~~(78)~~ Be approved by the Administration.

Section 13-304 Redevelopment

- (a) Stormwater management plans are required by the Town for all redevelopment, unless otherwise specified by watershed management plans developed according to §13-303(i). Stormwater management measures must be consistent with the Design Manual.
- (b) All redevelopment designs shall:
 - (1) Reduce impervious area within the limit of disturbance (LOD) by at least 50 percent according to the Design Manual; or
 - (2) Implement ESD to the MEP to provide water quality treatment for at least 50 percent of the existing impervious area within the LOD; or
 - (3) Use a combination of §13.16.070(B.)(1)and(2) of this chapter for at least 50 percent of the existing site impervious area.
- (c) Alternative stormwater management measures may be used to meet the requirements in §13-304(b) if the owner/developer satisfactorily demonstrates to the Town that impervious area reduction has been maximized and ESD has been implemented to the MEP. Alternative stormwater management measures include, but are not limited to:
 - (1) An on-site structural BMP;
 - (2) An off-site structural BMP to provide water quality treatment for an area equal to or greater than 50 percent of the existing impervious area; or

- (3) A combination of impervious area reduction, ESD implementation, and an on-site or off-site structural BMP for an area equal to or greater than 50 percent of the existing site impervious area within the LOD.
- (d) The determination of what alternatives will be available may be made by the Town at the appropriate point in the development review process. The Town shall consider the prioritization of alternatives in §13-304(c) of this chapter after it has been determined that it is not practicable to meet the 2009 regulatory requirements using ESD. In deciding what alternatives may be required, the Town may consider factors including, but not limited to:
- (1) Whether the project is in an area targeted for development incentives such as a Priority Funding Area, a designated Transit Oriented Development area, or a designated Base Realignment and Closure Revitalization and Incentive Zone;
 - (2) Whether the project is necessary to accommodate growth consistent with comprehensive plans; or
 - (3) Whether bonding and financing have already been secured based on an approved development plan.
- (e) The Mayor and Commissioners may consider separate policies for providing water quality treatment for redevelopment projects if the owner/developer demonstrates with the approval of the Town's engineer that the requirements of §13-304(a) and (b) of this chapter cannot be met. The following alternative redevelopment policies shall be considered:
- (1) Retrofitting an existing off-site stormwater management system within the watershed of the proposed redevelopment to provide water quality treatment for an area equal to or greater than ~~40~~50% of the existing and 100% of new impervious area.
 - (2) If the owner/developer demonstrates with the approval of the Town's engineer that the requirements of §13.16.070(a) and (b) of this chapter cannot be met, a fee in lieu of \$2.25 per square foot for ~~40~~50% of existing and 100% of new impervious area.
 - (3) Funds collected as fees in lieu under this subsection shall be specified to be used only to fund the analysis, design, construction and/or maintenance of stormwater management facilities and/or stream

restoration projects within the town; and shall not exceed the cost of constructing an effective on-site stormwater management facility.

- (4) Design criteria based on watershed management plans developed according to §13-303(j).
- (f) Stormwater management shall be addressed according to the new development requirements in the Design Manual for any net increase in impervious area.

Section 13-305 Variance

The following standards for variances have been established in accordance with the State's 2009 Stormwater Management Regulations and Maryland Stormwater Management Guidelines for State & Federal Projects dated April 15, 2010 or as subsequently revised.

- (a) The Mayor and Commissioners may grant a written variance from any requirement of §13-601~~401~~, Stormwater Management Criteria, if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship and not fulfill the intent of this chapter. Upon payment of all fees associated with SWM variances as detailed in the Town's fee schedule, a written requests for quantitative stormwater management variances shall be submitted to the Town Administrator~~Mayor and Commissioners~~ that contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that the implementation of the ESD to the MEP has been investigated thoroughly. Once complete, a request for a variance shall be submitted to the Mayor and Commissioners for consideration.
- (b) The Mayor and Commissioners shall hold a special public hearing to discuss the merits of the variance request and shall advertise for a public hearing in the same manner that meetings are advertised by the Board of Zoning Appeals. Meetings shall be conducted in accordance with Chapter 2 of the Town Code. A majority vote of the board of commissioners present, shall be required to approve a variance. The Mayor and Commissioners may deny a request for any reason, including, but not limited to, observed existing stormwater management deficiencies at the subject location.
- (c) ~~Except as provided for in §13-304 (d), the Mayor and Commissioners may grant variances to the specific minimum requirements established under this Chapter upon assurance by the applicant in writing, that the granting of such variance will not have a substantially adverse effect upon any property~~

~~adjoining such proposed project or cause any stormwater related issues in the community at large.~~

All request for variances shall be limited to claims that:

- ~~(1) The true intent of this code or the rules legally adopted there under have been incorrectly interpreted; or~~
- ~~(2) The provisions of this code do not fully apply; or~~
- ~~(3) The requirements of this code are adequately satisfied by other means.~~
- ~~(4) The minimum requirement, if applied to the proposed project, would impose an unreasonable burden upon the applicant.~~

~~(d)~~(c) The Mayor and Commissioners may not grant variances to procedural requirements, time frames, or standards contained in this Chapter except where specifically provided.

~~(e)~~(d) In granting any variance from the requirements of these regulations, the Mayor and Commissioners may prescribe such conditions and safeguards as it shall deem necessary to fulfill the purpose and intent of these regulations. Violations of such conditions upon which any variance is granted shall be deemed a violation of these regulations and punishable under the provisions hereof.

~~(f)~~(e) The Mayor and Commissioners shall not grant a variance unless and until sufficient justification is provided by the person developing land that the implementation of ESD to the MEP has been investigated thoroughly.

Article 4. Stormwater Management Criteria

Section 13-401 Minimum Control Requirements

- (a) The minimum control requirements established in this section and the Design Manual are as follows:
- (1) The Town shall require that the planning techniques, nonstructural practices, and design methods specified in the Design Manual be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. Stormwater management plans for development projects subject to this chapter shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the Design Manual. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.
 - (2) Control of the 2-year and 10-year frequency storm event is required according to the Design Manual and all subsequent revisions if the Town determines that additional stormwater management is necessary because historical flooding problems exist and downstream floodplain development and conveyance system design cannot be controlled.
 - (3) The Town may require more than the minimum control requirements specified in this chapter if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.
- (b) Alternate minimum control requirements may be adopted subject to Administration approval. The Administration shall require a demonstration that alternative requirements will implement ESD to the MEP and control flood damages, accelerated stream erosion, water quality, and sedimentation. Comprehensive watershed studies may also be required.
- (c) Stormwater management and development plans where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

Section 13-402 Stormwater Management Measures

(a) The ESD planning techniques and practices and structural stormwater management measures established in this Code and the Design Manual shall be used, either alone or in combination in a stormwater management plan. A developer shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management plan.

(b) ESD Planning Techniques and Practices:

(1) The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in §13-601 (a) of this chapter:

a. Preserving and protecting natural resources;

b. Conserving natural drainage patterns;

c. Minimizing impervious area;

d. Reducing runoff volume;

e. Using ESD practices to maintain 100 percent of the annual predevelopment groundwater recharge volume;

f. Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;

g. Limiting soil disturbance, mass grading, and compaction;

h. Clustering development; and

i. Any practices approved by the Administration.

(2) The following ESD treatment practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in §13-601 (a) of this chapter:

a. Disconnection of rooftop runoff;

- b. Disconnection of non-rooftop runoff;
- c. Sheetflow to conservation areas;
- d. Rainwater harvesting;
- e. Submerged gravel wetlands;
- f. Landscape infiltration;
- g. Infiltration berms;
- h. Dry wells;
- i. Micro-bioretentation;
- j. Rain gardens;
- k. Swales;
- l. Enhanced filters; and
- m. Any practices approved by the Administration.

(3) The use of ESD planning techniques and treatment practices specified in this section shall not conflict with existing State law or local Codes, regulations, or policies. The Town shall modify any building, planning and zoning Codes and public works codes to eliminate any impediments to implementing ESD to the MEP according to the Design Manual.

(c) Structural Stormwater Management Measures.

(1) The following structural stormwater management practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in §13-601 (a) of this chapter:

- a. Stormwater management ponds;

b. Stormwater management wetlands;

c. Stormwater management infiltration;

d. Stormwater management filtering systems; and

e. Stormwater management open channel systems.

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

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

(d) ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in §13-601 (a) of this chapter must be recorded in the land records of the Town and remain unaltered by subsequent property owners. Prior approval from the Town shall be obtained before any stormwater management practice is altered.

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

(f) For the purposes of modifying the minimum control requirements or design criteria, the owner/developer shall submit to the Town an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted streamflow. The point of investigation is to be established with the concurrence of the Town, downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

Section 13-403 Specific Design Criteria

- (a) The basic design criteria, methodologies, and construction specifications, subject to the approval of the Town and the Administration, shall be those of the Design Manual.
- (b) The Town shall require permanent safety fencing surrounding all retention and detention facilities in accordance with the standards and specifications developed and approved by the Town.
- (c) Infiltration systems shall be designed in accordance with standards and specifications that are developed or approved by the Administration and shall meet the following requirements:
 - (1) Infiltration systems greater than three feet deep shall be located at least ten feet from basement walls;
 - (2) Infiltration systems designed to handle runoff from commercial or industrial impervious parking area shall be a minimum of one hundred (100) feet from any water supply well.

Article ~~4~~5. Stormwater Management Plans

Section 13-~~401~~501 Review and Approval of Stormwater Management Plans

- (a) For any proposed development, the owner/developer shall submit phased stormwater management plans to the Town for review and approval. At a minimum, plans shall be submitted for the concept, preliminary site development, and final stormwater management construction phases of project design. Each plan submittal shall include the minimum content specified in §13-402 of this chapter and meet the requirements of the Design Manual and §13-601, §13-602, and §13-602 of this chapter.
- (b) The Town shall perform a comprehensive review of the stormwater management plans for each phase of site design. Coordinated comments will be provided for each plan phase that reflect input from all appropriate agencies including, but not limited to the soil conservation district and the departments of planning, zoning, and public works. All comments from the Town and other appropriate agencies shall be addressed and approval received at each phase of project design before subsequent submissions.
- (c) The design of stormwater management plans shall be prepared by any individual whose qualifications are acceptable to the Town. The Town may require that the design be prepared by either a professional engineer, professional land surveyor, or landscape architect licensed in the State, as necessary to protect the public or the environment.
- (d) If a stormwater BMP requires either a dam safety permit from MDE or small pond approval from the soil conservation district, the Town shall require that the design be prepared by a professional engineer licensed in the State.

Section 13-~~402~~502 Contents and Submission of Stormwater Management Plans

- (a) Concept Plan. The owner/developer shall submit a concept plan that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided according to §13-602 of this chapter and the Design Manual. Plans submitted for concept approval shall include, but are not limited to:
 - (1) A map at a scale specified by the Town showing site location, existing natural features, water and other sensitive resources as defined by critical area in the Town of Rising Sun Zoning Code, topography, and natural drainage patterns;

- (2) The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;
 - (3) The location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction;
 - (4) Preliminary estimates of stormwater management requirements, the selection and location of ESD practices to be used, and the location of all points of discharge from the site;
 - (5) A narrative that supports the concept design and describes how ESD will be implemented to the MEP; and
 - (6) Any other information required by the approving agency.
- (b) Preliminary Site Development Plan. Following concept plan approval by the Town, the owner/developer shall submit preliminary site development plans that reflect comments received during the previous review phase. Plans submitted for site development approval shall be of sufficient detail to allow site development to be reviewed and include but not be limited to:
- (1) All information provided during the concept plan review phase;
 - (2) Final site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;
 - (3) A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;
 - (4) A narrative that supports the site development design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure;
 - (5) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;
 - (6) Drainage area maps depicting predevelopment and post development runoff flow path segmentation and land use;

- (7) Hydrologic computations of the applicable ESD and unified sizing criteria according to the Design Manual for all points of discharge from the site;
- (8) Hydraulic and structural computations for all ESD practices and structural stormwater management measures to be used;
- (9) A narrative that supports the final stormwater management design; and 10.

(10) Any other information required by the Town.

(c) Final Stormwater Management Plan. Following preliminary site development approval by the Town, the owner/developer shall submit final erosion and sediment control and stormwater management plans that reflect the comments received during the previous review phase. Plans submitted for final approval shall be of sufficient detail to allow all approvals and permits to be issued according to the following:

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

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

- (1) A vicinity map;
- (2) Existing and proposed topography and proposed drainage areas, including areas necessary to determine downstream analysis for proposed stormwater management facilities;
- (3) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;
- (4) The location of existing and proposed structures and utilities;
- (5) Any easements and rights-of-way;
- (6) The delineation, if applicable, of the 100-year floodplain and any on-site wetlands;
- (7) Structural and construction details including representative cross

sections for all components of the proposed drainage system or systems, and stormwater management facilities;

- (8) All necessary construction specifications;
 - (9) A sequence of construction;
 - (10) Data for total site area, disturbed area, new impervious area, and total impervious area;
 - (11) A table showing the ESD and unified sizing criteria volumes required in the Design Manual;
 - (12) A table of materials to be used for stormwater management facility planting;
 - (13) All soil boring logs and locations;
 - (14) An inspection and maintenance schedule;
 - (15) Certification by the owner/developer that all stormwater management construction will be done according to this plan;
 - (16) An as-built certification signature block to be executed after project completion; and
 - (17) Any other information required by the Town.
- (e) If a stormwater management plan involves direction of some or all runoff off of the site, it is the responsibility of the developer to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any right to direct runoff onto adjacent property without that property owner's permission.
- (f) Final approval on stormwater management plans will expire two (2) years after the date final approval is given by the Town.

Article 65. Permits

Section 13-501601 Permit Requirements

A grading or building permit may not be issued for any parcel or lot unless final erosion and sediment control and stormwater management plans have been approved by the Town as meeting all the requirements of the Design Manual and this Code. Where appropriate, a building permit may not be issued without:

- (a) Recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way;
- (b) A recorded stormwater management maintenance agreement as described in §13-901 of this Code; and
- (c) A performance guarantee as described in §13-701 of this chapter.

Section 13-502602 SWM Permit Fee

Non-refundable SWM permit fees, as spelled out in the Town's Fee Schedule, will be collected at each phase of stormwater management plan submittal. SWM permit fees will provide for the cost of plan review, administration, and management of the permitting process, administration of performance guaranties and inspection of all projects subject to this chapter.

Section 13-503603 Permit Suspension and Revocation

Any grading or building permit issued by the Town may be suspended or revoked after written notice is given to the permittee for any of the following reasons:

- (a) Any violation(s) of the conditions of the stormwater management plan approval;
- (b) Changes in site runoff characteristics upon which an approval or waiver was granted;
- (c) Construction is not in accordance with the approved plan;

- (d) Noncompliance with correction notice(s) or stop work order(s) issued for the construction of any stormwater management practice; and
- (e) An immediate danger exists in a downstream area in the opinion of the Town.

Section 13-504~~604~~ Permit Conditions

In granting an approval for any phase of site development, the Town may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Code and the preservation of public health and safety.

Article 7. Performance Guaranty

Section 13-701 Performance Guaranty

The Town shall require from the developer a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Town prior to the issuance of any building and/or grading permit for the construction of a development requiring stormwater management. The amount of the security shall not be less than 110% of the total estimated construction cost of all stormwater management facilities. The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this chapter, and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Town, submission of "as-built" plans, and certification of completion by the Town that all stormwater management facilities comply with the approved plan and the provisions of this chapter. A procedure may be used to release parts of the bond held by the Town after various stages of construction have been completed and accepted by the Town. The procedures used for partially releasing performance bonds must be specified by the Town in writing prior to stormwater management plan approval and shall include an administrative handling charge.

Section 13-701.1 Prior or Existing Performance Guaranties.

The Town shall be authorized to draw down against any Performance Guaranty described in section 13-701 above that is in place prior to the effective date of this code, to include the oversight of those Performance Guaranties. Partial or full release of those Performance Guarantees shall be in accordance with the transition schedule referenced in Section 13-102 above.

Article 8. Inspection

Section 13-801 Inspection Schedule and Reports

- (a) The developer shall notify the Town, or designated representative at least 48 hours before commencing any work in conjunction with site development, the stormwater management plan, and upon completion of the project.
- (b) Regular inspections shall be made and documented for each ESD planning technique and practice at the stages of construction specified in the Design Manual by the Town, its designated representative, or certified by a professional engineer approved by the Town of Rising Sun, and licensed in the State of Maryland. At a minimum, all ESD and other nonstructural practices shall be inspected upon completion of final grading, the establishment of permanent stabilization, and before issuance of use and occupancy approval.
- (c) Written inspection reports shall include:
 - (1) The date and location of the inspection;
 - (2) Whether construction was in compliance with the approved stormwater management plan;
 - (3) Any variations from the approved construction specifications; and
 - (4) Any violations that exist.
- (d) The owner/developer and on-site personnel shall be notified in writing when violations are observed. Written notification shall describe the nature of the violation and the required corrective action. Notifications shall be forwarded to the Town for their review and consideration.
- (e) No work shall proceed on the next phase of development until the Town or its designated representative inspects and approves the work previously completed and furnishes the developer with the results of the inspection reports as soon as possible after completion of each required inspection.

Section 13-802 Inspection Requirements During Construction

- (a) At a minimum, regular inspections shall be made and documented at the following specified stages of construction:
 - (1) For ponds:

- a. Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:
 - i. Core trenches for structural embankments;
 - ii. Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and
 - iii. Trenches for enclosed storm drainage facilities;
 - b. During placement of structural fill, concrete, and installation of piping and catch basins;
 - c. During backfill of foundations and trenches;
 - d. During embankment construction; and
 - e. Upon completion of final grading and establishment of permanent stabilization.
- (2) Wetlands – at the stages specified for pond construction in §13-802 (a)(1) of this chapter, during and after wetland reservoir area planting, and during the second growing season to verify a vegetation survival rate of at least 50 percent.
- (3) For infiltration trenches:
- a. During excavation to subgrade;
 - b. During placement and backfill of under drain systems and observation wells;
 - c. During placement of geotextiles and all filter media;
 - d. During construction of appurtenant conveyance systems such as diversion structures, pre- filters and filters, inlets, outlets, and flow distribution structures; and
 - e. Upon completion of final grading and establishment of permanent stabilization.
- (4) For infiltration basins – at the stages specified for pond construction in §13-802 (a)(1) of this chapter and during placement and backfill of under drain systems.

(5) For filtering systems:

- a. During excavation to subgrade;
- b. During placement and backfill of under drain systems;
- c. During placement of geotextiles and all filter media;
- d. During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and
- e. Upon completion of final grading and establishment of permanent stabilization.

(6) For open channel systems:

- a. During excavation to subgrade;
- b. During placement and backfill of under drain systems for dry swales;
- c. During installation of diaphragms, check dams, or weirs; and
- d. Upon completion of final grading and establishment of permanent stabilization.

(b) The Town may, for enforcement purposes, use any one or a combination of the following actions:

- (1) A notice of violation shall be issued specifying the need for corrective action if stormwater management plan noncompliance is identified;
- (2) A stop work order shall be issued for the site by the Town if a violation persists;
- (3) Bonds or securities shall be withheld or the case may be referred for legal action if reasonable efforts to correct the violation have not been undertaken; or
- (4) In addition to any other sanctions, a civil action or criminal prosecution may be brought against any person in violation of the Stormwater Management Subtitle, the Design Manual, or this chapter.

(c) Any step in the enforcement process may be taken at any time, depending on the severity of the violation.

- (d) Once construction is complete, an "as-built" plan certification shall be submitted to the Town for review, from either a professional engineer or professional land surveyor licensed in the State of Maryland to ensure that ESD planning techniques, treatment practices, and structural stormwater management measures and conveyance systems comply with the specifications contained in the approved plans. At a minimum, "as-built" certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. The Town may require additional information.
- (e) The Town shall submit notice of construction completion to the Administration on a form supplied by the Administration for each structural stormwater management practice within 45 days of construction completion. The type, number, total drainage area, and total impervious area treated by all ESD techniques and practices shall be reported to the Administration on a site-by-site basis. If BMPs requiring SCD approval are constructed, notice of construction completion shall also be submitted to the appropriate SCD.

Section 13-803. Final Inspection Reports

A final inspection shall be conducted by the Town or its designated representative upon completion of the stormwater management facility to determine if the completed work is constructed in accordance with the approved plans and this Code. "As-built" certification from the developer by a registered engineer licensed in Maryland is also required to certify that the facility has been constructed as shown on the "As-built" plans and meets approved plans and specifications. The developer will receive written notification of the results to the inspections. The Town maintains a permanent file of inspection reports.

Section 13-804. Inspection for Preventative Maintenance

- (a) The Town shall ensure that preventative maintenance is performed by inspecting all ESD treatment systems and structural stormwater management measures. Inspection shall occur during the first year of operation and at least once every 3 years thereafter. In addition, a maintenance agreement between the owner and the Town shall be executed for privately-owned ESD treatment systems and structural stormwater management measures as described in §13-901 of this chapter.
- (b) Inspection reports shall be maintained by the Town for all ESD treatment systems and structural stormwater management measures and in accordance with State Regulations regarding Public Records Retention.
- (c) Inspection reports for ESD treatment systems and structural stormwater management measures shall include the following:

- (1) The date of inspection;
 - (2) Name of inspector;
 - (3) An assessment of the quality of the stormwater management system related to ESD treatment practice efficiency and the control of runoff to the MEP;
 - (4) The condition of:
 - a. Vegetation or filter media;
 - b. Fences or other safety devices;
 - c. Spillways, valves, or other control structures;
 - d. Embankments, slopes, and safety benches;
 - e. Reservoir or treatment areas;
 - f. Inlet and outlet channels or structures;
 - g. Underground drainage;
 - h. Sediment and debris accumulation in storage and forebay areas;
 - i. Any nonstructural practices to the extent practicable; and
 - j. Any other item that could affect the proper function of the stormwater management system.
 - (5) Description of needed maintenance.
- (d) Upon notifying an owner of the inspection results, the owner shall have 30 days, or other time frame mutually agreed to between the Town and the owner, to correct the deficiencies discovered. The Town shall conduct a subsequent inspection to ensure completion of the repairs.
- (e) If repairs are not properly undertaken and completed, enforcement procedures following §13-804(c) of this chapter shall be followed by the Town.
- (f) If, after an inspection by the Town, the condition of a stormwater management facility is determined to present an immediate danger to public health or safety because of an unsafe condition, improper construction, or poor maintenance, the Town shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the Town shall be assessed against the owner(s), as provided in §13-901 (c) of this chapter.

Article 9. Maintenance

Section 13-901 Maintenance Agreement

- (a) Prior to the issuance of any building permit for which stormwater management is required, the Town shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Town or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.
- (b) The agreement shall be recorded by the applicant or owner in the land records of the Town.
- (c) The agreement shall also provide that, if after notice by the Town to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the Town may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties. This may be accomplished by placing a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the Town.
- (d) The Town will replace the CCDPW as the enforcement and inspection agency listed in any Prior or Existing Maintenance Agreements and as detailed in the transition plan as described in Section 13-102 above.
- (e) The Town shall have the authority to charge and assess inspection fees as defined in the Towns Fee Schedule as approved by the Town Commissioners and as amended from time to time, for any inspections or service fees related to any Prior, Existing or Future Maintenance Agreements.

Section 13-902 Maintenance Responsibility

- (a) The owner of a property that contains private stormwater management facilities installed pursuant to this chapter, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all ESD practices, grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices in perpetuity. Such repairs or restoration and maintenance shall be in accordance with previously approved or newly submitted plans. All documentation relating to the repair shall be sent to the Town of Rising Sun
- (b) A maintenance schedule shall be developed for the life of any structural stormwater

management facility or system of ESD practices and shall state the maintenance to be completed, the time period for completion, and the responsible party what will perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

(c) It is the responsibility of the property owner to keep a maintenance log for the life of the facility which includes "as-builts."

(d) For the purposes of this section, any neighboring commercial properties that are connected to or dependent upon a stormwater management facility that is located on another property as described in item (a) above, shall be considered an Independent SW Facility Connector for the purposes of this section.

(e) Independent SW Facility Connectors shall share in the responsibilities for the compliance of a stormwater management facility as described in section (a) above to include fines and penalties associated with non-compliance with corrective action orders and failure to mitigate violations associated with the facility. In addition and on a prorated basis based upon the total number of Independent SW Facility Connectors as described in item (d) above, shall be responsible for the cost of maintenance, repairs and upkeep of the stormwater management facilities.

Article 10. Illicit Discharge Detection and Elimination (IDDDDE)

(NO CHANGES TO CURRENT CODE)

Article 11. Appeals

Section 13-1001 Appeals

Any person aggrieved by the action of the Town, with respect to the enforcement of this chapter, as the result of the disapproval of the properly filed application for a permit, issuance of a written notice of violation, approval or denial of a variance or waiver as spelled out in this chapter; or an alleged failure to properly enforce this chapter in regard to the specific application, shall have the right to appeal the action to the Circuit Court for Cecil County.

Article 12. Severability

Section 13-1001 Severability

If any portion of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall not affect the validity of the remaining portions of this chapter. It is the intent of the Board of Commissioners that this chapter shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

Article 13. Penalties

Section 13-1301 Penalties

- (a) Any person convicted of violating the provisions of this Code shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than ~~One~~ Five Thousand Dollars (\$~~15~~5,000.00) or imprisonment not exceeding ~~six~~ one (~~61~~) ~~months~~ year or both such fine and imprisonment for each violation with costs imposed in the discretion of the court and not to exceed Fifty Thousand Dollars (\$50,000.00). Each day that a violation continues shall be a separate offense.
- (b) In addition, the Town may institute injunctive, mandamus or other appropriate action or proceedings of law to correct violations of this chapter. Any court of competent jurisdiction shall have the right to issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.
- (c) In addition to the penalties above, failure to pay any permit, inspection or plan review fees shall be subject to the collection methods spelled out in Chapter 9 of the Town Code titled Finance, Taxation, Business and Trade to include municipal and civil actions against the property owner; property liens and placement for tax sale.

STATE OF MARYLAND)
COUNTY OF CECIL)
TOWN OF RISING SUN)

SS:

CERTIFICATE

I, Judy C Melton, Town Clerk for the Town of Rising Sun, Maryland, do hereby certify that the above and foregoing Ordinance is a true, perfect and complete copy of the Ordinance adopted by the Mayor and Commissioners of the Town of Rising Sun, Maryland, and is identical to the original thereof appearing in the official records of the Town of Rising Sun, Maryland and the same has not, since its adoption, been rescinded or amended in any respect.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have affixed the seal of the Town of Rising Sun as of this 15th day of March 2023.



Judy C Melton
Town Clerk