

GENERAL PROVISIONS

§ 154.01 PURPOSE AND AUTHORITY.

(A) The purpose of this chapter is to protect and maintain the ground and surface water resources of the county by establishing minimum requirements for the protection of groundwater and surface water resources that contribute to existing or future community water supplies, standards for review of development activities, management standards, and design criteria for land use activities that occur subsequent to that review, and enforcement procedures for violations of standards adopted herein that contribute to or become a source of pollution. Management of both surface and groundwater resources will minimize potential damage to community water supplies by helping to assure the maintenance of minimum flows and storage capacity and by minimizing the potential for contamination of those sources.

(B) The provisions of this chapter are promulgated pursuant to the authority of Md. Code, Environment Article, §§ 4-201 et seq., and § 3-110 of the Code of Public Local Laws. The application of this chapter and the provisions expressed are the minimum standards to maintain county water resources and are in addition to requirements of the zoning district and shall not be deemed a limitation or repeal of any other powers granted by state statute.

(2004 Code, § 218-1) (Ord. 04-08, passed 4-1-2004)

§ 154.02 DEFINITIONS.

In this chapter the following terms have the meanings indicated. Any term not defined in this chapter shall have the meaning as defined in any chapter of the Code. Any term not defined in the Code in any chapter shall have its generally accepted meaning. **ACTIVITY.** Any use, action, condition, or proposed action which changes the physical characteristics of the land, or which presents a potential threat to the water resources of Carroll County, including, but not limited to, construction, demolition, development, reconstruction, conversion, structural alteration, relocation or enlargement of any structure, road, driveway or appurtenance, and any mining, excavation, grading, landfill, or disturbance.

AGRICULTURAL ACTIVITY. Farming activities, including plowing, tillage, cropping, installation of best management practices (BMPs), seeding, cultivating, and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards, vineyards, Christmas tree plantations, nurseries, and other products cultivated as part of a recognized commercial enterprise.

APPLICANT. An individual, partnership, firm, corporation, or other entity that undertakes or participates in the activities covered by this chapter.

BEST MANAGEMENT PRACTICE (BMP). A structural device or nonstructural practice designed to temporarily store or treat stormwater runoff to mitigate flooding, reduce pollution, and provide other amenities.

BUFFER. A regulated area left undisturbed adjacent to a specific natural feature or water resource.

CLEARING. The removal of trees and brush from the land not including the ordinary mowing of grass.

COMMUNITY WATER SUPPLY. Any community water supply as defined in COMAR 26.04.01.01.

DEPARTMENT. The Carroll County Department of Land and Resource Management, or its successor agency, or any other official or agency designated by the county.

DEVELOPMENT. The subdivision of land and those divisions of land referred to as off-conveyances, and/or any change to improved or unimproved real estate, including but not limited to construction; reconstruction; structural alterations; relocation or enlargement of any structure, road, driveway, or appurtenance; grading; dredging; filling; paving; clearing; excavation; dumping; extraction or storage of soil or minerals; the storage of equipment or material.

DISTURBANCE. The clearing, grading, excavating, filling, paving, demolition, or building upon a parcel of land or otherwise modifying the existing topography.

EASEMENT. 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 is included in the conveyance of land.

GRADING. Any disturbance of the earth, including but not limited to clearing, stripping, stockpiling, excavating, scarifying, filling, or any combination thereof.

MANUAL. The Water Resource Management Manual.

MDE. The Maryland Department of the Environment.

PERSON. Includes 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.

POLLUTANT. Any contamination or alteration of the physical, chemical, or biological properties of groundwater or surface water, including any change in temperature, taste, color, turbidity, or odor of the waters or the discharge or deposit of any organic matter, harmful organism, or liquid, gaseous, solid, radioactive or other substance into groundwater or surface water that will render the character of water harmful or detrimental to: public health, safety, or welfare; domestic, commercial, industrial, agricultural, recreation, or other legitimate beneficial uses; livestock, wild animals, or birds; or fish or other aquatic life.

PROJECT. The proposed and projected phases of development or activity on a parcel of land, including, but not limited to, activities conducted in a nontidal wetland, a wetland buffer, or expanded buffer.

REDEVELOPMENT. A modification to an existing structure or business, including but not limited to any change in use of the property resulting in a change from one standard industrial classification to a different classification, or from an unregulated use to a regulated use.

REGULATED SUBSTANCE. A substance that:

- (1) Produces toxic, lethal, or other injurious effects or causes harmful alterations to plant, animal, or aquatic life; or
- (2) May be injurious to human beings.

STREAM. A part of a watercourse, either naturally occurring or artificially created, that contains intermittent or perennial base flow of groundwater origin, but not including a ditch that conveys surface runoff exclusively from storm events.

SUBDIVISION. Any division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development, including those divisions referred to as off conveyances.

WATER RESOURCE MANAGEMENT AREA. Carbonate rock area, wellhead protection

area, aquifer protection area, surface watershed area, and stream buffer as defined in the Manual.

WATERSHED. The total area draining into a stream, lake, river, river system, or body of water at a defined point.

WETLAND. An area that meets the conditions for a wetland according to the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, dated January 1987, or subsequent revisions.

(2004 Code, § 218-2) (Ord. 04-08, passed 4-1-2004; Ord. 2011-03, passed 5-17-2011)

APPLICABILITY

§ 154.15 APPLICABILITY.

Except as provided in § 154.16, this chapter applies to all development of property through division of land, site plans, or grading only plans. The provisions of this code and guidelines set forth by the Carroll County Water Resource Management Manual shall be enforced for all water resources shown on development plans.

(2004 Code, § 218-3) (Ord. 04-08, passed 4-1-2004; Ord. 2011-03, passed 5-17-2011)

§ 154.16 EXEMPTIONS.

Exempted are the following:

A. Agricultural land management practices, if included in a total resource management system (RMS) plan and approved by the Carroll Soil Conservation District (“District”) with required BMPs implemented; or

B. Modifications to businesses which do not:

(1) Involve a cumulative increase in impervious cover associated with the business of more than 10% or 40,000 square feet, whichever is less; or

(2) Involve the storage or handling of a regulated substance; or

(3) Infringe upon the stream buffer.

C. Existing lots of record, not under review by the County for development as provided in Chapter 155 of the Carroll County Code of Public Ordinances; or

D. Remainders and remaining portions; or

E. Any development related to construction, repair, or retrofit of a BMP or SWM structure in conjunction with treatment of an existing impervious area; or

F. Stream restoration projects that comply with all state and federal permitting requirements.

(2004 Code, § 218-4) (Ord. 04-08, passed 4-1-2004; Ord. 07-08, passed 5-3-2007; Ord. 2011-03, passed 5-17-2011)

§ 154.17 WATER RESOURCE MANAGEMENT PROGRAM.

The county shall:

(A) Delineate water resource management areas. Designated water resource management areas shall include but not be limited to the following:

(1) Wellhead protection areas for existing wells and spring supplies, as defined in the Manual; and

(2) Aquifer protection areas in which future community supply wells may be located, as defined in the Manual; and

(3) Watershed areas draining to existing and proposed water supply reservoirs and stream intakes; and

(4) Sensitive geologic formations that serve as community water supplies; and

(5) Stream buffers.

(B) Prepare water resource management guidance maps; and

(C) Prepare and maintain the Manual; and

(D) Perform assessments of management techniques; and

(E) Investigate complaints or other concerns occurring within the county.

(2004 Code, § 218-5) (Ord. 04-08, passed 4-1-2004)

§ 154.18 GENERAL REQUIREMENTS.

(A) No person may perform or allow any development in a water resource management area except in accordance with the Manual, and after the water resource management measures required in the Manual for that area are provided and approved.

(B) An undisturbed buffer shall be maintained around wellheads, well sites, wetlands, ponds, and streams as defined in the Manual.

(C) Forest harvest operations are permitted within stream buffers when prepared in accordance with a custom erosion and sediment control plan and approved by the county.

(D) The requirements in this chapter are in addition to existing county, state, and federal regulations. In the event of a conflict between this chapter and other county, state, or federal laws or regulations, the more restrictive provision shall apply and shall be enforced.

(E) The county may not issue any grading or building permit or use and occupancy certificate or any zoning certificate for any lot, property, or structure unless the requirements of this chapter are met.

(2004 Code, § 218-6) (Ord. 04-08, passed 4-1-2004; Ord. 07-08, passed 5-3-2007; Ord. 2011-03, passed 5-17-2011)

§ 154.19 WATER RESOURCE IMPACT REVIEW.

(A) The county shall perform a water resource impact review on all proposed development or redevelopment to assure compliance with the provisions of this chapter.

(B) The water resource impact review will assess whether the water resource management

area will be protected from contaminants and activities which pose an adverse effect on general health, safety, and welfare. In addition, the review will assess the impact to the quantity of the water resource. In making the determination, the county shall consider the simplicity, reliability, and feasibility of the control or mitigation measures proposed and the degree of threat to the water resource which would result if the measures failed. The development or redevelopment may not be approved unless it is shown that the water resource management area:

(1) Will be protected from any pollutants used on the property which pose an adverse effect to the health, safety, or welfare of persons; and

(2) Will not have proposed activities which violate drinking water standards promulgated by MDE and the Environmental Protection Agency (EPA); and

(3) Will not be altered in a manner which will significantly reduce the rate of predevelopment recharge to the property; and

(4) Will not be altered to create an adverse public health, safety, or welfare concern.

(C) The applicant shall provide a water resource protection easement for all stream buffers and wellhead or well site buffers according to the *Manual*. The easement shall be included on the final plat and conveyed to the county at the time of recordation of the plat. If no plat will be provided, the developer shall provide an exhibit plat or the metes and bounds description for the easement which will be attached to the deed of easement. Prior to acceptance by the county of an easement, the county may require that adequate fencing or other protective measures be implemented and will require the perimeter be staked with approved signage to prevent violations of the easement from occurring.

(2004 Code, § 218-7) (Ord. 04-08, passed 4-1-2004; Ord. 07-08, passed 5-3-2007)

§ 154.20 GUARANTY.

The county may require a guaranty, cash bond, irrevocable letter of credit, or other means of security. In cases when a guaranty is required, the amount required shall be based on the total cost of the action required. The guaranty shall include forfeiture provisions for failure to complete the required activity within the time specified. The guaranty shall not be released without a satisfactory final inspection.

(2004 Code, § 218-8) (Ord. 04-08, passed 4-1-2004)

§ 154.21 INSPECTION.

(A) The county may enter properties subject to regulation under this chapter for the purpose of inspection and enforcement of the provisions of this chapter.

(B) The county shall conduct inspections and maintain reports as necessary during any construction to assure compliance with this chapter or any requirements of the Manual.

(2004 Code, § 218-9) (Ord. 04-08, passed 4-1-2004)

§ 154.22 ENFORCEMENT.

The county may issue a stop work order to any person engaged in any construction or modification which does not comply with this chapter, or any regulation or order issued pursuant hereto. A stop work order shall remain in effect until the violation is abated.

(2004 Code, § 218-10) (Ord. 04-08, passed 4-1-2004)

§ 154.23 SUSPENSION AND REVOCATION.

The county may suspend or revoke any approval granted under this chapter, after written notice is given to the applicant, for any of the following reasons:

- (A) Any violation of this chapter; or
- (B) Noncompliance with the approved plan; or
- (C) Noncompliance with a correction notice or stop work order issued; or
- (D) Fraud, misrepresentation, or failure to disclose relevant or material information in obtaining or attempting to obtain any approval required; or
- (E) Change in project scope.

(2004 Code, § 218-11) (Ord. 04-08, passed 4-1-2004)

§ 154.24 PROHIBITED ACTIVITY AFTER SUSPENSION OR REVOCATION.

When an approval or any other permit or certificate issued by the county has been suspended or revoked, no further activity in violation of this chapter or the Manual may occur until the county reinstates the approved permit or certificate.

(2004 Code, § 218-12) (Ord. 04-08, passed 4-1-2004)

§ 154.25 NOTICE.

When notice is required by this chapter, the county shall notify the owner or the person responsible for the violation in writing, indicating the nature of the violation and ordering the action necessary to correct it and the time in which the corrective measures shall be made.

(2004 Code, § 218-13) (Ord. 04-08, passed 4-1-2004)

§ 154.26 INJUNCTION.

In addition to and not in substitution for any other penalties or remedies available herein, the county may institute any appropriate action to prohibit such a violation. The county may also institute any other appropriate action against any person who violates the provisions of this chapter.

(2004 Code, § 218-14) (Ord. 04-08, passed 4-1-2004)

§ 154.27 VARIANCES.

(A) A written request for a variance may be submitted to the county and shall state the specific variance sought and all supporting documentation. An applicant for a variance shall:

- (1) List the specific provision(s) from which a variance is requested; and
- (2) Describe, with supporting data and evidence, the special conditions, or exceptional circumstances peculiar to the property which would cause undue hardship, other than economic, or that prevent the applicant from complying with this chapter and any evidence that compliance would result in an environmentally degraded condition, either on or off site; and
- (3) Demonstrate in sufficient detail with data and evidence that the granting of a variance will not adversely affect water quality or result in an environmentally degraded condition, either on or off site.

(B) When granting or denying a variance, the county shall issue specific written findings

supporting the decision.

(2004 Code, § 218-15) (Ord. 04-08, passed 4-1-2004)

§ 154.28 FEES.

The county may adopt a schedule of fees to be paid by the applicant to be used to support the enforcement of this chapter.

(2004 Code, § 218-17) (Ord. 04-08, passed 4-1-2004)

§ 154.29 FUND.

(A) There is hereby established a Water Resources Fund (“the Fund”) to be administered by the Department of the Comptroller, or its successor agency.

(B) All penalties, fines, fees, and interest paid pursuant to this chapter shall be deposited into the Fund. All money deposited into the Fund shall be used for implementation of this chapter.

(2004 Code, § 218-17.1) (Ord. 2011-03, passed 5-17-2011)

§ 154.30 APPEALS.

(A) Any person aggrieved by issuance of a written notice of violation or denial of a variance of this chapter may appeal the action to the County Commissioners or a Board of Appeals appointed by the County Commissioners, which shall hold a hearing on the appeal.

(B) The appeal shall:

(1) Be filed in writing within 30 days of the date of written transmittal of the final decision or determination to the applicant, or notice of violation; and

(2) State clearly the grounds on which the appeal is based.

(C) Appeal fees are as follows:

(1) The appellant shall pay a nonrefundable filing fee as determined by the county; and

(2) The appellant shall pay all costs of the appeal as assessed by the County Commissioners or Board of Appeals.

(2004 Code, § 218-18) (Ord. 04-08, passed 4-1-2004)

§ 154.31 EASEMENTS.

A water resource easement plat or metes and bounds description shall be based upon the Maryland coordinate system (feet) and comply with the management standards and design criteria found in the Manual. The metes and bounds description shall be accompanied by a special purpose or exhibit plat. Easements shall include a point of beginning based on the Maryland Coordinate System, North American Datum of 1983/99.

(2004 Code, § 218-18.1) (Ord. 2011-03, passed 5-17-2011)

WATER RESOURCE MANAGEMENT MANUAL

§ 154.45 ADOPTION OF MANUAL.

The county shall adopt the Manual by resolution.

§ 154.999 PENALTY.

(A) Violations.

(1) Any person convicted of violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$50,000 or imprisonment not exceeding one year or both for each violation, with costs imposed in the discretion of the court. Each day that a violation continues shall be a separate offense.

(2) Any person who violates a provision of this chapter or fails to comply with any of the requirements of this chapter, will be subject by the county for performing all necessary corrective actions. If satisfactory corrections of a Notice of Violation (NOV) are not made by the owner within a reasonable period of time as determined by the county, not exceeding 30 days after issuance of the notice of violation, the County has the right to enter onto the property and perform the work necessary to correct the violation and the owner of the facility shall be assessed the cost of the work. Penalties may be collected by placing a lien on the property or by including the cost of the work on the property tax bill and collecting the cost as ordinary taxes.

(B) Additional penalties; civil penalties.

(1) In addition to any other penalty set forth in this chapter, the county may institute injunctive 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 other appropriate forms of relief.

(2) The county may issue a civil fine/penalty of not more than \$10,000 per day. Each day that a violation continues shall be a separate offense.

(3) A court of competent jurisdiction may consider the cost of restoring the area unlawfully disturbed.