

**Comparison of Rockville's Stormwater Ordinance and 2010
Emergency Stormwater Regulations**
April 27, 2010

Emergency Regulation Citation	Location of Changes to Ch. 19 Addressing the Regulation	Change in Rule/Discussion
26.17.02.01-2 Grandfathering Provisions	Sec. 19-36 Grandfathering Provisions	<p>The introduced version of Ch. 19 did not permit grandfathering of projects because state law did not permit it. The previous draft did contain a transition plan giving some projects six months to obtain final approval of stormwater management plans without being subject to the new ESD requirements. This rule was not optimal but it was the most flexible approach available to staff under the old state regulations.</p> <p>The new COMAR rule allows local jurisdictions to give permission to projects that attain "preliminary project approval" before May 4, 2010 to proceed under the old, non ESD rules from 2000. These projects obtain Stormwater and Sediment Control Permits by 2013 and must finish construction by 2017 to remain vested in the old rules.</p> <p>Staff has adapted this authority to fit into Rockville's approval process. Based on the COMAR's definition of "preliminary project approval," the projects in Rockville are eligible to be grandfathered if they received Site Development Plan, Use Permit, or Detailed Application approval from the Community Planning and Development Services Department before May 4, 2010.</p>
26.17.02.05 – C. Waivers	Sec. 19-61	<p>According to guidance issued by MDE, the purpose of these provisions was to clarify "waiver provisions that were already available but not well defined." Rockville's ordinance, while not using the term "waiver," already contains flexibility intended for redevelopment and infill projects by allowing "Stormwater Management Alternatives" where Environmental Site Design practices are not practicable. This means that sites unable to use Environmental Site Design to meet all their stormwater management requirements will have a range of options, including on-site structural treatment, off-site treatments, and payment of fees-in-lieu, to meet their stormwater obligations.</p>

<p>26.17.02.05 – C. Multi-Phase Development</p>	<p>Sec. 19-55</p>	<p>The new COMAR clarifies that local government may give credit to multiphase projects that built stormwater infrastructure for future phases of development. Those later phases must still implement Environmental Site Design, but the existing stormwater infrastructure can count towards any unmet requirements on the future phases.</p> <p>An example of this regulation in practice is Fallsgrove. During construction of previous phases of this development, the developer constructed oversized stormwater management infrastructure to accommodate growth in future phases. This provision allows future phases to receive credit for those stormwater management measures instead of forcing the construction of redundant stormwater systems.</p> <p>Staff adapted the COMAR’s language at Sec. 19-55.</p>
<p>26.17.02.05 – D. Redevelopment</p>	<p>Sec. 19-51, Sec. 19-53, Sec. 19-61</p>	<p>The COMAR clarified existing authority for local governments to create separate policies for redevelopment projects that cannot meet stormwater management requirements through ESD alone. Under COMAR these policies permit redevelopment projects to fulfill stormwater requirements that can’t be met with ESD to implement stormwater alternatives. The provisions also permit local governments to waive certain stormwater requirements where ESD is not practicable.</p> <p>These new regulations did not necessitate any changes in Rockville’s ordinance. The proposed ordinance allows stormwater alternatives in Section 19-61 in the same manner as the new COMAR rule. The only departure from the new COMAR rule is that Rockville does not waive stormwater requirements for any redevelopment projects because developers have sufficient flexibility to meet their obligations through a variety of methods including fee in lieu. This policy is a continuation of current City stormwater policy, which allowed the City to collect fee-lieu where onsite stormwater controls are not feasible.</p>

Please see Attachments A, B, and C to see specific amendments to the ordinance.