

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 4

Bill No. 10 -2019

Introduced by the Chairperson at the request of the County Executive

AN ACT expanding and clarifying upon the purpose of Storm Drainage provisions in the Howard County Code; defining certain terms; allowing the authority to enter into certain buildings, structures or premises in order to take certain actions when there exists a possible impediment to the passage of water during rain events; clarifying that the failure of a property owner to complete certain corrective action is a violation of the Howard County Code; and generally relating to Storm Drainage.

Introduced and read first time _____, 2019. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2019.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2019 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2019 at ____ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2019

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. *Be It Enacted*** by the County Council of Howard County, Maryland, that the Howard
2 County Code is amended as follows:

3 *By amending*

4 *Title 18. Public Works.*

5 *Subtitle 5. Storm Drainage Systems.*

6 1. *Section 18.500. Purpose.*

7 2. *Section 18.501. Definitions.*

8 3. *Section 18.503. Right of Entry.*

9 4. *Subsection (a) of Section 18.504. Repair and maintenance of private*
10 *storm drain facilities in residential areas.*

11
12 **Title 18. Public Works.**

13 **Subtitle 5. Storm Drainage Systems.**

14
15 **Section 18.500. – Purpose.**

16 The purpose of this subtitle is to PROVIDE FOR THE PROPER FUNCTIONING OF THE STORM
17 DRAINAGE SYSTEMS WITHIN THE COUNTY, INCLUDING WATERWAYS, TO prohibit certain
18 stormwater and nonstormwater discharges ~~[[into]]~~TO ~~[[publicly and privately owned]]~~ storm
19 drainage ~~[[facilities]]~~SYSTEMS or ~~[[waterways and]]~~WATERWAYS, to ~~[[provide for]]~~REQUIRE the
20 repair and maintenance of privately owned storm drainage ~~[[facilities]]~~FACILITIES, AND TO
21 PROVIDE THAT THE FAILURE TO MAINTAIN CERTAIN PRIVATELY OWNED STORM DRAINAGE
22 FACILITIES IS A VIOLATION OF THIS SUBTITLE.

23
24 **Section 18.501. - Definitions.**

25 Terms used in this subtitle have the meaning indicated.

26 (a) *Best management practice* shall have the meaning set forth in title 18, subtitle 9 of the Howard
27 County Code.

28 (b) *Department* means the Department of Public Works.

29 (c) *Director* means the Director of the Department of Public Works or the Director's authorized
30 designee.

31 (D) *DISCHARGE* MEANS:

32 (1) THE ADDITION, INTRODUCTION, LEAKING, SPILLING, OR EMITTING OF A POLLUTANT INTO
33 THE WATERS OF THIS STATE; OR

1 (2) THE PLACING OF A POLLUTANT IN A LOCATION WHERE THE POLLUTANT IS LIKELY TO
2 POLLUTE.

3 ([[d]]E) *Hazardous material* means a material, including a substance, waste, or combination
4 thereof, which, because of its quantity, concentration, physical, chemical, or infectious
5 characteristics, may cause or significantly contribute to a substantial present or potential hazard to
6 human health, safety, property, or the environment when improperly treated, stored, transported,
7 disposed of, or otherwise managed.

8 ([[e]]F) *Illicit connection* means either:

9 (1) A drain or conveyance, either on the surface or subsurface, which allows a discharge,
10 prohibited under section 18.502 of this subtitle, to enter a public storm drainage facility
11 or waterway, regardless of whether the drain or conveyance had been previously allowed,
12 permitted, or approved by the Department; or

13 (2) A drain or conveyance connected to a public storm drainage facility or waterway which
14 has not been documented in a plan, map, or equivalent record and approved by the
15 Department.

16 ([[f]]G) *National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge
17 Permit* means a permit issued by the Environmental Protection Agency or by a State acting under
18 authority delegated pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to
19 waters of the United States. The permit may be applicable on an individual, group, or general
20 area-wide basis.

21 ([[g]]H) *Nonstormwater discharge* means any discharge to a storm drainage facility or waterway
22 that is not composed entirely of stormwater.

23 ([[h]]I) *Person* means an individual, corporation, firm, partnership, association, organization, a
24 group acting as a unit, or an executor, Administrator, trustee, receiver or other representative
25 appointed according to law.

26 ([[i]]J) *Pollutant* means anything which causes or contributes to pollution. A pollutant may
27 include, but is not limited to, paints, varnishes and solvents, oil or other automotive fluids,
28 nonhazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, other discarded
29 or abandoned objects, ordinances and accumulations which may cause or contribute to pollution,
30 floatables, pesticides, herbicides, fertilizers, hazardous substances and wastes, sewage, fecal
31 coliform and pathogens, dissolved and particulate metals, animal wastes, construction wastes and
32 residues, noxious or offensive matter of any kind, or any other chemical substance.

33 ([[j]]K) *Premises* means a building, lot, parcel of land, or portion of land whether improved or
34 unimproved including, without limitation, adjacent sidewalks or parking strips.

1 ([[k]]L) *Storm drainage facility* means a facility in which stormwater is collected or conveyed,
2 including, without limitation, a road with a drainage facility, a municipal street, gutter, curb, inlet,
3 piped storm drain, pumping facility, best management practice, reservoir, or other drainage
4 structure.

5 (M) *STORM DRAINAGE SYSTEM* MEANS PUBLIC AND PRIVATELY-OWNED STORM DRAINAGE
6 FACILITIES AND WATERWAYS.

7 ([[l]]N) *Stormwater* means any surface flow, runoff, or drainage consisting entirely of water from
8 any form of natural precipitation and resulting from such precipitation.

9 ([[m]]O) *Waterway* means any natural, manmade, or altered stream, river, creek, ditch, gully,
10 ravine, lake, or wash, in and including any adjacent area that is subject to inundation from
11 overflow or flood water.

12

13 **Section 18.503. - Right of entry.**

14 (a) *Generally.* Except as provided in subsection (b) of this section, the Director may enter any
15 BUILDING, STRUCTURE, OR premises at any reasonable time for the purpose of enforcing this
16 subtitle AND FOR PERFORMING DUTIES RELATED TO THIS SUBTITLE.

17 (b) *Consent.* The Director may enter a private dwelling to inspect for a violation of this subtitle
18 with the consent of the occupant or owner. If entry is refused, the Director may seek a court order
19 to permit entry to the dwelling.

20 (c) *Threat to Public Health and Safety.* UPON PROVIDING PROOF OF IDENTITY PRIOR TO ENTRY,
21 THE [[The]] Director [[shall have the right to]]MAY enter a building, structure, or [[premises
22 where]]PREMISES:

23 (1) WHERE there is evidence that a violation of this subtitle exists which threatens or may
24 threaten the public health and safety for the purpose of performing duties pursuant to the
25 provisions of this [[subtitle. The Director shall produce proof of identity prior to
26 entry]]SUBTITLE; OR

27 (2) TO REMOVE NATURAL AND MAN-MADE OBSTRUCTIONS IN STREAM CHANNELS AND IN
28 THE FLOODWAY OF STREAMS, WHICH MAY IMPEDE THE PASSAGE OF WATER DURING RAIN
29 EVENTS. THIS PROVISION DOES NOT CREATE ANY RESPONSIBILITY OF THE COUNTY FOR
30 THE CLEARANCE OR MAINTENANCE OF THE STREAM, OR FOR FLOODING, AND DOES NOT
31 AFFECT THE RIGHTS AND OBLIGATIONS OF PRIVATE PROPERTY OWNERS REGARDING THE
32 FLOODPLAIN OR MAINTENANCE OF STREAM CHANNELS.

33

1 **Section 18.504. - Repair and maintenance of private storm drain facilities in residential**
2 **areas.**

3 (a) Single Residential Lot Storm Drainage Facilities:

4 (1) Privately owned storm drainage facilities which are associated with the development of a
5 lot or parcel for a single residence and which primarily benefit the owner or user of the
6 lot or parcel shall be the responsibility of the property owner to maintain, repair, or
7 replace.

8 (2) The repair or replacement of any storm drainage facility associated with the development
9 of a lot or parcel for a single residence may be made by the property owner after written
10 approval is obtained from the Department, and the work shall be done in accordance with
11 such approval.

12 (3) If the County determines that deficiencies exist in a private stormwater drainage facility
13 associated with the development of a lot or parcel for a single residence, the County shall
14 give notice to the property owner in writing of the deficiencies, describe the required
15 corrective action, and the time period to have the deficiencies corrected. The notice shall
16 be given by sending a letter by certified mail to the address of the owner as shown in the
17 current tax records kept by the Department of Finance. FAILURE OF THE PROPERTY
18 OWNER TO COMPLETE THE REQUIRED CORRECTIVE ACTION IN THE SPECIFIED TIME IS A
19 VIOLATION OF THIS SUBTITLE.

20 (4) If the property owner fails to correct the deficiencies within the specified time frame, the
21 County may apply to the appropriate court for an order allowing the County to enter the
22 property and to make, at the property owner's expense, the necessary repairs or
23 replacement of the facility.

24 (5) Following entry of the order and completion of the repair or replacement, the County
25 shall send to the property owner a bill for the costs to correct the deficiencies. If the bill is
26 not paid within 30 days, the County may file with the court a verified statement of costs,
27 for the purpose of entering a civil judgment in the County's favor against the property
28 owner.

29
30 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland, that
31 *this Act shall become effective 61 days after its enactment.*