

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

County Council Of Howard County, Maryland

2013 Legislative Session

Legislative Day No. 2

Bill No. 8-2013

Introduced by: The Chairperson at the request of the County Executive

AN ACT establishing a Watershed Protection and Restoration fund as a dedicated, non-lapsing, enterprise fund; specifying the purposes of the fund and allowing certain revenue to be deposited into the fund; allowing the fund to be used for certain purposes; establishing a Watershed Protection and Restoration Fee; establishing the method, frequency and enforcement of the collection of the Fee; setting forth certain provisions specific to particular types of properties; creating a certain credit and reimbursement program to adjust the amount of the Fee that certain properties will pay; allowing for certain adjustments; allowing for a certain Assistance Program; allowing certain appeals; authorizing the adoption of certain regulations; defining certain terms; amending certain definitions; providing for certain enforcement; and generally relating to the Watershed Protection and Restoration Program in Howard County.

Introduced and read first time _____, 2013. Ordered posted and hearing scheduled.

By order _____
Stephen LeGendre, 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 _____, 2013.

By order _____
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2013 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2013 at ___ a.m./p.m.

By order _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive _____, 2013

Ken Ulman, 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
2 Howard County Code is amended as follows:

3

4 *By amending:*

- 5 1. Title 18 “Public Works”
6 Section 18.900 “Purpose and authority”
- 7 2. Title 18 “Public Works”
8 Section 18.901 “Definitions”
- 9 3. Title 18 “Public Works”
10 Section 18.909 “Fee in lieu of implementing best management practices”
- 11 4. Title 18 “Public Works”
12 Section 18.912 “Inspection”
- 13 5. Title 18 “Public Works”
14 Section 18.916 “Penalties”

15

16 *By adding:*

- 17 1. Title 18 “Public Works”
18 Section 18.907 “Watershed Protection and Restoration Fee”
- 19 2. Title 20 “Taxes, charges and fees”
20 Subtitle 11 “Watershed Protection and Restoration”

21

22 **Title 18. Public Works.**

23 **Subtitle 9. Stormwater Management.**

24

25 **Section 18.900. Purpose and authority.**

26 (A) The purpose of this subtitle is to protect, maintain and enhance public health, safety
27 and welfare by establishing minimum requirements and procedures to control the adverse
28 impacts associated with [[increased]] stormwater runoff. The goal is to manage
29 stormwater by using environmental site design (ESD) to the maximum extent practicable
30 (MEP) in order (i) to maintain, after development and as nearly as possible, the
31 predevelopment runoff characteristics; (ii) to reduce stream channel erosion, pollution,

1 siltation and sedimentation, and local flooding; and (iii) to use appropriate structural best
2 management practices (BMPs) only when necessary. The intent is to restore, enhance,
3 and maintain the chemical, physical, and biological integrity of streams; to minimize
4 damage to public and private property; and to reduce the impacts of land development
5 THROUGH STORMWATER MANAGEMENT AND WATERSHED PROTECTION AND RESTORATION
6 PROGRAMS AS AUTHORIZED BY TITLE 4, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE OF
7 THE ANNOTATED CODE OF MARYLAND.

8 (B) The provisions of this subtitle, pursuant to Title 4, Subtitle 2 of the [[Environmental]]
9 ENVIRONMENT Article, Annotated Code of Maryland, are adopted under the authority of
10 the Howard County Code and shall apply to all development and redevelopment
11 occurring in Howard County. The application of this subtitle and provisions expressed
12 herein shall be the minimum stormwater management requirements and shall not be
13 deemed a limitation or repeal of any other powers granted by State law. Howard County
14 is responsible for the coordination and enforcement of the provisions of this subtitle.

15 (C) For the purpose of this subtitle, the following documents are incorporated by
16 reference:

17 ([a])1) The 2000 Maryland Stormwater Design Manual Volumes I and II
18 (Maryland Department of the Environment, April 2000), and all
19 subsequent revisions, is incorporated by reference by Howard County and
20 shall serve as the official guide for stormwater principles, methods, and
21 practices.

22 ([b])2) USDA Natural Resources Conservation Service Maryland Conservation
23 Practice Standard Pond Code 378 (latest edition).

24 (3) THE HOWARD COUNTY DESIGN MANUAL.

25 (D) IT IS ALSO THE PURPOSE OF THIS SUBTITLE AND TITLE 20, SUBTITLE 11 OF THIS CODE
26 TO AUTHORIZE AND ESTABLISH A SYSTEM OF CHARGES IN ACCORDANCE WITH TITLE 4,
27 SUBTITLE 2 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND TO
28 ADEQUATELY AND EQUITABLY FINANCE THE COUNTY'S STORMWATER MANAGEMENT,
29 STORM DRAINAGE, AND WATER QUALITY PROGRAMS.

30
31

1 **Section 18.901. Definitions.**

2 The following terms have the meanings indicated:

3 (a) *Administration* means the Maryland Department of the Environment (MDE) Water
4 Management Administration (WMA).

5 (b) *Adverse impact* means any deleterious effect on waters or wetlands, including their
6 quality, quantity, surface area, species composition, aesthetics or usefulness for human or
7 natural uses which are or may potentially be harmful or injurious to human health,
8 welfare, safety or property, to biological productivity, diversity or stability, or which
9 unreasonably interfere with the enjoyment of life or property, including outdoor
10 recreation.

11 (c) *Agricultural land management practices* means those methods and procedures used
12 in the cultivation of land in order to further crop and livestock production and
13 conservation of related soil and water resources.

14 (d) *Applicant* means a person, firm, or governmental agency who APPLIES FOR[[executes
15 the necessary documentation to procure official]] approval of a project to carry out
16 construction activities involving stormwater management [[systems]].

17 (e) *Approving agency* means the entity responsible for the review and approval of
18 stormwater management plans. As set forth in the Howard County Design Manual and
19 depending on the nature of the project, the approving agency is the Department of
20 Planning and Zoning or the Department of Public Works.

21 (f) *Best management practice (BMP)* means any structural device or nonstructural
22 practice designed to temporarily store or treat stormwater runoff in order to mitigate
23 flooding, reduce pollution, or provide other amenities.

24 (g) *Channel protection storage volume (cPv)* means the volume used to design
25 structural management practices to control stream channel erosion. Methods for
26 calculating the channel protection storage volume are specified in the 2000 Maryland
27 Stormwater Design Manual.

28 (h) *Clearing* means the removal of trees and brush from the land, but shall not include
29 the ordinary [[moving]] MOWING of grass.

30 (i) *Concept stage* means the first stage of the stormwater management design process.
31 Approval of the environmental concept plan constitutes the approval of the concept stage.

- 1 (j) *County* means Howard County, Maryland.
- 2 (k) *Design manual* means the 2000 Maryland Stormwater Design Manual, and all
3 subsequent revisions, that serves as the official guide for stormwater management
4 principles, methods, and practices. The 2000 Maryland Stormwater Design Manual
5 VOLUME I AND II MAY be supplemented by the Howard County Design Manual.
- 6 (l) *Develop land* means to change the runoff characteristics of a parcel of land or lot in
7 conjunction with residential, commercial, industrial, or institutional construction or
8 alteration.
- 9 (m) *Drainage area* means an area contributing runoff to a single point measured in a
10 horizontal plane, which is enclosed by a ridge line.
- 11 (n) *Easement* means a grant or reservation by the owner of land for the use of such land
12 by others for a specific purpose, and which shall be recorded in the land records of
13 Howard County.
- 14 (o) *Environmental concept plan* means the first of three required plan approvals that
15 includes the information necessary to allow an initial evaluation of a proposed project.
- 16 (p) *Environmental site design (ESD)* means using small-scale stormwater management
17 practices, nonstructural techniques, and better site planning to mimic natural hydrologic
18 runoff characteristics and minimize the impact of land development on water resources.
19 Methods for designing ESD practices are specified in the design manual.
- 20 (q) *Exemption* means those land development activities that are not subject to the
21 stormwater management requirements of this subtitle.
- 22 (r) *Extended detention* means a stormwater design feature that provides gradual release
23 of a volume of water in order to increase settling of pollutants and protect downstream
24 channels from frequent storm events. Methods for designing extended detention BMPs
25 are specified in the design manual.
- 26 (s) *Extreme flood volume (Q_f)* means the storage volume required to control those
27 infrequent but large storm events in which the overbank flows reach or exceed the
28 boundaries of the 100-year floodplain.
- 29 (t) *Final stage* means the third stage of the stormwater management design process.
30 Approval of the grading plan constitutes the approval of the final stage.
- 31 (u) *Flow attenuation* means prolonging the flow time of runoff to reduce the peak

- 1 discharge.
- 2 (v) *Grading* means any act by which soil is cleared, stripped, stockpiled, excavated,
3 scarified, filled, or any combination thereof.
- 4 (w) *Grading plan* means the last of a multi-step plan-approval process that includes the
5 information necessary to allow all approvals and permits to be issued by the approving
6 agency.
- 7 (x) *Impervious area OR IMPERVIOUS SURFACE* means any surface that does not allow
8 stormwater to infiltrate into the ground.
- 9 (y) *Infiltration* means the passage or movement of water into the soil surface.
- 10 (z) *Maximum extent practicable (MEP)* means designing stormwater management
11 systems so that all reasonable opportunities for using ESD planning techniques and
12 treatment practices are exhausted and, only where absolutely necessary, implementing a
13 structural BMP.
- 14 (aa) *Off-site stormwater management* means the design and construction of a facility
15 necessary to control stormwater from one or more properties other than the one on which
16 the stormwater management facility lies.
- 17 (bb) *On-site stormwater management* means the design and construction of a facility
18 necessary to control stormwater from one property within the boundary of the subject
19 property.
- 20 (cc) *Overbank flood protection volume (Qp)* means the volume controlled by structural
21 practices to prevent an increase in the frequency of the out of bank flooding by
22 development. Methods for calculating the overbank flood protection volume are specified
23 in the design manual.
- 24 (dd) *Person* means the Federal Government, the State, any County, Municipal
25 Corporation, or other political subdivision of the State, or any of their units; an
26 individual, receiver, trustee, guardian, executor, administrator, fiduciary, or
27 representative of any kind; or any partnership, firm, association, public or private
28 corporation, or any other entity.
- 29 (ee) *Planning techniques* means a combination of strategies employed early in project
30 design to reduce the impact from development and to incorporate natural features into a
31 stormwater management plan.

- 1 (ff) *Private stormwater management facility* means any best management practice
2 which is not to be owned and maintained by the County.
- 3 (gg) *Recharge volume (REv)* means that portion of the water quality volume used to
4 maintain groundwater recharge rates at development sites. Methods for calculating the
5 recharge volume are specified in the design manual.
- 6 (hh) *Redevelopment* means any construction, alteration, or improvement performed on
7 sites where existing site impervious area exceeds 40 percent and where existing land use
8 is commercial, industrial, institutional, or multifamily.
- 9 (ii) *Retrofitting* means the implementation of ESD practices, the construction of a
10 structural BMP in a previously developed area, the modification of an existing structural
11 BMP, or the implementation of a nonstructural practice to improve water quality over
12 current conditions.
- 13 (jj) *Sediment* means soil or other surficial materials transported or deposited by the
14 action of wind, water, ice, or gravity as a product of erosion.
- 15 (kk) *Site* means a tract of land, lot or parcel of land or combination of tracts, lots, or
16 parcels of land, which are in one ownership, or are contiguous and in diverse ownership
17 where development is to be performed as part of a unit, subdivision or project.
- 18 (ll) *Site development stage* means the second stage of the stormwater management
19 design process. Approval of one of the following plans constitutes the approval of the site
20 development stage: sketch plan, preliminary plan, preliminary equivalent sketch plan,
21 final plan, or site development plan as defined in section 16.108 of the Howard County
22 Subdivision and Land Development Regulations. The applicable plan will act as the
23 second of three required plan approvals that include the information necessary to allow a
24 detailed evaluation of a proposed project.
- 25 (mm) *Stabilization* means the prevention of soil movement by any of various vegetative
26 or structural means.
- 27 (nn) *Stormwater management design process* means the three stage process required by
28 MDE for the review of stormwater management. The three stages include concept, site
29 development and final stages as defined herein.
- 30 (oo) *Stormwater management system* means natural areas, ESD practices, stormwater
31 management measures, and any other structure through which stormwater flows,

1 infiltrates, or discharges from a site.
2 (pp) *Stripping* means any activity which removes the vegetative cover including tree
3 removal, clearing, grubbing, and storage or removal of topsoil.
4 (qq) *Waiver* means the reduction of stormwater management requirements for a specific
5 development on a case-by-case basis.
6 (rr) *Watershed* means the total drainage area contributing runoff to a single point.
7 (ss) *Watershed management plan* means a plan developed by the County for the purpose
8 of implementing different stormwater management policies for waivers and
9 redevelopment. A watershed management plan shall contain the items set forth in section
10 18.908 of this subtitle.
11 (TT) *WATERSHED PROTECTION AND RESTORATION FEE* MEANS A FEE, AS SET FORTH IN TITLE
12 20, SUBTITLE 11 OF THIS CODE, THAT IS CHARGED BY THE COUNTY BASED ON A
13 PROPERTY'S IMPERVIOUS SURFACE.
14 ([[tt]]UU) *Water quality volume (WQv)* means the storage needed to capture and treat the
15 runoff from 90 percent of the average annual rainfall at a development site. Methods for
16 calculating the water quality volume are specified in the design manual.

17
18 **SECTION 18.907. WATERSHED PROTECTION AND RESTORATION FEE.**

19 THERE IS A WATERSHED PROTECTION AND RESTORATION FEE AS ESTABLISHED IN TITLE
20 20, SUBTITLE 11 OF THIS CODE.

21
22 **Section 18.909. Fee in lieu of implementing best management practices.**

23 (a) If the Department of Public Works or the Department of Planning and Zoning
24 determines that implementation of ESD to the MEP or structural practices required to
25 control the quantity of stormwater or runoff is not feasible or will be ineffective, then the
26 Department of Public Works or the Department of Planning and Zoning may allow the
27 person obligated under this subtitle to pay a fee to the County instead of implementing
28 the best management practice.

29 (b) The amount of the fee in lieu of implementing best management practices shall be
30 calculated by methods established by the County.

31 (c) The County Executive shall recommend and the County Council shall set by

1 resolution the amount per acre-foot of storage volume used to calculate the fee. This
2 storage volume shall be determined using assumed ESD practices.

3 (d) Amounts collected from this fee shall be DEPOSITED IN THE WATERSHED
4 PROTECTION AND RESTORATION FUND IN ACCORDANCE WITH THE PROVISIONS OF TITLE 20,
5 SUBTITLE 11 OF THIS CODE [[used in the same major drainage basin in which the property
6 is located to pay for constructing new best management practices, retrofitting existing
7 best management practices, conducting watershed studies, restoring, or stabilizing
8 streams, or to reimburse developers who provide best management practices larger than
9 required by their own development]].

10 (E) PAYMENT OF A FEE-IN-LIEU SHALL NOT RELIEVE THE PROPERTY OWNER OF THE
11 OBLIGATION TO PAY THE ANNUAL WATERSHED PROTECTION AND RESTORATION FEE AS
12 REQUIRED BY TITLE 20, SUBTITLE 11 OF THIS CODE.

13

14 **Section 18.912. RIGHT OF ENTRY AND Inspection.**

15 (A) *RIGHT OF ENTRY.* THE COUNTY MAY ENTER UPON PROPERTY TO ENSURE COMPLIANCE
16 WITH THIS SUBTITLE.

17 [[(a)]](B) *Inspection During Construction.* The County shall make regular inspections at
18 various stages of construction as provided in Chapter 5, stormwater management, of
19 Volume I (Storm Drainage) of the Howard County Design Manual. Inspections shall be
20 documented in writing by the County.

21

22 **Section 18.916. Penalties.**

23 (a) *Criminal Penalties.* [[Any person convicted of violating a provision of this subtitle is
24 guilty of a misdemeanor and upon conviction is subject to a fine of not more than
25 \$5,000.00 or imprisonment not exceeding one year or both for each violation with costs
26 imposed in the discretion of the court and not to exceed \$50,000.00. Each day that the
27 violation continues is a separate offense.]] ANY PERSON WHO VIOLATES ANY PROVISION
28 OF THIS SUBTITLE, OR ANY RULE, REGULATION, ORDER OR PERMIT ISSUED UNDER THIS
29 SUBTITLE, IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION IS SUBJECT TO A FINE NOT
30 EXCEEDING \$1,000.00, OR IMPRISONMENT NOT EXCEEDING SIX MONTHS, OR BOTH, FOR

1 EACH VIOLATION. EACH DAY A VIOLATION OCCURS OR CONTINUES IS A SEPARATE
2 OFFENSE. COSTS MAY BE IMPOSED AT THE DISCRETION OF THE COURT.

3 (b) *Civil Penalties.* Alternatively or in addition to and concurrent with other remedies at
4 law or equity, the [[Department of Public Works]]COUNTY may enforce the provisions of
5 this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of
6 the Howard County Code. A violation of this subtitle is a Class A offense. Each day that
7 a violation OCCURS OR continues is a separate offense.

8 (c) *Injunctive and Other Relief.* In addition, the County may institute injunctive,
9 mandamus or other appropriate legal action or proceedings for the enforcement of or to
10 correction violations of this subtitle. Any court of competent jurisdiction may issue
11 temporary or permanent restraining orders, injunctions or mandamus, or other appropriate
12 forms of relief.

13

14 **Title 20. Taxes, Charges and Fees.**

15 **SUBTITLE 11. WATERSHED PROTECTION AND RESTORATION.**

16

17 **SECTION 20.1100. PURPOSE; APPLICABILITY.**

18 (A) *PURPOSE.* TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE, THE COUNTY'S
19 STORMWATER MANAGEMENT, STORM DRAINAGE, AND WATER QUALITY PROGRAMS MUST
20 BE SUPPORTED BY AN ADEQUATE, SUSTAINABLE SOURCE OF REVENUE. ALL REAL PROPERTY
21 IN THE COUNTY, INCLUDING PROPERTY OWNED BY TAX-EXEMPT ENTITIES, BENEFITS FROM
22 THESE COUNTY PROGRAMS AND SERVICES. FURTHER, THOSE WITH HIGHER AMOUNTS OF
23 UNCONTROLLED IMPERVIOUS AREA CONTRIBUTE GREATER AMOUNTS OF STORMWATER OR
24 POLLUTANTS TO THE COUNTY'S STORMWATER MANAGEMENT FACILITIES, STORM DRAINS,
25 AND STREAMS, AND THEREFORE SHOULD CARRY A PROPORTIONATE BURDEN OF THE COST.
26 THEREFORE, THE COUNTY HAS DETERMINED THAT IT IS IN THE INTEREST OF THE PUBLIC TO
27 ENACT A WATERSHED PROTECTION AND RESTORATION FEE THAT ALLOCATES PROGRAM
28 COSTS TO ALL OWNERS OF IMPROVED REAL PROPERTY BASED ON IMPERVIOUS SURFACE
29 MEASUREMENT, AS DESCRIBED IN THIS SUBTITLE.

30 (B) THE WATERSHED PROTECTION AND RESTORATION FEE SHALL BE CHARGED ON ALL
31 IMPROVED PROPERTY IN THE COUNTY, EXCEPT FOR PROPERTY OWNED BY:

- 1 (I) THE STATE, A UNIT OF STATE GOVERNMENT, OR THE COUNTY; OR
2 (II) A REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT THAT IS USED
3 FOR PUBLIC PURPOSES AND UNDER AN AGREEMENT WITH THE COUNTY TO
4 PROVIDE FIRE PROTECTION SERVICES.
5

6 **SECTION 20.1101. DEFINITIONS.**

7 EXCEPT AS PROVIDED BELOW, TERMS USED IN THIS SUBTITLE SHALL HAVE THE MEANINGS
8 SET FORTH IN SECTION 18.901 OF THIS CODE:

- 9 (A) *FEE* MEANS THE WATERSHED PROTECTION AND RESTORATION FEE.
10 (B) *FUND* MEANS THE WATERSHED PROTECTION AND RESTORATION FUND.
11 (C) *IMPERVIOUS SURFACE MEASUREMENT* MEANS THE NUMBER OF SQUARE FEET OF
12 HORIZONTAL IMPERVIOUS AREA.
13 (D) *IMPERVIOUS UNIT* MEANS 500 SQUARE FEET.
14 (E) *IMPERVIOUS UNIT RATE* MEANS THE MONETARY AMOUNT ESTABLISHED BY RESOLUTION
15 OF THE COUNTY COUNCIL THAT, WHEN MULTIPLIED BY THE IMPERVIOUS UNITS ON A
16 PROPERTY, DETERMINES THE PROPERTY'S WATERSHED PROTECTION AND RESTORATION
17 FEE.
18

19 **SECTION 20.1102. WATERSHED PROTECTION AND RESTORATION FUND.**

20 (A) *DEDICATED FUND*. IN ACCORDANCE WITH TITLE 4, SUBTITLE 2 OF THE ENVIRONMENT
21 ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THE COUNTY'S WATERSHED
22 PROTECTION AND RESTORATION FUND IS HEREBY ESTABLISHED AS A DEDICATED, NON-
23 LAPSING, ENTERPRISE FUND.

24 (B) *REVENUE*. THE FOLLOWING REVENUE SHALL BE DEPOSITED INTO THE FUND:

- 25 (1) MONETARY CONTRIBUTIONS TO MEET THE PROVISIONS OF TITLE 18,
26 SUBTITLE 9 OF THIS CODE REGARDING STORMWATER MANAGEMENT
27 ALTERNATIVES;
28 (2) ALL MONETARY FINES, PENALTIES, AND COSTS ASSOCIATED WITH
29 VIOLATIONS OF TITLE 18, SUBTITLE 3 AND SUBTITLE 9 OF THIS CODE;
30 (3) ALL MONEY COLLECTED FROM THE IMPOSITION OF THE FEE;

1 (4) ALL INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF MONEY
2 IN THE FUND; AND

3 (5) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY SOURCES FOR THE
4 PURPOSES FOR WHICH THE FUND HAS BEEN ESTABLISHED.

5 (C) *EXPENSES*. IN ACCORDANCE WITH TITLE 2, SUBTITLE 4 OF THE ENVIRONMENT ARTICLE
6 OF THE ANNOTATED CODE OF MARYLAND AND SUBJECT TO SUBSECTION (D) OF THIS
7 SECTION, THE FUND SHALL ONLY BE USED FOR THE FOLLOWING EXPENSES:

8 (1) CAPITAL IMPROVEMENTS FOR STORMWATER MANAGEMENT INCLUDING
9 STREAM AND WETLAND RESTORATION PROJECTS;

10 (2) OPERATION AND MAINTENANCE OF STORMWATER MANAGEMENT SYSTEMS
11 AND FACILITIES;

12 (3) PUBLIC EDUCATION AND OUTREACH RELATING TO STORMWATER
13 MANAGEMENT OR STREAM AND WETLAND RESTORATION;

14 (4) STORMWATER MANAGEMENT PLANNING, INCLUDING:

15 (I) MAPPING AND ASSESSMENT OF IMPERVIOUS SURFACES; AND

16 (II) MONITORING, INSPECTION, AND ENFORCEMENT ACTIVITIES TO
17 CARRY OUT THE PURPOSES OF THE FUND;

18 (5) TO THE EXTENT THAT FEES ARE IMPOSED UNDER SECTION 4-204 OF THE
19 ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, REVIEW
20 OF STORMWATER MANAGEMENT PLANS AND PERMIT APPLICATIONS FOR NEW
21 DEVELOPMENT;

22 (6) GRANTS TO NONPROFIT ORGANIZATIONS FOR UP TO 100% OF A PROJECT'S
23 COSTS FOR WATERSHED RESTORATION AND REHABILITATION PROJECTS
24 RELATING TO:

25 (I) PLANNING, DESIGN, AND CONSTRUCTION OF STORMWATER
26 MANAGEMENT PRACTICES;

27 (II) STREAM AND WETLAND RESTORATION; AND

28 (III) PUBLIC EDUCATION AND OUTREACH RELATED TO STORMWATER
29 MANAGEMENT OR STREAM AND WETLAND RESTORATION; AND

30 (7) REASONABLE COSTS NECESSARY TO ADMINISTER THE FUND.

1 (D) *EXPENDITURE PRIORITY*. SUBJECT TO THE COUNTY EXECUTIVE’S BUDGET AUTHORITY
2 UNDER THE CHARTER, THE FIRST PRIORITY FOR EXPENDITURE OF REVENUE FROM THE
3 WATERSHED PROTECTION AND RESTORATION FEE COLLECTED UNDER THIS SUBTITLE
4 SHALL BE TO PAY THE DEBT SERVICE ON BONDS, NOTES, AND OTHER OBLIGATIONS ISSUED
5 TO FINANCE OR REFINANCE CAPITAL IMPROVEMENTS OR RELATED EXPENSES IN
6 CONNECTION WITH STORMWATER MANAGEMENT SYSTEMS AND FACILITIES.

7

8 **SECTION 20.1103. WATERSHED PROTECTION AND RESTORATION FEE.**

9 (A) THE COUNTY SHALL CHARGE AND A PROPERTY OWNER SHALL PAY AN ANNUAL
10 WATERSHED PROTECTION AND RESTORATION FEE.

11 (B) THE FEE SHALL BE BASED ON THE AMOUNT OF IMPERVIOUS AREA ON A PROPERTY THAT
12 EXISTS ANNUALLY AS OF MARCH 1.

13 (C) *SETTING THE IMPERVIOUS UNIT RATE*. THE COUNTY COUNCIL SHALL ADOPT BY
14 RESOLUTION A SCHEDULE OF IMPERVIOUS UNIT RATES.

15 (D) *METHOD OF CALCULATION*. THE FEE SHALL BE CALCULATED AS FOLLOWS:

16 (1) DETERMINE THE IMPERVIOUS SURFACE MEASUREMENT IN SQUARE FEET FOR
17 THE PROPERTY, ROUNDED TO THE NEAREST WHOLE IMPERVIOUS UNIT.

18 (2) MULTIPLY THE PROPERTY’S IMPERVIOUS UNITS BY THE IMPERVIOUS UNIT
19 RATE.

20 (E) *DETERMINING WHAT CONSTITUTES IMPERVIOUS AREA*. THE COUNTY SHALL DETERMINE
21 THE IMPERVIOUS SURFACE MEASUREMENT FOR A PROPERTY BASED ON:

22 (1) ANALYSIS OF AERIAL PHOTOGRAPHY;

23 (2) MEASUREMENT FROM APPROVED ENGINEERING DRAWINGS INCLUDING,
24 WITHOUT LIMITATION, AS-BUILT DRAWINGS OR SITE PLANS;

25 (3) FIELD SURVEYS SIGNED AND SEALED BY A PROFESSIONAL ENGINEER OR
26 PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF MARYLAND;
27 OR

28 (4) INSPECTIONS CONDUCTED BY THE DEPARTMENT.

29 (F) *COMMON AREAS*. COMMON AREAS OWNED BY A COMMUNITY ASSOCIATION OR OTHER
30 COMMON OWNERSHIP SHALL BE CHARGED BASED ON THE TOTAL IMPERVIOUS SURFACE

1 MEASUREMENT OF THE COMMON AREAS AS CALCULATED IN THE MANNER PRESCRIBED IN
2 SUBSECTION (D) OF THIS SECTION. THE FEE SHALL BE EITHER:

- 3 (1) BILLED DIRECTLY TO THE COMMUNITY ASSOCIATION OR MANAGER OF
4 PROPERTY IN COMMON OWNERSHIP; OR
- 5 (2) IF THERE IS NO COMMUNITY ASSOCIATION OR MANAGER OF PROPERTY IN
6 COMMON OWNERSHIP, THE FEE SHALL BE DIVIDED BY THE NUMBER OF
7 OWNERS WITHIN THE COMMUNITY ASSOCIATION OR NUMBER OF COMMON
8 AREA OWNERS AND ADDED TO THE FEE FOR EACH OWNER'S INDIVIDUAL
9 PROPERTY.

10 (G) *AGRICULTURAL PROPERTIES*. IF A PROPERTY HAS AN AGRICULTURAL USE ASSESSMENT
11 AS DETERMINED BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION, THE FEE
12 SHALL BE BASED ON:

- 13 (1) THE IMPERVIOUS SURFACE MEASUREMENT ONLY FOR RESIDENTIAL
14 STRUCTURES AND APPURTENANCES LOCATED ON THE PROPERTY, IF THE
15 PROPERTY HAS A FULLY IMPLEMENTED SOIL CONSERVATION AND WATER
16 QUALITY PLAN THAT HAS BEEN APPROVED BY THE SOIL CONSERVATION
17 DISTRICT; OR
- 18 (2) THE IMPERVIOUS SURFACE MEASUREMENT CALCULATED FOR THE ENTIRE
19 PROPERTY, IF THE PROPERTY HAS NOT IMPLEMENTED A SOIL CONSERVATION
20 AND WATER QUALITY PLAN APPROVED BY THE SOIL CONSERVATION
21 DISTRICT.

22

23 **SECTION 20.1104. SCHEDULE OF RATES; REGULATIONS.**

24 (A) THE COUNTY COUNCIL SHALL ADOPT BY RESOLUTION A SCHEDULE OF RATES THAT
25 SHALL INCLUDE:

- 26 (1) THE IMPERVIOUS UNIT RATE THAT MAY BE BASED ON CERTAIN VARIABLES
27 RELATIVE TO A PROPERTY'S CHARACTERISTICS;
- 28 (2) RATES FOR CREDITS AWARDED UNDER SECTION 20.1105 OF THIS SUBTITLE;
- 29 (3) RATES FOR REIMBURSEMENTS AWARDED UNDER SECTION 20.1106 OF THIS
30 SUBTITLE; AND

1 (4) RATES FOR REIMBURSEMENTS AWARDED UNDER THE WATERSHED
2 PROTECTION AND RESTORATION FEE ASSISTANCE PROGRAM.

3 (B) *REGULATIONS*. THE COUNTY MAY ADOPT REGULATIONS TO ADMINISTER THE
4 PROVISIONS OF THIS SUBTITLE.

5
6 **SECTION 20.1105. CREDITS.**

7 (A) *AUTHORITY*. THE FEE ASSESSMENT MAY BE ADJUSTED THROUGH THE USE OF CREDITS
8 WHEN AN INVESTMENT IN AN ON-SITE STORMWATER BEST MANAGEMENT PRACTICE
9 REDUCES THE IMPACT ON THE PUBLIC STORMWATER MANAGEMENT SYSTEM.

10 (B) *ELIGIBILITY*. AN OWNER OF A PROPERTY SUBJECT TO THE FEE MAY BE ELIGIBLE FOR AN
11 ANNUAL CREDIT IN THE FORM OF AN ANNUAL REDUCTION OF THE FEE ASSESSMENT FOR
12 THAT PORTION OF THE IMPERVIOUS AREA ON A PROPERTY THAT DRAINS TO AN ELIGIBLE
13 BEST MANAGEMENT PRACTICE FACILITY.

14 (C) *INELIGIBILITY*. A CREDIT MAY NOT BE AWARDED:

15 (1) TO A PROPERTY OWNER WHO PROVIDES ONLY AESTHETIC MAINTENANCE OF
16 A STORMWATER MANAGEMENT FACILITY, WHICH FOR PURPOSES OF THIS
17 SECTION INCLUDES MAINTENANCE ACTIVITIES THAT ARE NOT ESSENTIAL TO
18 THE PROPER OPERATION OR FUNCTION OF THE FACILITY; OR

19 (2) FOR STORMWATER MANAGEMENT FACILITIES THAT ARE NOT FUNCTIONING
20 PROPERLY OR AS INTENDED.

21 (D) *APPLICATION REQUIREMENTS AND CERTIFICATION REPORTS*. AN APPLICATION FOR A
22 CREDIT SHALL:

23 (1) BE MADE TO THE OFFICE OF ENVIRONMENTAL SUSTAINABILITY ON FORMS
24 PRESCRIBED BY IT;

25 (2) BE MADE ON OR BEFORE A DATE SET BY THE OFFICE OF ENVIRONMENTAL
26 SUSTAINABILITY; AND

27 (3) INCLUDE INFORMATION AND DOCUMENTATION TO ALLOW THE OFFICE OF
28 ENVIRONMENTAL SUSTAINABILITY TO EVALUATE THE ELIGIBILITY OF THE
29 APPLICANT AND THE STORMWATER BEST MANAGEMENT PRACTICE.

1 (E) *AMOUNT OF CREDIT*. UPON A DETERMINATION OF ELIGIBILITY, THE COUNTY SHALL
2 PROVIDE A CREDIT IN AN AMOUNT SET FORTH IN A RATE SCHEDULE ADOPTED BY
3 RESOLUTION OF THE COUNTY COUNCIL.

4 (F) *CREDIT RECERTIFICATION FOR CONTINUED CREDIT*. IN ORDER TO REMAIN ELIGIBLE FOR
5 A CREDIT, A PROPERTY OWNER SHALL SUBMIT A RECERTIFICATION APPLICATION:

- 6 (1) EVERY THREE YEARS;
- 7 (2) AT THE OWNER'S EXPENSE; AND
- 8 (3) TO THE OFFICE OF ENVIRONMENTAL SUSTAINABILITY ON A FORM PROVIDED
9 BY IT.

10 (G) *INSPECTIONS*. THE DEPARTMENT, OR ITS DESIGNEE, MAY ENTER UPON ANY PROPERTY
11 TO INSPECT STORMWATER BEST MANAGEMENT PRACTICES FOR WHICH A CREDIT IS
12 AWARDED. CREDITS MAY NOT BE AWARDED IF A PROPERTY OWNER REFUSES TO PERMIT AN
13 INSPECTION.

14 (H) *PRORATION*. THE FEE SHALL NOT BE PRORATED FOR A CREDIT APPROVED BY THE
15 COUNTY DURING THE BILLING YEAR AND ANY APPROVED CREDITS SHALL BE APPLIED TO
16 THE NEXT BILLING CYCLE.

17
18 **SECTION 20.1106. REIMBURSEMENTS.**

19 (A) *AUTHORITY*. THE FEE ASSESSMENT MAY BE ADJUSTED THROUGH THE USE OF
20 REIMBURSEMENTS WHEN AN INVESTMENT IN AN ON-SITE STORMWATER BEST MANAGEMENT
21 PRACTICE REDUCES THE IMPACT ON THE PUBLIC STORMWATER MANAGEMENT SYSTEM.

22 (B) *ELIGIBILITY*. AN OWNER OF A PROPERTY SUBJECT TO THE FEE MAY BE ELIGIBLE FOR A
23 ONE-TIME PARTIAL REIMBURSEMENT FOR THE COST OF A STORMWATER BEST MANAGEMENT
24 PRACTICE WHEN THE PROPERTY OWNER IS ABLE TO SHOW THAT THE PRACTICE HAS BEEN
25 COMPLETED AND IS FUNCTIONING AS DESIGNED.

26 (C) *APPLICATION REQUIREMENTS*. AN APPLICATION FOR A REIMBURSEMENT SHALL:

- 27 (1) BE MADE TO THE OFFICE OF ENVIRONMENTAL SUSTAINABILITY ON FORMS
28 PRESCRIBED BY IT;
- 29 (2) BE MADE ON OR BEFORE THE EARLIER OF A DATE SET BY THE OFFICE OF
30 ENVIRONMENTAL SUSTAINABILITY OR 12 MONTHS AFTER THE COMPLETION
31 OF WORK; AND

1 (3) INCLUDE INFORMATION AND DOCUMENTATION TO ALLOW THE OFFICE OF
2 ENVIRONMENTAL SUSTAINABILITY TO EVALUATE THE ELIGIBILITY OF THE
3 APPLICANT AND THE STORMWATER BEST MANAGEMENT PRACTICE.

4 (D) *AMOUNT OF REIMBURSEMENT.* UPON A DETERMINATION OF ELIGIBILITY, THE COUNTY
5 SHALL PROVIDE A REIMBURSEMENT IN AN AMOUNT SET FORTH IN A RATE SCHEDULE
6 ADOPTED BY RESOLUTION OF THE COUNTY COUNCIL.

7 (E) *ANNUAL LIMIT ON AMOUNT OF REIMBURSEMENTS AWARDED.*

8 (1) DURING A FISCAL YEAR, THE TOTAL OF ALL REIMBURSEMENTS AWARDED
9 UNDER THIS SECTION SHALL NOT EXCEED AN AMOUNT SET FORTH IN THE
10 ANNUAL BUDGET AND APPROPRIATION ORDINANCE.

11 (2) REIMBURSEMENTS SHALL BE AWARDED IN THE ORDER IN WHICH THE OFFICE
12 OF ENVIRONMENTAL SUSTAINABILITY RECEIVES COMPLETE APPLICATIONS
13 UNDER SUBSECTION (D) OF THIS SECTION.

14

15 **SECTION 20.1107. BILLING; METHOD OF COLLECTION; INTEREST AND PENALTIES.**

16 (A) *BILLING PROCEDURE.* THE DEPARTMENT OF FINANCE SHALL INCLUDE THE WATERSHED
17 PROTECTION AND RESTORATION FEE AS A SEPARATE ITEM ON THE REAL PROPERTY TAX
18 BILL FOR EACH PROPERTY SUBJECT TO THE FEE. CONTACT INFORMATION FOR QUESTIONS
19 AND APPEALS SHALL BE INCLUDED WITH THE BILL'S MAILING.

20 (B) *DUE.* THE WATERSHED PROTECTION AND RESTORATION FEE SHALL BE CONSIDERED
21 DELINQUENT IF NOT PAID ON OR BEFORE THE DUE DATE SHOWN ON THE BILL.

22 (C) *INTEREST ACCRUAL.* UNLESS THE FEE BILLED TO A PROPERTY OWNER IS UNDER ACTIVE
23 APPEAL, INTEREST ON AN OVERDUE PAYMENT ACCRUES ACCORDING TO THE SAME
24 SCHEDULE AND AT THE SAME RATE CHARGED FOR DELINQUENT REAL PROPERTY TAXES
25 UNTIL THE OWNER HAS REMITTED THE OUTSTANDING PAYMENT AND INTEREST IN FULL.

26 (D) *COLLECTION; ENFORCEMENT.* THE FEE CHARGED PURSUANT TO THIS SUBTITLE SHALL
27 BE COLLECTED IN THE SAME MANNER AS COUNTY REAL PROPERTY TAXES AND SHALL HAVE
28 THE SAME PRIORITY, RIGHTS, AND BEAR THE SAME INTEREST AND PENALTIES, AND BE
29 ENFORCED IN THE SAME MANNER AS COUNTY REAL PROPERTY TAXES. THE UNPAID CHARGE
30 IS A LIEN AGAINST THE PROPERTY AND, ACCORDINGLY, THE LIEN HAS THE SAME PRIORITY
31 AS A LIEN IMPOSED FOR NONPAYMENT OF REAL PROPERTY TAXES.

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SECTION 20.1108. ADJUSTMENT OF THE WATERSHED PROTECTION AND RESTORATION FEE.

(A) ANY PROPERTY OWNER MAY REQUEST AN ADJUSTMENT OF THE WATERSHED PROTECTION AND RESTORATION FEE BY SUBMITTING A REQUEST IN WRITING TO THE ADMINISTRATOR OF THE OFFICE OF ENVIRONMENTAL SUSTAINABILITY WITHIN 30 DAYS AFTER THE DATE THE BILL IS ISSUED TO THE PROPERTY OWNER. GROUNDS FOR ADJUSTMENT OF THE FEE ARE LIMITED TO THE FOLLOWING:

- (1) AN ERROR WAS MADE REGARDING THE IMPERVIOUS SURFACE MEASUREMENT OF THE PROPERTY;
- (2) THERE IS A MATHEMATICAL ERROR IN CALCULATING THE FEE; OR
- (3) THE IDENTIFICATION OF THE PROPERTY OWNER INVOICED FOR THE FEE IS IN ERROR.

(B) THE APPLICATION SUBMITTAL REQUIREMENTS FOR AN ADJUSTMENT SHALL BE ON A FORM PROVIDED BY THE OFFICE OF ENVIRONMENTAL SUSTAINABILITY.

SECTION 20.1109. WATERSHED PROTECTION AND RESTORATION FEE ASSISTANCE PROGRAM.

(A) *PROGRAM ESTABLISHED.* THERE IS A WATERSHED PROTECTION AND RESTORATION FEE ASSISTANCE PROGRAM, ADMINISTERED BY THE DEPARTMENT OF FINANCE, TO ASSIST RESIDENTIAL PROPERTY OWNERS WHO QUALIFY UNDER THE PROGRAM IN PAYMENT OF THE FEE ESTABLISHED UNDER THIS SUBTITLE.

(B) *APPLICATION AND ELIGIBILITY:*

- (1) *APPLICATION.* AN APPLICATION FOR ASSISTANCE UNDER THE PROGRAM SHALL BE MADE TO THE DEPARTMENT OF FINANCE ON FORMS PRESCRIBED BY IT, AND SHALL INCLUDE SUFFICIENT INFORMATION AND DOCUMENTATION TO ALLOW THE DEPARTMENT OF FINANCE TO EVALUATE THE ELIGIBILITY OF THE APPLICANT.
- (2) *ELIGIBILITY.* AN INDIVIDUAL IS ELIGIBLE FOR ASSISTANCE UNDER THE PROGRAM IF:

- 1 (I) THE INDIVIDUAL OWNS RESIDENTIAL PROPERTY FOR WHICH THE
2 WATERSHED PROTECTION AND RESTORATION FEE APPLIES
- 3 (II) THE INDIVIDUAL'S INCOME IS 250 PERCENT OR LESS OF THE POVERTY
4 LEVEL, AS ESTABLISHED BY THE U.S. DEPARTMENT OF HEALTH AND
5 HUMAN SERVICES, AND ADJUSTED FOR FAMILY SIZE; AND
- 6 (III) ON JULY 1 OF THE YEAR IN WHICH APPLICATION IS MADE, THE
7 INDIVIDUAL RESIDES IN THE PROPERTY WHICH IS SUBJECT TO THE
8 WATERSHED PROTECTION AND RESTORATION FEE.

9 (C) *AMOUNT OF ASSISTANCE*. UPON DETERMINATION OF ELIGIBILITY, THE COUNTY SHALL
10 PROVIDE A REDUCTION OF THE FEE IN AN AMOUNT SET FORTH IN A RATE SCHEDULE
11 ADOPTED BY RESOLUTION OF THE COUNTY COUNCIL.

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13 **SECTION 20.1110. APPEALS.**

14 EXCEPT WHERE OTHER APPEAL PROCEDURES ARE AUTHORIZED IN THIS SUBTITLE, ANY
15 PROPERTY OWNER AGGRIEVED BY ANY DETERMINATION, DECISION, OR ORDER RELATING TO
16 THE WATERSHED PROTECTION AND RESTORATION FEE MADE BY THE DIRECTOR OF THE
17 DEPARTMENT OF PUBLIC WORKS, THE DIRECTOR OF THE DEPARTMENT OF FINANCE, OR
18 THE ADMINISTRATOR OF THE OFFICE OF ENVIRONMENTAL SUSTAINABILITY MAY APPEAL
19 SUCH DETERMINATION, DECISION, OR ORDER TO THE BOARD OF APPEALS WITHIN 30 DAYS
20 AFTER SUCH DETERMINATION, DECISION OR ORDER IS MADE. AFTER NOTICE AND HEARING,
21 THE BOARD OF APPEALS SHALL REVIEW THE CASE CONSISTENT WITH ITS DULY ADOPTED
22 RULES OF PROCEDURES. THE BOARD OF APPEALS MAY NOT WAIVE, SET ASIDE, OR CHANGE
23 ANY SPECIFIC PROVISION(S) OF THIS SUBTITLE.

24

25 **SECTION 20.1111. - SEVERABILITY.**

26 IF ANY PORTION OF THIS SUBTITLE IS HELD INVALID OR UNCONSTITUTIONAL BY A COURT OF
27 COMPETENT JURISDICTION, SUCH PORTION SHALL NOT AFFECT THE VALIDITY OF THE
28 REMAINING PORTIONS OF THIS SUBTITLE. IT IS THE INTENT OF THE COUNTY THAT THIS
29 SUBTITLE SHALL STAND, EVEN IF A SECTION, SUBSECTION, SENTENCE, CLAUSE, PHRASE, OR
30 PORTION MAY BE FOUND INVALID.

31

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