

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

County Council of Howard County, Maryland

2013 Legislative Session

Legislative Day No. 9

Bill No. 38 -2013

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

AN ACT amending the Watershed Protection and Restoration Fee to require that the fee schedule adopted by the County Council include an impervious surface rate and rates for residential properties; to provide that certain agricultural properties shall be charged the residential rate under certain conditions; to allow for certain credits for certain nonprofit entities; to clarify the Assistance Program as it relates to nonprofit entities and nonresidential properties; and generally relating to the Watershed Protection and Restoration Fee.

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

By order _____
Sheila M. Tolliver, 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 _____
Sheila M. Tolliver, Administrator

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

By order _____
Sheila M. Tolliver, 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 _____
Sheila M. Tolliver, 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 18.901 “Definitions”
7 Subsection (tt)
8
- 9 2. Title 20, Taxes, Charges and Fees
10 Section 20.1101 “Definitions”
11
- 12 3. Title 20, Taxes, Charges and Fees
13 Section 20.1103 “Watershed Protection and Restoration Fee”
14
- 15 4. Title 20, Taxes, Charges and Fees
16 Section 20.1104 “Schedule of rates; Regulations”
17
- 18 5. Title 20, Taxes, Charges and Fees
19 Section 20.1105 “Credits”
20
- 21 6. Title 20, Taxes, Charges and Fees
22 Section 20.1107 “Billing; Method of Collection; Interest and Penalties”
23 Subsection (a)
24
- 25 7. Title 20, Taxes, Charges and Fees
26 Section 20.1109 “Watershed Protection and Restoration Fee Assistance
27 Program”.

28
29 **Title 18. Public Works.**

30 **Subtitle 9. Stormwater Management.**

31

1 **18.901. Definitions.**

2 (tt) *Watershed Protection and Restoration Fee* means a fee, as set forth in Title 20,
3 Subtitle 11 of this Code[[, that is charged by the County based on a property’s impervious
4 surface]].

5

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

7 **Subtitle 11. Watershed Protection and Restoration.**

8

9 **Section 20.1101. Definitions.**

10 Except as provided below, terms used in this Subtitle shall have the meanings set forth in
11 Section 18.901 of this Code:

12 (a) *Fee* means the Watershed Protection and Restoration Fee.

13 (b) *Fund* means the Watershed Protection and Restoration Fund.

14 (c) *Impervious surface measurement* means the number of square feet of horizontal
15 impervious area.

16 (d) *Impervious unit* means 500 square feet.

17 (e) *Impervious unit rate* means the monetary amount established by Resolution of the
18 County Council that, when multiplied by the impervious units on a property, determines
19 [[the]] A NONRESIDENTIAL property’s Watershed Protection and Restoration Fee.

20

21 **Section 20.1103. Watershed Protection and Restoration Fee.**

22 (a) The County shall charge and a property owner shall pay an annual Watershed
23 Protection and Restoration Fee.

24 (b) The fee shall BE [[be based on the amount of impervious area on a property that
25 exists annually as of March 1]] ADOPTED BY RESOLUTION OF THE COUNTY COUNCIL.

26 (c) *Setting the [[Impervious Unit]] Rate.* The County Council shall adopt by resolution a
27 schedule of impervious unit rates AND A SCHEDULE OF RATES FOR RESIDENTIAL
28 PROPERTIES.

29 (d) *Method of Calculation.* The fee BASED ON THE AMOUNT OF IMPERVIOUS SURFACE
30 shall be calculated as follows:

1 (1) Determine the impervious surface measurement in square feet for the
2 property, rounded to the nearest whole impervious unit.

3 (2) Multiply the property's impervious units by the Impervious Unit Rate.

4 (e) *Determining what constitutes impervious area.* The County shall determine the
5 impervious surface measurement for a property based on:

6 (1) Analysis of aerial photography;

7 (2) Measurement from approved engineering drawings including, without
8 limitation, as-built drawings or site plans;

9 (3) Field surveys signed and sealed by a Professional Engineer or Professional
10 Land Surveyor licensed in the State of Maryland; or

11 (4) Inspections conducted by the Department.

12 [(f) *Common Areas.* Common areas owned by a community association or other
13 common ownership shall be charged based on the total impervious surface measurement
14 of the common areas as calculated in the manner prescribed in subsection (d) of this
15 Section. The fee shall be either:

16 (1) Billed directly to the community association or manager of property in
17 common ownership; or

18 (2) If there is no community association or manager of property in common
19 ownership, the fee shall be divided by the number of owners within the
20 community association or number of common area owners and added to
21 the fee for each owner's individual property.]]

22 ([[g]]F) *Agricultural properties.* If a property has an agricultural use assessment as
23 determined by the State Department of Assessments and Taxation, the fee shall be
24 [[based on]]:

25 (1) THE RESIDENTIAL RATE IF: [[The impervious surface measurement only for
26 residential structures and appurtenances located on the property, if the
27 property has a fully implemented Soil Conservation and Water Quality
28 Plan that has been approved by the Soil Conservation District]];

29 (i) THE PROPERTY HAS A FULLY IMPLEMENTED SOIL CONSERVATION
30 AND WATER QUALITY PLAN THAT HAS BEEN APPROVED BY THE
31 SOIL CONSERVATION DISTRICT OR A FOREST CONSERVATION AND

1 MANAGEMENT AGREEMENT WITH THE MARYLAND DEPARTMENT OF
2 NATURAL RESOURCES; OR

3 (II) THE PROPERTY OWNER HAS AGREED TO ENTER INTO, AND IS IN THE
4 PROCESS OF IMPLEMENTING, A SOIL CONSERVATION AND WATER
5 QUALITY PLAN; OR

6 (2) COMPUTED BASED ON THE [[The]] impervious surface measurement
7 calculated for the entire property, if the property has not implemented a
8 Soil Conservation and Water Quality Plan approved by the Soil
9 Conservation District.

10
11 **Section 20.1104. Schedule of rates; Regulations.**

12 (a) The County Council shall adopt by resolution a schedule of rates that shall include:

13 (1) The impervious unit rate that may be based on certain variables relative to
14 a property's characteristics;

15 (2) RATES FOR RESIDENTIAL PROPERTIES;

16 [[(2)]](3) Rates for credits awarded under Section 20.1105 of this Subtitle;

17 [[(3)]](4) Rates for reimbursements awarded under Section 20.1106 of this
18 Subtitle; and

19 [[(4)]](5) Rates for reimbursements awarded under the Watershed Protection and
20 Restoration Fee assistance program.

21 (b) *Regulations.* The County may adopt Regulations to administer the provisions of this
22 Subtitle.

23
24 **Section 20.1105. Credits.**

25 (a) *Authority.* The fee assessment may be adjusted through the use of credits.

26 (b) *Eligibility.* An owner of a property subject to the fee may be eligible for an annual
27 credit in the form of an annual reduction of the fee if the owner makes an investment in a
28 stormwater best management practice as defined in the Maryland Stormwater Design
29 Manual published by the Maryland Department of the Environment.

30 (c) *Ineligibility.* A credit may not be awarded:

- 1 (1) To a property owner who provides only aesthetic maintenance of a
2 stormwater management facility, which for purposes of this section
3 includes maintenance activities that are not essential to the proper
4 operation or function of the facility; or
5 (2) For stormwater management facilities that are not functioning properly or
6 as intended.

7 (d) *Application requirements and certification reports.* An application for a credit shall:

- 8 (1) Be made to the Office of Environmental Sustainability on forms
9 prescribed by it;
10 (2) Be made on or before a date set by the Office of Environmental
11 Sustainability;
12 (3) Include information and documentation to allow the Office of
13 Environmental Sustainability to evaluate the eligibility of the Applicant
14 and the stormwater best management practice; and
15 (4) Be accompanied by an application fee of \$75.

16 (e) *Amount of Credit.* Upon a determination of eligibility, the County shall provide a
17 credit [[related to that portion of the impervious area on a property that drains to an
18 eligible best management practice facility, in an amount]] AS set forth in a rate schedule
19 adopted by Resolution of the County Council and the application fee shall either be
20 applied towards the applicant's tax account or refunded.

21 (f) *Credit Recertification for Continued Credit.* In order to remain eligible for a credit, a
22 property owner shall submit a recertification application:

- 23 (1) Every three years;
24 (2) At the owner's expense; and
25 (3) To the Office of Environmental Sustainability on a form provided by it.

26 (g) *Inspections.* The Department, or its designee, may enter upon any property to inspect
27 stormwater best management practices for which a credit is awarded. Credits may not be
28 awarded if a property owner refuses to permit an inspection.

29 (h) *Proration.* The fee shall not be prorated for a credit approved by the County during
30 the billing year and any approved credits shall be applied to the next billing cycle.

1 (I) *NONPROFIT ENTITIES*. A NONPROFIT ENTITY THAT QUALIFIES AS NOT FOR PROFIT UNDER
2 THE INTERNAL REVENUE CODE MAY RECEIVE A CREDIT FOR STORMWATER TREATED ON ITS
3 PROPERTY UNDER ONE OF THE TWO FOLLOWING OPTIONS:

4 (1) *EQUIVALENT PERCENTAGE*. THE NONPROFIT ENTITY MAY RECEIVE A CREDIT
5 THAT IS EQUIVALENT TO THE PERCENTAGE OF STORMWATER TREATED
6 ONSITE; OR

7 (2) *MAXIMUM PERCENTAGE*.

8 (I) A NONPROFIT ENTITY MAY RECEIVE A CREDIT OF UP TO 100% OF THE
9 FEE IF THE NONPROFIT ENTITY:

- 10 A. ALLOWS THE COUNTY TO ENTER ONTO ITS PROPERTY TO
11 ASSESS THE PROPERTY AND TO ADVISE THE NONPROFIT
12 ENTITY OF WAYS TO TREAT STORMWATER TO THE MAXIMUM
13 EXTENT PRACTICABLE; AND
- 14 B. IMPLEMENTS THE IMPROVEMENTS RECOMMENDED BY THE
15 COUNTY.

16 (II) *COUNTY ASSISTANCE*. THE COUNTY MAY:

- 17 A. AWARD GRANTS TO NONPROFIT ENTITIES TO ASSIST WITH
18 THE PAYMENT FOR IMPROVEMENTS TO TREAT STORMWATER
19 TO THE MAXIMUM EXTENT PRACTICABLE; OR
- 20 B. WAIVE THE FEE UNTIL WORK IS COMPLETED AND THE CREDIT
21 IS AWARDED.

22
23 **Section 20.1107. Billing; Method of Collection; Interest and Penalties.**

24 (a) *Billing Procedure*. The Department of Finance [[shall]]MAY include the Watershed
25 Protection and Restoration Fee as a separate item on the real property tax bill for each
26 property subject to the fee. ~~For the first three years of the fee, the Department of Finance~~
27 ~~shall include a footnote on each bill that indicates that the imposition of a Watershed~~
28 ~~Protection Fee is required by the Maryland General Assembly through Chapter 151 of~~
29 ~~2012 (HB 987) and more information can be found in the attached insert. THE REAL~~
30 PROPERTY TAX BILL SHALL INCLUDE A FOOTNOTE ON EACH BILL THAT INDICATES THAT THE

1 IMPOSITION OF A STORMWATER REMEDIATION FEE IS MANDATED BY STATE LAW.Contact
2 information for questions and appeals shall be included with the bill's mailing.

3
4 **Section 20.1109. Watershed Protection and Restoration Fee Assistance Program.**

5 (a) *Program Established.* There is a Watershed Protection and Restoration fee assistance
6 program, administered by the Department of Finance, to assist property owners who
7 qualify under the program in payment of the fee established under this subtitle.

8 (b) *RESIDENTIAL Application and Eligibility:*

9 (1) *Application.* An application for assistance under the program shall be
10 made to the Department of Finance on forms prescribed by it, and shall
11 include sufficient information and documentation to allow the Department
12 of Finance to evaluate the eligibility of the Applicant.

13 (2) *Eligibility.* An applicant is eligible for assistance under the program if:

14 (i) The applicant is an individual who:

- 15 1. owns residential property for which the Watershed Protection
16 and Restoration Fee applies;
- 17 2. has an income of 250 percent or less of the poverty level, as
18 established by the U.S. Department of Health and Human
19 services, and adjusted for family size; and
- 20 3. on July 1 of the year in which application is made, resides in the
21 property which is subject to the Watershed Protection and
22 Restoration Fee[; or

23 (ii) The applicant owns non-residential property and meets the
24 substantial hardship criteria for a fee adjustment or other measures
25 to the Watershed Protection and Restoration Fee that the County
26 may set by regulation.]]

27 ~~(c) NONRESIDENTIAL PROPERTIES. FOR NONRESIDENTIAL PROPERTIES, THE PAYMENT OF~~
28 ~~THE FEE IS DEEMED A HARDSHIP IF IT EXCEEDS A CERTAIN PERCENTAGE, AS SET IN A FEE~~
29 ~~SCHEDULE ADOPTED BY RESOLUTION OF THE COUNTY COUNCIL, OF THE PROPERTY'S~~
30 ~~TOTAL PROPERTY TAX BILL. IN THIS EVENT, THE PROPERTY OWNER SHALL PAY AN AMOUNT~~
31 ~~EQUAL TO THE TOTAL PROPERTY TAX BILL MULTIPLIED BY THE PERCENTAGE SET IN THE FEE~~
32 ~~SCHEDULE.~~

1 (C) NONRESIDENTIAL PROPERTIES.

2 (1) FOR NONRESIDENTIAL PROPERTIES OWNED BY AN ENTITY WHICH DOES NOT QUALIFY AS
3 A NOT FOR PROFIT UNDER THE INTERNAL REVENUE CODE, THE PAYMENT OF THE FEE IS A
4 HARDSHIP IF IT EXCEEDS:

5 (I) THE PERCENTAGE OF THE PROPERTY'S TOTAL PROPERTY TAX BILL THAT IS
6 SET IN THE FEE SCHEDULE THAT THE COUNTY COUNCIL ADOPTS BY RESOLUTION; OR

7 (II) \$1,000 AND THE OWNER PROVES HARDSHIP TO THE SATISFACTION OF THE
8 ADMINISTRATION, BASED ON A REVIEW OF:

9 1. A RECENT CERTIFIED FINANCIAL STATEMENT OR FILED TAX RETURN;

10 2. OTHER INFORMATION REGARDING THE SEVERE ECONOMIC HARDSHIP
11 THAT THE PROPERTY OWNER IS SUSTAINING, INCLUDING BUT NOT LIMITED TO INFORMATION
12 FROM LENDERS, LIEN HOLDERS, CREDITORS, ATTORNEYS, TAX COLLECTORS, OR OTHERS
13 WITH KNOWLEDGE ABOUT THE ECONOMIC CONDITION OF THE PROPERTY OWNER;

14 3. ANY NOTICE OF FORECLOSURE ON THE PROPERTY; AND

15 4. ANY OTHER EVIDENCE THAT THE PROPERTY OWNER HAS NO OTHER
16 REASONABLE MEANS OF RELIEVING THAT ECONOMIC HARDSHIP.

17 (2) IF THE FEE IS A HARDSHIP UNDER:

18 (I) PARAGRAPH (1)(I) OF THIS SUBSECTION, THE PROPERTY OWNER SHALL PAY
19 AN AMOUNT EQUAL TO THE TOTAL PROPERTY TAX BILL MULTIPLIED BY THE PERCENTAGE
20 SET IN THE FEE SCHEDULE; OR

21 (II) PARAGRAPH (1)(II) OF THIS SUBSECTION, THE PROPERTY OWNER SHALL PAY
22 \$1,000, SUBJECT TO A PAYMENT PLAN ACCEPTABLE TO THE ADMINISTRATION.

23
24 **Section 2. And Be It Further Enacted** by the County Council of Howard
25 County, Maryland, that, for a non-residential property with a Watershed Protection and
26 Restoration Fee that exceeds \$10,000:

27 (1) For Fiscal Year 2014, the property owner shall pay the greater of 50% of
28 the Watershed Protection and Restoration Fee or \$10,000.

29 (2) For each other Fiscal Year, the property owner shall pay 100% of the
30 Watershed Protection and Restoration Fee.

31 **Section 3. And Be It Further Enacted** by the County Council of Howard County,
32 Maryland, that this Act shall become effective 61 days after its enactment.