

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2013 Legislative Session

Bill No. CB-45-2013

Chapter No. 21

Proposed and Presented by The Chair (by request – County Executive)

Introduced by Council Members Franklin and Davis

Co-Sponsors _____

Date of Introduction July 2, 2013

BILL

1 AN ACT concerning

2 Stormwater Management – Watershed Protection and Restoration Program

3 For the purpose of establishing a Watershed Protection and Restoration Program, as required by
 4 State law; providing for the setting, collection and deposit of a Clean Water Act Fee into a Local
 5 Watershed Protection and Restoration Fund; providing for the purposes for which money in the
 6 Local Watershed Protection and Restoration Fund may be used; providing for biannual reporting
 7 on the operation of the Local Watershed Protection and Restoration Fund; requiring the
 8 Department of Environmental Resources to establish policies and procedures for the reduction of
 9 the Clean Water Act Fee; and generally relating to the Watershed Protection and Restoration
 10 Program.

11 BY adding:

12 SUBTITLE 10. FINANCE AND TAXATION

13 Sections 10-301 through 10-305,

14 The Prince George's County Code

15 (2011 Edition).

16 BY adding:

17 SUBTITLE 32. WATER RESOURCES

18 PROTECTION AND GRADING CODE.

19 Sections 32-201.06 and 32-201.07,

20 The Prince George's County Code

21 (2011 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 10-301 through 10-305 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 10. FINANCE AND TAXATION.

DIVISION 20. LOCAL WATERSHED PROTECTION AND RESTORATION FUND.

Sec. 10-301. Fund established.

There is hereby established a Local Watershed Protection and Restoration Fund.

Sec. 10-302. Financing the Fund.

(a) Clean Water Act Fee.

(1) Except as provided in this section, the County shall annually collect a Clean Water Act Fee from owners of property located within the County.

(2) The Clean Water Act Fee shall be established by resolution of the County Council. The resolution shall include a schedule of fees based upon any of the following:

(A) Impervious area existing on the property as of March 1 of the year in which the fee is imposed;

(B) Zoning classification of the property; and

(C) A flat rate.

(3) For the purpose of setting the Clean Water Act Fee as provided in subparagraph (a)(2)(A) of this section, impervious area existing on a property shall be determined based upon any of the following methods:

(A) Analysis of aerial photography;

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

(C) Field surveys signed and sealed by a professional engineer or professional land surveyor licensed in the State of Maryland; or

(D) Inspections conducted by the Department of Environmental Resources.

(4) Property owned by the State, a unit of State Government, the County, a municipality, or a regularly organized Volunteer Fire Department that is used for public purposes shall not be assessed a Clean Water Act Fee under this section.

(5) A property that has an agricultural use assessment as determined by the State Department of Assessments and Taxation shall be subject to a fee based on the impervious surface measurement only for the principal residential structure located on the property.

(6) The Clean Water Act Fee shall be collected in the same manner as County real property taxes and shall have the same priority, rights, and bear the same interest and penalties, and be enforced in the same manner as County real property taxes. Any unpaid portion of the Clean Water Act Fee shall be a lien upon the real property for which it is imposed and shall have the same priority as a lien imposed for nonpayment of real property taxes.

(b) There shall be deposited in the Local Watershed Protection and Restoration Fund:

(1) All Clean Water Act Fees collected by the County;

(2) Interest or other income earned on the investment of money in the Local Watershed Protection and Restoration Fund; and

(3) Any additional money made available from any sources for the purposes for which the Local Watershed Protection and Restoration Fund has been established.

Sec. 10-303. Purposes of the Fund.

(a) Subject to subsection (b) of this section, the Local Watershed Protection and Restoration Fund shall be used for the following purposes:

(1) Capital improvements for stormwater management, including stream and wetland restoration projects;

(2) Operation and maintenance of stormwater management systems and facilities;

(3) Public education and outreach relating to stormwater management or stream and wetland restoration;

(4) Stormwater management planning, including:

(A) Mapping and assessment of impervious surfaces; and

(B) Monitoring, inspection, and enforcement activities to carry out the purposes of the Local Watershed Protection and Restoration Fund;

(5) To the extent that fees imposed under Section 4-204, Environment Article, Annotated Code of Maryland, are deposited into the Local Watershed Protection and Restoration Fund, review of stormwater management plans and permit applications for new development;

(6) Grants to nonprofit organizations for up to 100% of a project's costs for

1 watershed restoration and rehabilitation projects relating to:

2 (A) Planning, design, and construction of stormwater management practices;

3 (B) Stream and wetland restoration; and

4 (C) Public education and outreach related to stormwater management or stream
 5 and wetland restoration; provided that County-based businesses, as defined in Section 10A-
 6 101(a)(13), shall be utilized for watershed restoration and rehabilitation projects by nonprofit
 7 organizations receiving grants from the Local Watershed Protection and Restoration Fund,
 8 except where the Director of Central Services determines in writing that insufficient local
 9 business capacity exists for a particular good or service;

10 (7) Reasonable costs necessary to administer the Local Watershed Protection and
 11 Restoration Fund.

12 (b) The County may use the Local Watershed Protection and Restoration Fund as an
 13 Environmental Fund, and may deposit to and expend from the Fund additional money made
 14 available from other sources and dedicated to environmental uses, provided that the funds
 15 received from the Clean Water Act Fee are expended only for purposes authorized under
 16 subsection (a) of this section.

17 (c) Money in the Local Watershed Protection and Restoration Fund shall not revert or be
 18 transferred to the general fund.

19 **Sec. 10-304. Administration of the Fund.**

20 The Director of Environmental Resources, or his designee, shall administer the Fund in
 21 accordance with the provisions of this Division and Subtitle 32, Division 3, Subdivision 4 of this
 22 Code.

23 **Sec. 10-305. Reporting.**

24 (a) Beginning July 1, 2014, and every 2 years thereafter, the Director of Environmental
 25 Resources shall make publicly available a report on:

26 (1) The number of properties subject to the Clean Water Act Fee;

27 (2) The amount of money deposited into the Local Watershed Protection and
 28 Restoration Fund over the previous 2 fiscal years; and

29 (3) The percentage of funds in the Local Watershed Protection and Restoration Fund
 30 spent on each of the purposes provided in section 10-303 of this Division.

31 SECTION 2. BE IT FURTHER ENACTED by the County Council of Prince George's

County, Maryland, that Sections 32-201.06 and 32-201.07 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 32. WATER RESOURCES PROTECTION AND GRADING CODE.

DIVISION 3. STORMWATER MANAGEMENT.

Subdivision 5. Watershed Protection and Restoration Program.

Sec. 32-201.06. Watershed Protection and Restoration Program established.

In accordance with the provisions of Section 4-202.1, Environment Article, Annotated Code of Maryland, there is hereby established a Watershed Protection and Restoration Program consisting of the Clean Water Act Fee and a Local Watershed Protection and Restoration Fund established in Subtitle 10, Division 20 of this Code. The purpose of this Program shall be for the improvement of water quality as it relates to untreated stormwater runoff, including restoration planning, design, construction of capital projects, public education and outreach, best management practices, inspections and enforcement, water quality reporting, program resourcing, and GIS mapping. The procurement of any goods and services for the Watershed Protection and Restoration Program shall be subject to Subtitle 10A of this Code.

Sec. 32-201.07. Clean Water Act Fee; reduction.

(a) Fee. The Clean Water Act Fee shall be set, collected and deposited pursuant to the provisions of Subtitle 10, Division 20 of this Code.

(b) Reduction of Fee.

(1) The Director of Environmental Resources or his designee shall establish policies and procedures to reduce any portion of the Clean Water Act Fee established under Subtitle 10, Division 20 of this Code and subsection (A) of this section to account for on-site and off-site systems, facilities, services, or activities that reduce the quantity or improve the quality of stormwater discharged from the property, or for demonstrated substantial financial hardship as a result of the fee.

(2) The policies and procedures established by the Director of Environmental Resources pursuant to subsection (b)(1) of this Section shall include:

(A) Guidelines for determining which on-site systems, facilities, services, or activities may be the basis for a fee reduction, including guidelines:

(i) Relating to properties with existing advanced stormwater best management practices;

1 (ii) Relating to agricultural activities or facilities that are otherwise
 2 exempted from stormwater management requirements by the County; and

3 (iii) That account for the costs of, and the level of treatment provided by,
 4 stormwater management facilities that are funded and maintained by a property owner;

5 (B) The method for calculating the amount of a fee reduction;

6 (C) Procedures for monitoring and verifying the effectiveness of the on-site
 7 systems, facilities, services, or activities in reducing the quantity or improving the quality of
 8 stormwater discharged from the property;

9 (D) Procedures that require County-based businesses, as defined in Section 10A-
 10 101(13), to the extent practicable, be utilized for on-site and off-site systems, facilities, services,
 11 or activities that reduce the quantity or improve the quality of stormwater discharged from the
 12 property, except where the Director of Central Services determines in writing that insufficient
 13 local business capacity exists for a particular good or service or that such a requirement would
 14 cause undue hardship; and

15 (E) Procedures by which qualified tax-exempt religious organizations or other
 16 501(c) nonprofit organizations may be exempt from the portion of the Clean Water Act Fee
 17 based upon the impervious area existing on the property owned by the organization.

18 (c) Monitoring. For the purpose of monitoring and verifying the effectiveness of the on-
 19 site systems, facilities, services, or activities under paragraph (c)(3) of this Section, the
 20 Department of Environmental Resources may:

21 (1) Conduct on-site inspections;

22 (2) Authorize a third party, certified by the Maryland Department of the
 23 Environment, to conduct on-site inspections on behalf of the Department; or

24 (3) Require a property owner to hire a third party, certified by the Maryland
 25 Department of the Environment, to conduct an on-site inspection and provide to the Department
 26 of Environmental Resources the results of the inspection and any other information required by
 27 the Department.

28 (d) Appeals.

29 (1) The Director of Environmental Resources or his designee shall establish policies
 30 and procedures governing the consideration of appeals of Clean Water Act Fees imposed
 31 pursuant to Subtitle 10, Division 20 of this Code and this section.

(2) An appeal shall be in writing in a form suitable to the Department and shall be provided to the Director of Environmental Resources or his designee not later than October 1 of the year for which the Clean Water Act Fee is assessed.

(3) The grounds for appeal shall be limited to the following:

(A) For multifamily residential and nonresidential properties only, errors made regarding the impervious surface measurement of the property;

(B) For single-family residential properties only, errors in the zoning classification of the property;

(C) Mathematical errors in the calculation of the fee; and

(D) Misidentification of the property owner.

(e) The Director of Environmental Resources or his designee may enter into agreements with municipal corporations to engage in restoration efforts using monies from the Local Watershed Protection and Restoration Fund.

* * * * *

SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 24th day of July, 2013.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Andrea C. Harrison
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.