

**MEMORANDUM**

November 21, 2013

TO: Transportation, Infrastructure, Energy & Environment Committee  
FROM: *KL* Keith Levchenko, Senior Legislative Analyst  
SUBJECT: Executive Regulation 10-13: Water Quality Protection Charge

**Council Staff Recommendation: Approve Executive Regulation 10-13**

Attachments to this Memorandum

- Resolution to Approve Executive Regulation 10-13: Water Quality Protection Charge (©1)
- County Executive Transmittal Memorandum and Fiscal Impact Statement (©2-4)
- Executive Regulation 10-13 (Method 1)<sup>1</sup> Fiscal Impact Statement (©5-15)

**Background**

On April 16, 2013, the Council enacted Bill 34-12, Stormwater Management – Water Quality Protection Charge. Bill 34-12 included a number of major changes to the existing Water Quality Protection Charge (WQPC).

Bill 34-12 was followed up by Executive Regulation 17-12AM – Water Quality Protection Charge (approved by the Council on April 30, 2013), which provided more detailed language regarding the implementation of the Water Quality Protection Charge in light of the changes resulting from Bill 34-12.

Subsequent to Council approval of Executive Regulation 17-12AM, the Executive identified some issues not adequately addressed in the regulation and promulgated Temporary Regulation 10-13T on June 21, 2013. The Council approved a 90 day extension of this temporary regulation on September 24, 2013. The temporary regulation is set to expire on December 19, 2013.

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<sup>1</sup> As a Method 1 regulation, Regulation 10-13 is not adopted until the Council approves it. The Council may approve or disapprove the regulation by resolution. The regulation takes effect upon adoption unless a later date is specified.

## Executive Regulation 10-12 Summary

Executive Regulation 10-12 addresses several relatively minor issues summarized on ©3 and described in more detail below.

### Consolidation of Contiguous Parcels (see ©12-13)

Regulation 10-12 adds specific language allowing the DEP Director, at the property owner's request, to consider consolidating properties for purposes of assessing the Water Quality Protection Charge.

The consolidation of properties for purposes of calculating the Water Quality Protection Charge could be financially beneficial to single-family residential and nonprofit property owners.<sup>2</sup> For example, a private school campus may consist of multiple parcels under single ownership. Kept separate, each parcel is assessed a Water Quality Protection Charge. However, if consolidated, the property owner would pay only one charge which is capped for a single property.

During deliberations on Bill 34-12 and Regulation 17-12AM, Council and Executive staff agreed that, in some situations where contiguous parcels have the same legal owner, a single charge covering all of the parcels may be appropriate.

The applicant could seek to legally consolidate these parcels through the State. Once done, the applicant would only pay one Water Quality Protection Charge assessment. However, the legal consolidation of parcels can be a cumbersome process. Council Staff suggested that Section 7 of Regulation 17-12AM (Requests for Adjustments; Appeals) provides sufficient flexibility for the DEP Director to consider assessing contiguous properties as one property on a case-by-case basis. However, after the regulation was approved, Executive staff concluded that more specific language was needed to explicitly allow the Director to pursue this approach. This new language is included in Section 6 (Billing and Payment) of Regulation 10-12.

The Fiscal Impact Statement assumes a relatively minor impact from this change (\$6,400 in year one, increasing to \$19,200 per year beginning in year three as charges based on full assessments are phased in).

### **Council Staff supports this new language.**

### Financial Hardship Exemption – Linkage to MEAP (see ©14)

The new regulation includes language that allows eligible property owners seeking an exemption from the charge to provide verification that they are receiving Maryland Energy Assistance Program (MEAP) benefits as an alternative to providing income tax data.

During deliberations on Bill 34-12 and Regulation 17-12AM, Council Staff had suggested that MEAP eligibility could be an efficient measure for the County to use to determine exemption eligibility. **Council Staff supports this new language.**

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<sup>2</sup> For multi-family and non-residential property owners who do not qualify as eligible nonprofits, there is no incentive to consolidate properties, as the charge is based on total impervious surface and is not capped per property.

Definition of “Eligible Nonprofit Property” (see ©6)

Nonprofit properties are provided a unique classification in Bill 34-12 and in Regulation 17-12AM, and (unlike other non-residential properties) the assessment is capped. However, eligible nonprofit properties are not defined. Regulation 10-13 includes a definition of “eligible nonprofit property”, which states that the property must be owned by a nonprofit organization that is exempt from ad valorem property taxes under State law. This definition is consistent with the assumptions made regarding nonprofit properties during the discussion of Bill 34-12 and Regulation 17-12AM. **Council Staff supports this new language.**

Clarification Regarding Credits Available to Property Owners for On-Site Stormwater Management Systems (see ©11)

Regulation 10-13 simplifies the existing language in Section 5 (Credits) to note that the credit to be provided is based on the volume of water treated and that property owners may get partial credits for partial treatment of stormwater. The maximum credits available remain unchanged and are noted as 50 percent for stormwater systems and 60 percent when environmental site design practices alone are used. Language noting channel protection volume as a criterion has been removed. **Council Staff supports this new language.**

Attachment

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Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Executive Regulation 10-13, Water Quality Protection Charge

**Background**

1. Section 19-35 of the County Code requires the County Executive to adopt regulations for the purpose of implementing the County's Water Quality Protection Charge under Chapter 19.
2. On April 25, 2013, the County Executive transmitted Executive Regulation 17-12AM, Water Quality Protection Charge, to the County Council.
3. On April 30, 2013, the County Council approved Executive Regulation 17-12AM, Water Quality Protection Charge.
4. On June 21, 2013, the County Executive transmitted Temporary Executive Regulation 10-13T in order to clarify residential property hardship waiver eligibility, to note that certain property owners may apply to the Director of the Department of Environmental Protection to consolidate under a single parcel any contiguous parcels owned by the same owner, and to clarify that property owners may be eligible for partial credits for partial treatment of stormwater on a property.
5. On September 24, 2013, the County Council approved a 90-day extension of Temporary Executive Regulation 10-13T.
6. On November 15, 2013, the County Executive transmitted Executive Regulation 10-13, Water Quality Protection Charge.

**Action**

The County Council for Montgomery County, Maryland approves Executive Regulation 10-13.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council



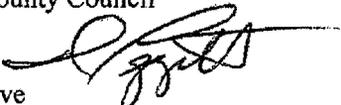
OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

**MEMORANDUM**

November 15, 2013

TO: Nancy Navarro, President  
Montgomery County Council

FROM: Isiah Leggett   
County Executive

SUBJECT: Executive Regulation 10-13 - Water Quality Protection Charge

I am submitting for Council approval Executive Regulation 10-13, Water Quality Protection Charge. This regulation is substantively identical to Temporary Regulation 10-13T, Water Quality Protection Charge, which will expire on December 19, 2013.

The regulation clarifies several components of the Water Quality Protection Charge (WQPC) Program implemented under Bill 34-12, Stormwater Management - Water Quality Protection Charge (enacted on April 16, 2013). First, the regulation clarifies that a residential property owner is eligible for a financial hardship waiver if the owner submits verification that the property owner meets eligibility criteria for receiving benefits under the Maryland Energy Assistance Program for the year that payment of the WQPC is due. Second, the regulation clarifies that a property owner may apply to the Department of Environmental Protection (DEP) to consolidate, under a single parcel, any contiguous parcels owned by the same legal owner. Third, the regulation clarifies that a property owner may get partial credit against the WQPC for partial treatment of stormwater on the property. Finally, the regulation defines the term "eligible nonprofit property."

Executive Regulation 10-13 was advertised in the June 2013 County Register and no comments were received. The Fiscal Impact Statement for the regulation is attached. If you have questions or need additional information, please feel free to contact DEP Director Bob Hoyt at 240-777-7730.

IL:gh

Attachment (3)

cc: Joseph Beach, Director, Department of Finance  
Jennifer Hughes, Director, Office of Management and Budget  
Marc Hansen, County Attorney  
Bob Hoyt, Director, Department of Environmental Protection

## Fiscal Impact Statement

### Executive Regulation 10-13, Water Quality Protection Charge

#### 1. Executive Regulation Summary.

Executive Regulation 10-13 amends Executive Regulation 17-12AM approved on April 30, 2013. This regulation is necessary to clarify the procedures for applying the Water Quality Protection Charge to certain properties and the criteria by which certain property owners qualify for a financial hardship exemption.

Executive Regulation 10-13 amends Executive Regulation 17-12AM to:

- a) allow consolidation of certain parcels for purpose of calculating the Water Quality Protection Charge (WQPC);
- b) modify the application requirements for financial hardship exemption for residential property to allow use of verification of eligibility for assistance under the Maryland Energy Assistance Program (MEAP);
- c) add a definition for "Eligible non-profit property"; and
- d) clarify the circumstances under which a property owner can receive a credit; makes certain technical changes; and generally amend the regulations relating to the WQPC.

#### 2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Based on the actual applications received for FY14, the revenue impact of item 1a is a reduction in revenue of approximately \$6,400. This is not significant compared to nearly \$23 million in budgeted WQPC revenue. The other provisions in the regulation are not anticipated to affect revenues or expenditures.

#### 3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Because new impervious surface area is being phased in over three years, the estimated revenue reduction related to item 1a increases by \$6,400 over the next two years to \$19,200 by FY16. The revenue reduction from FY16 forward will remain at approximately \$19,200 assuming there is no change in the rate or number of applications. The total six-year revenue reduction is estimated to be \$96,000.

#### 4. An actuarial analysis through the entire amortization period for each regulation that would affect retiree pension or group insurance costs.

Not applicable.

#### 5. Later actions that may affect future revenue and expenditures if the regulation authorizes future spending.

Not applicable.

**6. An estimate of the staff time needed to implement the regulation.**

Since the number of affected properties is relatively small, the additional time needed to implement item 1a above, is not significant and can be absorbed by existing WQPC program implementation contractor support.

**7. An explanation of how the addition of new staff responsibilities would affect other duties.**

Staff responsibilities resulting from the implementation of Executive Regulation 10-13 would not adversely impact other duties.

**8. An estimate of costs when an additional appropriation is needed.**

No additional appropriation is needed to implement Executive Regulation 10-13.

**9. A description of any variable that could affect revenue and cost estimates.**

The estimates could vary depending on the WQPC rate, equivalent residential units, and the number of affected properties.

**10. Ranges of revenue or expenditures that are uncertain or difficult to project.**

Not applicable.

**11. If a regulation is likely to have no fiscal impact, why that is the case.**

Not applicable.

**12. Other fiscal impacts or comments.**

Not applicable.

**13. The following contributed to and concurred with this analysis:**

Vicky Wan, Department of Environmental Protection  
Steve Shofar, Department of Environmental Protection  
Alex Espinosa, Office of Management and Budget  
Matt Schaeffer, Office of Management and Budget

  
\_\_\_\_\_  
Jennifer A. Hughes, Director  
Office of Management and Budget

11/14/13  
Date



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Water Quality Protection Charge	<b>Number</b> 10-13
<b>Originating Department</b> Department of Environmental Protection and Department of Finance	<b>Effective Date</b>

Montgomery County Regulation on:

## WATER QUALITY PROTECTION CHARGE

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND  
DEPARTMENT OF FINANCE

Issued by: County Executive  
Regulation No. 10-13  
COMCOR No. 19.35.01

Authority: Code Section 19-35  
Supersedes: Executive Regulation 17-12AM  
Council Review: Method (1) under Code Section 2A-15  
Register Vol. 30 No. 6

Comment Deadline: June 30, 2013  
Effective Date: \_\_\_\_\_  
Sunset Date: None

**Summary:** This regulation amends Executive Regulation 17-12AM, which establishes the procedures for applying the Water Quality Protection Charge to certain properties and the criteria by which certain property owners qualify for a financial hardship exemption.

**Address:** Written comments on these regulations should be sent to:

Vicky Wan  
Division of Watershed Management  
Department of Environmental Protection  
255 Rockville Pike  
Rockville, Maryland 20850

**Staff Contact:** For further information or to obtain a copy of this regulation, contact Vicky Wan at (240) 777-7722.



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<b>Subject</b> Water Quality Protection Charge	<b>Number</b> 10-13
<b>Originating Department</b> Department of Environmental Protection and Department of Finance	<b>Effective Date</b>

## Section 1. General Provisions

- A. **Authority.** In accordance with the authority conferred under Chapter 19, Section 19-35, of the Montgomery County Code, 2004, as amended (hereinafter referred to as the "Code"), the County Executive hereby promulgates this regulation for the purpose of implementing the County's Water Quality Protection Charge as set forth in Chapter 19 of the Code.
- B. **Applicability.** This regulation applies to all owners of residential property and nonresidential property in Montgomery County, Maryland.

## Section 2. Definitions

The definitions of the terms used in this regulation are provided in Chapter 19, Section 19-21, of the Code. For purposes of this regulation, the following additional words and phrases will have the meaning respectively ascribed to them in this regulation unless the context indicates otherwise:

**Agricultural Property** [- A] means a property that is used primarily for agriculture, viticulture, aquaculture, silviculture, horticulture, or livestock and equine activities; temporary or seasonal outdoor activities that do not permanently alter the property's physical appearance and that do not diminish the property's rural character; or activities that are intrinsically related to the ongoing agricultural enterprise on the property.

**Base Rate** [- The] means the annually designated dollar amount set by the County Council to be assessed for each equivalent residential unit of property that is subject to the Water Quality Protection Charge.

**Condominium** means a [- A] property that is subject to the condominium regime established under the Maryland Condominium Act.

**Director** means the [- The] Director of the Montgomery County Department of Environmental Protection or the Director's designee.

**Equivalent Residential Unit or ERU** means the [- The] statistical median of the total horizontal impervious area of developed single family detached residences in the County that serves as the base unit of assessment for the Water Quality Protection Charge. The designated ERU for Montgomery County equals 2,406 square feet of impervious surface.

**Eligible Nonprofit Property** means real property owned by a nonprofit organization that is exempt from ad valorem property taxes under State law.



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Multifamily Residential Property means a [- A] mobile home park or a residential building where one or more dwelling units share a common entrance from the outside with other dwelling units that are arranged above, below or next to one another in the same building, and any housing unit that is subject to the condominium regime established under the Maryland Condominium Act.

Parking [lot] Lot means any [- Any] area that is intended for parking of motor vehicles.

Water Quality Protection Charge or Charge means an [- An] assessment levied by the Director of Finance to cover the cost of constructing, operating, and maintaining facilities within the County's stormwater management system and fund related expenses allowed under applicable state law based on the impact of stormwater runoff from the impervious areas of developed land in the County.

### Section 3. Classification of Properties

For purposes of determining the appropriate assessment rate, all properties that are subject to the Water Quality Protection Charge are assigned to one of the following classifications:

- A. Single Family Residential Tier 1 (SFR1): For [singlefamily] single family residential properties where the estimated total impervious area is less than or equal to 1,000 square feet and includes the house, driveways, sidewalks, sheds, and any other fixtures on the property that are impenetrable by water.
- B. Single Family Residential Tier 2 (SFR2): For single family residential properties where the estimated total impervious area is greater than 1,000 square feet and less than or equal to 1,410 square feet and includes the house, driveways, sidewalks, sheds, and any other fixtures on the property that are impenetrable by water.
- C. Single Family Residential Tier 3 (SFR3): For single family residential properties where the estimated total impervious area is greater than 1,410 square feet and less than or equal to 3,412 square feet and includes the house, driveways, sidewalks, sheds, and any other fixtures on the property that are impenetrable by water.
- D. Single Family Residential Tier 4 (SFR4): For single family residential properties where the estimated total impervious area is greater than 3,412 square feet and less than or equal to 3,810 square feet and includes the house, driveways, sidewalks, sheds, and any other fixtures on the property that are impenetrable by water.



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- E. Single Family Residential Tier 5 (SFR5): For single family residential properties where the estimated total impervious area is greater than 3,810 square feet and less than or equal to 5,815 square feet and includes the house, driveways, sidewalks, sheds, and any other fixtures on the property that are impenetrable by water.
- F. Single Family Residential Tier 6 (SFR6): For single family residential properties where the estimated total impervious area is greater than 5,815 square feet and less than or equal to 6,215 square feet and includes the house, driveways, sidewalks, sheds, and any other fixtures on the property that are impenetrable by water.
- G. Single Family Residential Tier 7 (SFR7): For single family residential properties where the estimated total impervious area is greater than 6,215 square feet and includes the house, driveways, sidewalks, sheds, and any other fixtures on the property that are impenetrable by water.
- H. Multifamily residential property: For multifamily residential properties the impervious area includes the residential structures that contain the dwelling units, the sidewalks, parking lots and any other permanent installations on the developed parcel, whether under single or common ownership, that is impenetrable by water.
- I. Nonresidential property: Nonresidential properties may include commercial properties such as office buildings, hotels, retail establishments or industrial properties such as factories and warehouses. Nonresidential properties may also include properties owned by homeowner associations, [non-profit] nonprofit organizations such as religious institutions, healthcare facilities, other developed properties devoted to non-governmental charitable and institutional uses, and any government-owned properties subject to the Charge. The impervious area for these properties includes all buildings, parking lots, sidewalks, and any other impermeable installations permanently attached to the land parcel containing those installations.
- J. [Non-profit] Nonprofit Tier 1 (NP1): For properties owned by [non-profit] nonprofit organizations where the estimated total impervious area is greater than 0 square feet and less than or equal to 6,910 square feet and includes all buildings, driveways, parking lots, sidewalks, and any other impermeable installations permanently attached to the land parcel containing those installations.
- K. [[Non-profit] Nonprofit Tier 2 (NP2): For properties owned by [non-profit] nonprofit organizations where the estimated total impervious area is greater than 6,910 square feet and less than or equal to 54,455 square feet and includes all buildings, driveways, parking lots, sidewalks,



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and any other impermeable installations permanently attached to the land parcel containing those installations.

- L. [Non-profit] Nonprofit Tier 3 (NP3): For properties owned by [non-profit] nonprofit organizations where the estimated total impervious area is greater than 54,455 square feet and includes all buildings, driveways, parking lots, sidewalks, and any other impermeable installations permanently attached to the land parcel containing those installations.
- M. Agricultural property: The impervious area for agricultural properties only includes the houses on those properties.

#### Section 4. Rates

- A. Single family residential properties: The Charge for each single family residential property is based on a percent of the base rate for one ERU in accordance with its assigned tier classification as follows:
  - (1) [SingleFamily] Single Family Residential Tier 1 (SFR1): The Charge for each Single Family Residential Tier 1 property is 33 percent of the applicable base rate for one ERU.
  - (2) Single Family Residential Tier 2 (SFR2): The Charge for each Single Family Residential Tier 2 property is 50 percent of the applicable base rate for one ERU.
  - (3) Single Family Residential Tier 3 (SFR3): The Charge for each Single Family Residential Tier 3 property is 100 percent of the applicable base rate for one ERU.
  - (4) Single Family Residential Tier 4 (SFR4): The Charge for each Single Family Residential Tier 4 property is 150 percent of the applicable base rate for one ERU.
  - (5) Single Family Residential Tier 5 (SFR5): The Charge for each Single Family Residential Tier 5 property is 200 percent of the applicable base rate for one ERU.
  - (6) Single Family Residential Tier 6 (SFR6): The Charge for each Single Family Residential Tier 6 property is 250 percent of the applicable base rate for one ERU.
  - (7) Single Family Residential Tier 7 (SFR7): The Charge for each Single Family Residential Tier 7 property is 300 percent of the applicable base rate for one ERU.



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B. Multifamily residential properties: The Charge for each multifamily residential property is based on the number of ERUs assigned to the property in accordance with the following procedure:

- (1) The Director determines the number of ERUs for a multifamily residential property by dividing the property's actual impervious area by the designated ERU for Montgomery County.
- (2) The Director computes the billable Charge by multiplying the base rate by the total number of ERUs assigned to the property.
- (3) If the multifamily residential property is a condominium development, the Director calculates the Charge to be billed in equal shares to the owners of the development by dividing the total ERUs calculated for the property by the number of individual condominium units and then multiplying the sum by the base rate to determine the amount billable to each unit owner.

C. Nonresidential properties: The Charge for each nonresidential property is based on the number of ERUs assigned to the property in accordance with the following procedure:

- (1) The Director determines the number of ERUs for a nonresidential property by dividing the property's actual impervious area by the designated ERU for Montgomery County.
- (2) The Director computes the billable Charge by multiplying the base rate by the total number of ERUs assigned to the property.
- (3) If the nonresidential property is a condominium development, the Director calculates the Charge to be billed in equal shares to the owners of the development by dividing the total ERUs calculated for the property by the number of individual condominium units and the multiplying the sum by the base rate to determine the amount billable to each unit owner.

[(4)]D. Nonprofit properties: If a property subject to the Charge under this subsection is owned by a nonprofit organization, the Charge for each property must not exceed the percent of the base rate for one ERU in accordance with assigned tier classification as follows:

- [(i)](1) [Non-profit] Nonprofit Tier 1 (NP1): The Charge for each [non-profit] nonprofit property is based on its total impervious area up to 150 percent of the applicable base rate for one ERU.



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[(ii)](2) [Non-profit] Nonprofit Tier 2 (NP2): The Charge for each [non-profit] nonprofit property is based on its total impervious area up to 900 percent of the applicable base rate for one ERU.

[(iii)](3) [Non-profit] Nonprofit Tier 3 (NP3): The Charge for each [non-profit] nonprofit property is based on its total impervious area up to 2,300 percent of the applicable base rate for one ERU.

[D.]E. Agricultural properties: The Charge for each agricultural property is based on a percent of the base rate for one ERU in accordance with the applicable Single Family Residential Tier.

## Section 5. Credits

A. The Director must [issue] award a maximum credit of 50 percent, based on the volume of water treated by a combination of environmental site design and other stormwater management systems, or a maximum of 60 percent, based on the volume of water completely treated by environmental site design practices alone, as specified in the application provided to a nonresidential or multifamily residential property owner if the property contains a County approved stormwater management system and the system is maintained in accordance with the maintenance requirements of the Department of Environmental Protection. A property must be credited for treatment of off-site drainage from other properties located within the same drainage area as that property. A property that does not contain a stormwater management system must be credited if located within the same drainage area as another property that contains a stormwater management system if both properties have the same owner. However, a property owner must not receive a credit based on a calculation that exceeds the total impervious area on the property for which the credit is issued. [A property owner may receive a maximum credit of 50 percent for a combination of environmental site design and other stormwater management systems or a maximum credit of 60 percent if the property is completely treated by environmental site design practices alone. Otherwise, the Director must calculate the credit based on the following criteria:

- (1) 25 percent credit for the treated impervious area if the facility is designed to manage the full water quality volume;
- (2) 25 percent credit for the treated impervious area if the facility is designed to manage the full channel protection volume; or
- (3) 60 percent if the property is designed to treat the entire environmental site design volume



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using environmental site design practices.]

- B. The Director must award a maximum credit of 50 percent based on the volume of water treated as specified in the application provided by the Department to the owner of a single family residential property if the property contains a County approved stormwater management system and the system is maintained in accordance with the maintenance requirements of the Department of Environmental Protection.
- C. Application Schedule
  - (1) To receive the credit, the property owner must apply to the Director of Environmental Protection in a form prescribed by the Director not later than October 31 of the year before payment of the Charge is due.
  - (2) Once approved, the credit is valid for three years. To renew the credit, the Property owner must reapply to the Director in a form prescribed by the Director not later than October 31 of the year before payment of the Charge is due.
- D. Appeals
  - (1) If the Director denies the credit, the property owner may seek reconsideration of the Director's decision by submitting a written request for reconsideration with supporting reasons to the Director within 10 days after the date of the Director's written decision.
  - (2) If the Director does not approve the request for reconsideration, the property owner may appeal the Director's final decision within 10 days after the Director issues that decision as provided in Chapter 2A, Article I, of the County Code.

## Section 6. Billing and Payment

- A. The Director must prepare and forward to the Director of Finance the necessary data for collecting the Water Quality Protection Charge from owners of property subject to the Charge. The data must [include the identification of] identify every parcel to be charged and include the amount of the Charge. If requested by the owner using the review and adjustment process outlined in Section 7, the Director may consolidate under a single parcel any contiguous parcels owned by the same legal owner. If the Director combines two or more parcels consisting individually of at least one residential parcel and at least one nonresidential parcel, the Director must, for purposes of calculating the Water Quality Protection Charge, treat the consolidated



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parcel as nonresidential property.

- B. The Director of Finance must include the Charge as a separate line item on the real estate tax bill for each property subject to the Charge.
- C. The Director of Finance must deposit all payments collected under this Section into a County stormwater management fund.
- D. Interest on any overdue payment accrues according to the same schedule and at the same rate charged for delinquent real property taxes until the owner has remitted the outstanding payment and interest. An unpaid Charge is subject to all penalties and remedies that apply to unpaid real property taxes. Any delinquent Charge is a lien against the property. The lien has the same priority as a lien imposed for nonpayment of real property taxes. The Charge must be collected in the same manner as real property taxes.

## Section 7. Requests for Adjustment; Appeals

- A. A property owner may request a review and adjustment of the Charge by petitioning the Director in writing, not later than September 30 of the year that payment of the Charge is due if the property owner believes that the Charge has been assigned or calculated incorrectly.
- B. When submitting a petition for review of the Charge, the property owner must include a detailed statement of the basis for the petition and documents supporting the property owner's assertion that the property should be assigned to a different classification, the impervious area measurements used to calculate the ERUs for the property are incorrect, or the property is not subject to the Charge under applicable law.
- C. Within 60 days after receiving the petition, the Director must review the Charge assigned to the property and make a written determination of whether the property owner's request for an adjustment of the Charge should be granted or denied. The Director may request additional information from the property owner that the Director reasonably believes will help the Director decide whether the property owner is entitled to an adjustment.
- D. If the Director concludes that the Charge was levied by mistake or resulted from an inaccurate computation, the Director must submit the corrected data to the Department of Finance with a request for an adjustment to the property owner's bill. After receiving the Director's request, the Director of Finance must make an appropriate adjustment based on the new data submitted by the Director and refund any overpayment to the property owner.



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- E. If the Director concludes that some or all of the requested adjustment should be denied, the property owner may seek reconsideration of the Director's conclusion by submitting a written request for reconsideration with supporting reasons to the Director within 10 days after the date of the Director's written decision.
- F. If the Director does not approve the request for reconsideration, the property owner may appeal the Director's final decision within 10 days after the Director issues that decision as provided in Chapter 2A, Article I, of the County Code.
- G. The County Board of Appeals is the designated authority charged with hearing and deciding all appeals taken from the Director's final decision to deny any relief requested under this regulation.

## Section 8. Requests for Exemption

- A. Before paying the Charge, the owner of residential property that is owner-occupied, or a [non-profit] nonprofit organization that owns property subject to the Charge, may apply for a financial hardship exemption from the Charge by submitting a written request to the Director of Finance in a form prescribed by the Director not later than April 1 of the year when payment of the Charge is due.
- B. (1) To qualify for the exemption, the request submitted by an owner-occupant of residential property must be accompanied by a copy of the owner-occupant's income tax returns indicating that the property owner's gross household income did not exceed 170 percent of the poverty guidelines published by the United States Department of Health and Human Services for the year before payment of the Charge is due or verification that the property owner meets eligibility criteria for receiving benefits under the Maryland Energy Assistance Program for the year that payment of the Charge is due.
- (2) The request submitted by a nonprofit organization must be accompanied by the organization's most recent federal tax return or other verification of total revenues derived from the property for which the exemption is sought, as required by the Director of Finance. To qualify for a partial exemption: (i) the amount of the Charge must exceed 0.2% of the organization's total revenues from the property for which the exemption is sought for the year before payment of the Charge is due; and (ii) the property for which the exemption is sought must be exempt from real property *ad valorem* taxation under State law. The amount of the partial exemption is the amount of the Charge that exceeds 0.2 percent of the [non-profit's] nonprofit's total revenues derived from the property.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Water Quality Protection Charge	<b>Number</b> 10-13
<b>Originating Department</b> Department of Environmental Protection and Department of Finance	<b>Effective Date</b>

- C. The Director of Finance must issue a written decision to grant or deny the exemption within 30 days after receiving the request.
- D. Any exemption granted under this Section is only valid for the year that payment of the Charge is due.
- E. If the Director of Finance denies the exemption, the property owner may seek reconsideration of the Director's decision by submitting a written request for reconsideration with supporting reasons to the Director within 10 days after the date of the Director's written decision.
- F. If the Director of Finance does not approve the request for reconsideration, the property owner may appeal the Director's final decision within 10 days after the Director issues that decision as provided in Chapter 2A, Article I, of the County Code.

### Section 9. Requests for Grants

A homeowners' association may apply for a grant to offset all or part of the cost of the Charge for any private maintenance road, as defined in Section 24B.00.02.02 of the Code of Montgomery County Regulations, which is eligible for State highway user revenues, not including any parking lot, by submitting a written application to the Director in a form prescribed by the Director not later than September 30 of the year that payment of the Charge is due.

### Section 10. Severability

If a court holds that a portion of this regulation is invalid, the other portions remain in effect.

### [Section 11. Effective Date

This regulation takes effect upon approval by the County Council.]

Approved as to Form and Legality  
Office of County Attorney

By Walter E. Wilson  
Date 11/12/13  
Walter E. Wilson

Isiah Leggett  
Isiah Leggett  
County Executive