

Expedited Bill No. 45-15
 Concerning: Stormwater Management –
Water Quality Protection Charge --
Curative Legislation
 Revised: 10/22/15 Draft No. 2
 Introduced: October 27, 2015
 Enacted: November 17, 2015
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the request of the County Executive

AN EXPEDITED ACT to:

- (1) designate the Water Quality Protection Charge as an excise tax imposed under the County's general taxing authority;
- (2) ratify the collection of stormwater management charges levied under Section 19-35 since July 1, 2013; and
- (3) continue the levy and collection of the Water Quality Protection Charge from property owners under the same terms and conditions as set out in Section 19-35.

By amending

Montgomery County Code
 Chapter 19, Sediment Control and Storm Water Management
 Sections 19-21 and 19-35

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 19-21 and 19-35 are amended as follows:**

2 **ARTICLE II. STORMWATER MANAGEMENT.**

3 **19-21. Definitions.**

4 In this Article, the following words and phrases have the following meanings
5 unless the context indicates otherwise:

6 * * *

7 Water Quality Protection Charge: An excise tax charged to a property owner
8 for the privilege of maintaining impervious surfaces on the owner's property.

9 **19-35. Water Quality Protection Charge.**

10 (a) As authorized by [State law] Section 52-17 (a) or Maryland Code,
11 Environment Art., § 4-204, or both, the Director of Finance must
12 annually impose and collect a Water Quality Protection Charge, as
13 provided in this Section. The Director must collect the Charge in the
14 same manner as County real property taxes, apply the same interest,
15 penalties, and other remedies (including tax sale) if the Charge is not
16 paid, and generally treat the Charge for collection and administration
17 purposes as if it were a County real property tax. The Director may
18 treat any unpaid Charge as a lien on the property to which the charge
19 applies.

20 * * *

21
22 **Sec. 2. Expedited Effective Date:** The Council declares that this legislation
23 is necessary for the immediate protection of the public interest. This Act takes effect
24 on the date on which it becomes law.

25 **Sec. 3. Curative Effect:** This Act retroactively validates and ratifies the levy
26 and collection under Section 19-35 of all stormwater management charges collected
27 since July 1, 2013.

28 Expedited Bill 34-12 amended County Code Section 19-35 to subject all
29 properties not otherwise exempt under State law to the Water Quality Protection
30 Charge, allow property owners to obtain credits for undertaking certain water quality
31 protection measures on their properties, and authorize financial hardship exemptions
32 for certain owner-occupants of residential properties. The effective date of Expedited
33 Bill 34-12 was July 1, 2013.

34 In *Paul N. Chod v. Board of Appeals for Montgomery County* (Civil No.
35 398704-V, entered July 23, 2015) the Circuit Court for Montgomery County opined
36 that the Water Quality Protection Charge “is invalid per se because this charge need
37 not reasonably relate to the stormwater management services provided by the
38 County.” The County has appealed this decision. This Act is intended to correct the
39 potential defect noted by the Circuit Court by designating the stormwater
40 management charges imposed by Section 19-35 as an excise tax imposed under the
41 general taxing authority of Montgomery County to levy excise taxes. This Act is not
42 intended to alter the policy, purposes, or substance of Section 19-35.

43 The County Council finds that:

- 44 (a) Montgomery County had the authority in 2013 to adopt Section 19-35
45 under the County’s taxing authority—see Section 52-17;
- 46 (b) This Act furthers the original purpose of Section 19-35 to require
47 individual owners of property with impervious surfaces to pay a share
48 of the public costs associated with mitigating and remediating the
49 environmental impact of stormwater runoff throughout the County;
- 50 (c) The legal defect in the adoption of Bill 34-12 (if any) was minor,
51 because the County had in 2013 and continues to have the authority to

52 levy and collect from property owners an excise tax for the purpose of
53 producing revenue to fund the water quality protection measures needed
54 to ameliorate the environmental impact of stormwater runoff;

55 (d) All property owners have benefitted from water quality protection and
56 restoration measures made possible by the revenues generated from the
57 stormwater management charges imposed under Section 19-35; and

58 (e) It is just and proper that this Act take effect as of July 1, 2013 in order
59 that the public will continue to benefit from the water quality protection
60 and restoration measures undertaken and to be undertaken as a result of
61 the revenues provided by the Water Quality Protection Charge.

62 *Approved:*

63 *George Leventhal*

11/18/2015

George Leventhal, President, County Council

Date

64 *Approved:*

65

Isiah Leggett, County Executive

Date

66 *This is a correct copy of Council action.*

67

Linda M. Lauer, Clerk of the Council

Date