

MEMORANDUM

April 22, 2016

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Public Hearing:** Expedited Bill 11-16, Stormwater Management – Water Quality Protection Charge – Grants - Credits

Expedited Bill 11-16, Stormwater Management – Water Quality Protection Charge – Grants-Credits, sponsored by Lead Sponsor Council President on behalf of the County Executive, was introduced on April 5, 2016. A Transportation, Infrastructure, Energy and Environment Committee worksession is tentatively scheduled for May 5.

Expedited Bill 11-16 would:

- authorize establishment of a watershed restoration grant program for certain owners of improved aircraft landing areas to offset the cost of the Water Quality Protection Charge;
- clarify the eligibility criteria for a property owner to receive a Water Quality Protection Charge credit;
- expand the timeframe for a property owner to appeal the denial of a request for a credit or adjustment of the amount of the Water Quality Protection Charge billed to the property owner; and
- generally amend County law regarding the Water Quality Protection Charge.

A companion regulation, attached for informational purposes, is on ©15.

This packet contains:

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Expedited Bill No. 11-16
Concerning: Stormwater Management –
Water Quality Protection Charge –
Grants—Credits
Revised: _____ Draft No. _____
Introduced: April 5, 2016
Expires: October 5, 2017
Enacted: _____
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) authorize establishment of a watershed restoration grant program for certain owners of improved aircraft landing areas to offset the cost of the Water Quality Protection Charge;
- (2) clarify the eligibility criteria for a property owner to receive a Water Quality Protection Charge credit;
- (3) expand the timeframe for a property owner to appeal the denial of a request for a credit or adjustment of the amount of the Water Quality Protection Charge billed to the property owner; and
- (4) generally amend County law regarding the Water Quality Protection Charge.

By amending

Montgomery County Code
Chapter 19, Erosion, Sediment Control and Storm Water Management
Sections 19-29A 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:

- 55 (h) A person that believes that the Director of Environmental Protection
56 has mistakenly assigned a Charge to the person's property or
57 computed the Charge incorrectly may apply to the Director of
58 Environmental Protection in writing for a review of the Charge, and
59 request an adjustment to correct any error, not later than September 30
60 of the year that payment of the Charge is due. An aggrieved property
61 owner may appeal the Director's decision to the County Board of
62 Appeals within [10] 30 days after the Director issues the decision.
- 63 (i) A person that believes that the Director of Environmental Protection
64 has incorrectly denied the person's application for a credit or
65 exemption under subsection (e) may appeal the Director's decision to
66 the County Board of Appeals within [10] 30 days after the Director
67 issues the decision.

68 * * *

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

72

LEGISLATIVE REQUEST REPORT

Expedited Bill 11-16

Stormwater Management – Water Quality Protection Charge—Grants--Credits

DESCRIPTION: Expedited Bill 11-16 would clarify the eligibility criteria for a property owner to receive a credit against the Water Quality Protection Charge and extend the property owner's timeframe to appeal a Director's decision. It would also authorize establishment of a watershed restoration grant program for the owners of certain improved aircraft landing areas used by the public to offset the cost of the Charge.

PROBLEM: The owners of some properties that contain stormwater management systems maintained by the County have become eligible to receive credits against the Water Quality Protection Charge based on criteria that do not require the property owner to maintain the system. Also, the timeframe within which a property owner must request a credit or to challenge the amount of the Charge billed to that property owner is inadequate. The Montgomery County Airpark cannot divert additional air traffic to the County's only nearby private airport without the private airport expanding its airstrip. The private airport does not charge a fee for landing of aircrafts but is assessed the Charge for the impervious surface area of the airstrip, which the owner wishes to expand to receive the additional diverted traffic.

GOALS AND OBJECTIVES: To incentivize property owners to treat stormwater runoff from their properties by using and maintaining the most effective stormwater management systems for reducing the discharge of pollutants to the maximum extent practicable; to allow property owners more time to appeal the denial of a request for a credit or adjustment of the amount of the Water Quality Protection Charge billed to the property owner; and to offset the cost of paying the Charge through a watershed restoration grant program for certain owners of improved aircraft landing areas that are used by the public.

COORDINATION: Department of Environmental Protection

FISCAL IMPACT: See Fiscal Impact Statement.

ECONOMIC IMPACT: See Economic Impact Statement

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF
INFORMATION:

Vicky Wan, Department of Environmental Protection, 240-777-7722

APPLICATION
WITHIN
MUNICIPALITIES:

N/A

PENALTIES:

N/A

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

March 24, 2016

TO: Nancy Floreen, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Legislation Regarding Stormwater Management – Water Quality Protection Charge

The purpose of this memorandum is to transmit for introduction an expedited bill that modifies the Water Quality Protection Charge grant and credit programs. I am also attaching a Legislative Request Report and Fiscal and Economic Impact Statements for the bill. Because the changes are also included in the Executive Regulations governing the Charge program, I am also transmitting for informational purposes, the proposed regulations which makes conforming changes consistent with this bill.

The bill amendments are as follows:

1. Establish a watershed restoration grant program for certain owners of improved aircraft landing areas to offset the cost of the Water Quality Protection Charge - The only private airport in Montgomery County that is exempt from county property taxes under Section 8-302 of the Tax-Property Article, Maryland Code, allows for the public use of its airstrip for aircraft landing free of service charges and that airstrip is assessed a Water Quality Protection Charge. To offset the cost of paying the Charge, a property that meets the above definition can apply for a grant through the watershed restoration grant program.
2. Clarifies the eligibility criteria for a property owner to receive a credit – This section previously was ambiguous. Clarifying language has been added to clarify the intent that a credit will only be provided to property owners that

Nancy Floreen, Council President

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maintain stormwater management systems which the County does not have cost liabilities in performing structural maintenance.

3. Credit revocation – Currently a property owner can still be granted a credit even if a stormwater management system is found to be in non-working condition under Section 19-28, Inspection and Maintenance of Stormwater Management Systems. Language is added to allow DEP the ability to revoke a credit if the property owner does not correct deficiencies to satisfy the property owners' maintenance obligations under Section 19-28.
4. Extend the property owner's timeframe to appeal a Director's decision – Currently a property owner has 10 days after a Director issues the decision to appeal. This extends the timeframe to 30 days to give those property owners additional time to properly prepare a response.

The amendments to the accompanying Regulations are as follows:

1. Eligibility – Creates a credit eligibility section that clearly states that the stormwater management system must be maintained by the property owner exclusively and in accordance to the maintenance requirements under Section 19-28 of the Code for the property owner to be eligible to receive a credit.
2. Credit Awards –
 - i. Changes the credit award from being dependent on the type of stormwater management facility to now be based on the proportion of the volume of water treated by the stormwater management system.
 - ii. Increases the maximum credit for a nonresidential or multifamily residential property to 100 percent for treatment of adjacent properties.
 - iii. Change the maximum credit for complete onsite treatment of stormwater to 60 percent based on the county's impervious surface of 60 percent privately owned and 40 percent publically owned.
3. Credit revocation – Adds language to allow DEP the ability to revoke a credit if the property owner does not correct deficiencies to satisfy the property owners' maintenance obligations under Section 19-28.
4. Timeframe to appeal a Director's decision – Increases the timeframe for a property owner to appeal a Director's decision from 10-days to 30-days.

Nancy Floreen, Council President
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5. Watershed Restoration Grant – Adds language to allow a grant program for certain owners of improved aircraft landing areas to offset the cost of the WQPC.

If you have any questions about this bill, please contact Lisa Feldt, DEP Director at 240-777-7781.

Attachments: (5)

Bill XX-16
Legislative Request Report
Fiscal Impact Statement
Economic Impact Statement
Draft Executive Regulation XX-16

c: Joseph Beach, Director, Department of Finance
Jennifer Hughes, Director, Office of Management and Budget
Marc Hansen, County Attorney
Lisa Feldt, Director, Department of Environmental Protection
Bonnie Kirkland, Assistant Chief Administrative Officer

Economic Impact Statement
Expedited Bill XX-16, Stormwater Management
Water Quality Protection Charge Grants and Credits

Background:

This legislation would make the following changes to the Water Quality Protection Charge (WQPC):

- 1) Provide a grant to offset the cost of the WQPC to the owners of improved aircraft landing areas exempt from County property taxes under Section 8-302 of the Tax-Property ("TP") Article, Maryland Code;
- 2) Clarify the eligibility criteria for a property owner to receive a WQPC credit; and
- 3) Expand the timeframe for a property owner to appeal the denial of a request for a credit or adjustment of the amount of the WQPC billed to the property owner.

1. The sources of information, assumptions, and methodologies used.

The source of information is the Department of Environmental Protection (DEP) 2015 Water Quality Protection Charge Billing database. DEP revenue reduction assumes that the airport's runway configuration does not change.

2. A description of any variable that could affect the economic impact estimates.

Revenue-reduction estimates related to the WQPC grant program may fluctuate in future fiscal years depending on the amount of impervious surface area and the amount of the WQPC. However, even with an increase in impervious surface area, the revenue impact is expected to be minimal. Any revenue reductions due to grants are offset by adjustments to the WQPC in order to generate sufficient revenues to pay for the required stormwater management expenditures and to meet the debt service coverage ratio. Based on data provided by DEP, estimates of the revenue reduction related to the grant program increase from \$3,800 in FY17 to \$5,600 by FY22.

3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.

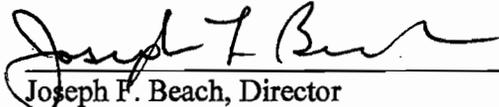
DEP estimates that the cost of the WQPC incurred by the airport is approximately \$4,500 in FY17. Therefore, the estimated difference in the cost of the WQPC and the grant of \$3,800 is \$700 costs borne by the aircraft landing area. Because of the small difference between the cost and the grant, Expedited Bill XX-16 would have no economic impact on employment, spending, saving, investment, incomes, and property values in the County.

4. If a Bill is likely to have no economic impact, why is that the case?

Expedited Bill XX-16 would have no economic impact as stated in paragraph 3.

**Economic Impact Statement
Expedited Bill XX-16, Stormwater Management
Water Quality Protection Charge Grants and Credits**

- 5. The following contributed to or concurred with this analysis:** David Platt and Rob Hagedoorn, Department of Finance; Vicky Wan and Patty Bubar, Department of Environmental Protection.



Joseph F. Beach, Director
Department of Finance

3/17/16
Date

Fiscal Impact Statement
Expedited Council Bill XX-16, Stormwater Management
Water Quality Protection Charge Grants and Credits

1. Legislative Summary.

This legislation would make the following changes to the Water Quality Protection Charge (WQPC):

- a) Provide a grant to offset the cost of the WQPC to the owners of improved aircraft landing areas exempt from County property taxes under Section 8-302 of the Tax-Property ("TP") Article, Maryland Code;
- b) Clarify the eligibility criteria for a property owner to receive a WQPC credit; and
- c) Expand the timeframe for a property owner to appeal the denial of a request for a credit or adjustment of the amount of the WQPC billed to the property owner.

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.

For Item 1a: Bill XX-16 is limited to owners of improved aircraft landing areas exempt from County property taxes under Section 8-302 of the Tax-Property ("TP") Article, Maryland Code. Currently there is one property in the county that meets this definition. The proposed bill would reduce the WQPC revenues by 40 equivalent residential units (ERUs), or approximately \$3,600 in FY16.

For Item 1b: No fiscal impact as a result of this change as this is inserting clarifying language for eligibility criteria.

This change does not alter the current policy of providing a credit only to those properties with facilities that are in proper working condition for which the Department of Environmental Protection (DEP) does not have responsibility to repair or generally manage.

The updated language also allows DEP to revoke a credit application if a facility was found to be deficient during the normal inspection process.

For Item 1c: No fiscal impact as a result of this change. This is expanding the current timeframe from 10 days to 30 days for a property owner to appeal the denial of a request for a credit or an adjustment.

This bill does not have a fiscal impact on expenditures.

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

For Item 1a: Assuming the airport's runway remains the same, the revenue reduction estimates related to the grant program is:

FY16: \$3,600

FY17: \$3,800

FY18: \$4,200

FY19: \$4,600
FY20: \$5,000
FY21: \$5,500
FY22: \$5,600

Any revenue reductions due to credits and/or grants is offset by adjustments to the WQPC in order to generate sufficient revenues to pay for the required stormwater management expenditures and to meet the debt service coverage ratio.

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

Not applicable.

- 5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not applicable.

- 6. Later actions that may affect future revenue and expenditures if the regulation authorizes future spending.**

Not applicable.

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

The additional time is not expected to be significant and can be absorbed by existing DEP staff.

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

Not Applicable.

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

Additional appropriation is not needed.

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

Not Applicable.

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

Not Applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

Not applicable.

13. Other fiscal impacts or comments.

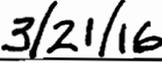
Not applicable.

14. The following contributed to and concurred with this analysis:

Vicky Wan, Department of Environmental Protection
Patty Bubar, Department of Environmental Protection
Matt Schaeffer, Office of Management and Budget
Alex Espinosa, Office of Management and Budget



Jennifer Hughes, Director
Office of Management and Budget



Date



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Water Quality Protection Charge	Number 12-16
Originating Department Department of Environmental Protection and Department of Finance	Effective Date

Montgomery County Regulation on:

WATER QUALITY PROTECTION CHARGE

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND
DEPARTMENT OF FINANCE

Issued by: County Executive
Regulation No. 12-16
COMCOR No. 19.35.01

Authority: Code Section 19-35
Supersedes: Executive Regulation 16-14AM
Council Review: Method (1) under Code Section 2A-15
Register Vol. 33 No. 4

Comment Deadline: April 30
Effective Date: _____
Sunset Date: None

Summary: This regulation, which amends Executive Regulation 16-14AM, modifies the Water Quality Protection Charge credit criteria and expands the timeframe for a property owner to appeal the denial of a request for a credit or adjustment of the amount of the Water Quality Protection Charge billed to the property owner.

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

Vicky Wan
Office of the Director
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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MONTGOMERY COUNTY EXECUTIVE REGULATION

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Originating Department Department of Environmental Protection and Department of Finance	Effective Date

19.35.01.01 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.

19.35.01.02 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 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 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 property that is subject to the condominium regime established under the Maryland Condominium Act.

Director means the Director of the Montgomery County Department of Environmental Protection or the Director's designee.

Eligible Nonprofit Property means real property owned by a 501(c)(3) nonprofit organization that is listed with the Maryland Department of Assessments and Taxation as exempt from *ad valorem* property taxes under State law

Equivalent Residential Unit or ERU means 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

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for the Water Quality Protection Charge. The designated ERU for Montgomery County equals 2,406 square feet of impervious surface.

Multifamily Residential Property means 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 means any area that is intended for parking of motor vehicles.

Water Quality Protection Charge or Charge means an [assessment] excise tax 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.

19.35.01.03 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 single family residential properties where the estimated total impervious area is greater than 0 square feet and 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

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square feet and includes the house, driveways, sidewalks, sheds, and any other fixtures on the property that are impenetrable by water.

- 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, nonprofit organizations, 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. Nonprofit Tier 1 (NP1): For eligible nonprofit property 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. Nonprofit Tier 2 (NP2): For eligible nonprofit property 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



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buildings, driveways, parking lots, sidewalks, and any other impermeable installations permanently attached to the land parcel containing those installations.

- L. Nonprofit Tier 3 (NP3): For eligible nonprofit property 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 and is assessed in accordance with the Single Family Residential Tier classification.

19.35.01.04 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) 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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Subject Water Quality Protection Charge	Number 12-16
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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: Except for eligible nonprofit property subject to nonprofit tier classifications under subsection D, 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 then multiplying the sum by the base rate to determine the amount billable to each unit owner.

D. Nonprofit properties: The Charge for eligible nonprofit property must not exceed the percent of the base rate for one ERU in accordance with the assigned tier classification as follows:

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



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

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

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.

19.35.01.05 Credits

A. Eligibility. If a property contains a stormwater management system, the system must be maintained by the property owner exclusively and in accordance with the maintenance requirements of Section 19-28 of the Code for the property owner to be eligible to receive a credit against the Water Quality Protection Charge.

B. Credit Awards.

(1) The Director must award a [maximum] credit [of 50] not to exceed 60 percent as specified in the application and the Water Quality Protection Charge Credit Procedures Manual provided by the Department, based on the proportion of the total volume of water [treated by a combination of] treatment provided by the stormwater management system relative to the environmental site design [and other stormwater management systems maintained by the property owner exclusively, or a maximum credit of 80 percent,] storage volume required under State law. The volume of treatment required will be based on the [volume of water completely treated by] environmental site design [practices alone, as] storage volume (ESDv) requirements specified in the 2000 Maryland Stormwater Design Manual, as amended.

(2) A nonresidential property or a multifamily residential [property owner if the property contains a County approved stormwater management system and the system is maintained by the property owner exclusively, 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 not to exceed 100 percent of the Charge billed to the property owner, if the stormwater management system located on the nonresidential property or multifamily residential property treats the required on-site environmental site design storage volume while at the same time providing additional storage volume for



MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject

Water Quality Protection Charge

Number

12-16

Originating Department

Department of Environmental Protection and Department of Finance

Effective Date

off-site drainage. The total credit will be determined by applying the percent credit of off-site property to the impervious area of that off-site property and then adding that computation to the credit for the on-site impervious area, not to exceed 100 percent of the total Charge billed to the property owner as specified in the application and the Water Quality Protection Charge Credit Procedures Manual provided by the Department.

- (3) The owner of [A] a property that does not contain a stormwater management system must be credited if that property is located within the same drainage area as another property that contains a stormwater management system [if] for which the County does not perform structural maintenance and 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.

- [B. The Director must award a maximum credit of 80 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 or agricultural property if the property contains a County approved stormwater management system that is maintained, by the property owner exclusively, 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 September 30 of the year that 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 September 30 of the year that payment of the Charge is due.

D. Credit Revocation.

- (1) The Director of Environmental Protection may revoke a credit granted under this Section if the property owner does not continue to take the measures needed to assure that the stormwater management system remains in proper working condition by correcting any deficiencies discovered by the Director during a maintenance inspection.



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- (2) The Director must not reinstate a revoked credit until the property owner has sufficiently corrected the deficiencies to fully satisfy the property owner's maintenance obligations under Section 19-28 of the Code.

E. Appeals.

- (1) If the Director denies or revokes 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] 30 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] 30 days after the Director issues that decision as provided in Chapter 2A, Article I, of the County Code.

19.35.01.06 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 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 19.35.01.07, 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 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



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priority as a lien imposed for nonpayment of real property taxes. The Charge must be collected in the same manner as real property taxes.

19.35.01.07 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.
- 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] 30 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] 30 days after the Director issues that decision as provided in Chapter 2A, Article I, of the County Code.



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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.

19.35.01.08 Requests for Exemption

- A. Before paying the Charge, the owner of residential property that is owner-occupied, or a 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 September 30 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[%] percent 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 nonprofit's total revenues derived from the property.
- 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.



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- 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] 30 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] 30 days after the Director issues that decision as provided in Chapter 2A, Article I, of the County Code.

19.35.01.09 Requests for Grants

[A homeowners' association] An owner of an improved aircraft landing area that is exempt from County property taxes under Maryland Code, Tax-Property Art., § 8-302, as amended, 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.

19.35.01.10 Severability

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

Isiah Leggett
County Executive