



Committee: T&E
Committee Review: Completed
Staff: Keith Levchenko, Senior Legislative Analyst
Purpose: Final action – vote expected
Keywords: #WaterQualityProtectionCharge and DEP

AGENDA ITEM #2
May 13, 2020
Action

SUBJECT

FY21 Water Quality Protection Charge Rate Resolution

EXPECTED ATTENDEES

None

DESCRIPTION/ISSUE

- The Council first created the Water Quality Protection Charge as part of Bill 28-00 in 2001 and made substantive changes to the charge in 2013 as part of Bill 34-12. The Council is required under County Code Section 19-35(c) to set the ERU rate each fiscal year by resolution. The resolution must be adopted no later than the date the Council approves the annual operating budget. The Council is tentatively scheduled to approve the resolution on May 13, 2020.
- On March 16, the County Executive transmitted a proposed resolution related to the Water Quality Protection Charge equivalent residential unit (ERU) rate for FY21 (see ©3-5). The Executive recommends an ERU rate of \$108.10 which is an increase of \$3.85 (or 3.7 percent) from the FY20 approved rate of \$104.25. The Executive's proposed resolution is consistent with the Executive's Recommended Fiscal Plan included in the FY21 Recommended Operating Budget.
- A public hearing was held on April 21, 2020.

COUNCIL STAFF RECOMMENDATION

- On May 7, the Council preliminarily approved reductions to the County Executive's Recommended FY21 Water Quality Protection Fund budget and increases within the FY21-26 Storm Drains Capital Improvements Program (which is funded from the Water Quality Protection Fund). **Based on these changes, Council Staff recommends an ERU rate of \$107.60 (\$0.50 lower than the Executive recommendation). A revised resolution is attached on ©1-2.**

This report contains:

Draft Resolution	1-2
March 16, 2020 Memorandum from the County Executive	3-5

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Resolution No.: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

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

SUBJECT: Water Quality Protection Charge for FY21

Background

1. Under County Code Section 19-35(c), each fiscal year the County Council must, by resolution, set the rate for the Water Quality Protection Charge.
2. Under County Code Section 19-35(d), the County Council may set a different rate for each type of property identified by regulation. If different rates are set, the rates must generally reflect the relative amount of impervious surface on each type of property.
3. Under Section 19.35.01.02 of the Code of Montgomery County Regulations (COMCOR), the base rate is the annually designated dollar amount set by the County Council to be assessed for each Equivalent Residential Unit (ERU) of property that is subject to the Water Quality Protection Charge (the "Charge"). The ERU is defined in COMCOR Section 19.35.01.02 as the statistical median of the total horizontal impervious area of developed single-family detached residences in the County. The designated ERU for Montgomery County equals 2,406 square feet of impervious surface.
4. Under COMCOR Section 19.35.01.04, properties subject to the Charge are assigned to one of the following classifications for purposes of determining the appropriate assessment rate:
 - a. For single-family residential properties, which include townhouses and duplexes, the Charge is assessed as a percentage of one ERU based on the total impervious area for each property. Properties in this classification are assigned to one of seven (7) tiers to determine the appropriate assessment rate, ranging from 33 percent of the base rate for an ERU up to 300 percent of the base rate.
 - b. For multifamily residential properties, the Charge is assessed based on the number of ERUs assigned to the property. The total impervious area for the property is divided by the ERU; the result is then multiplied by the base rate to determine the Charge. If the property is a condominium development, the Charge is assessed 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 this number by the base rate to determine the amount billable to each unit owner.

- c. For nonresidential properties, the Charge is assessed based on the number of ERUs assigned to the property. The total impervious area for the property is divided by the ERU; the result is then multiplied by the base rate to determine the Charge. If the nonresidential property is a condominium development, the Charge is 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 this number by the base rate to determine the amount billable to each unit owner.
 - d. If a property is owned by a non-profit organization (501(c)(3) organization), the property is assigned to one of three (3) tiers to determine the appropriate assessment rate, and the Charge must not exceed the percent of the base rate for one ERU in the respective Tier classification.
 - e. For agricultural properties, the Charge is assessed based on the percentage of one ERU of the base rate for the applicable single-family residential tier for the impervious area of the houses on these properties.
5. Under County Code Section 19-35(g), the Charge does not apply to any property located in a municipality that notifies the County it has imposed or intends to impose a similar charge to fund its stormwater management program in that municipality.

Action

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

The base rate for the Water Quality Protection Charge for Fiscal Year 21 is \$107.60 per Equivalent Residential Unit (ERU).

This resolution takes effect on July 1, 2020.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council

*Bud. Fin
+ Gen. Serv.*



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

*KL
CC
MM
SS
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LMM*

MEMORANDUM

March 16, 2020

TO: Sidney Katz, President, County Council

FROM: Marc Elrich, County Executive *Marc Elrich*

SUBJECT: FY21 Water Quality Protection Charge Recommended Rate

The purpose of this memorandum is to transmit the proposed resolution for the FY21 Water Quality Protection Charge recommended rate. The rate, as reflected in the attached resolution, is \$108.10 and is consistent with my FY21 Recommended Operating Budget. The recommended rate is sufficient to support our continued water quality remediation efforts in compliance with the State's Municipal Separate Storm Sewer System (MS4) permit requirements. I recommend the Council adopt this resolution as part of its deliberations on the FY21 Operating Budget.

ME:vw

Attachment: Resolution – FY21 Water Quality Protection Charge Recommended Rate

c: Andrew Kleine, Chief Administrative Officer
Fariba Kassiri, Deputy Chief Administrative Officer
Richard S. Madaleno, Director, Office of Management and Budget
Michael Coveyou, Director, Department of Finance
Adam Ortiz, Director, Department of Environmental Protection

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 - b. For Multifamily Residential Properties, the Charge is assessed based on the number of ERUs assigned to the property. The total impervious area for the property is divided by the ERU; the result is then multiplied by the Base Rate to determine the Charge. If the property is a condominium development, the Charge is assessed 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 this number by the Base Rate to determine the amount billable to each unit owner.

- c. For Nonresidential Properties, the Charge is assessed based on the number of ERUs assigned to the property. The total impervious area for the property is divided by the ERU; the result is then multiplied by the Base Rate to determine the Charge. If the nonresidential property is a condominium development, the Charge is 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 this number by the base rate to determine the amount billable to each unit owner.
 - d. If a property is owned by a Non-Profit organization (501(c)(3) organization), the property is assigned to one of three (3) tiers to determine the appropriate assessment rate; and the Charge must not exceed the percent of the Base Rate for one ERU in the respective Tier classification.
 - e. For Agricultural Properties, the Charge is based on the percent of the Base Rate for the applicable Single Family Residential Tier the property's impervious area would fall in.
5. Under County Code Section 19-35(g), the Charge does not apply to any property located in a municipality that notifies the County it has imposed or intends to impose a similar charge to fund its stormwater management program in that municipality.

Action

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Selena Mendy Singleton, Esq.
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