

Bill No. 28-00
Concerning: Storm Water Management -
Revisions
Revised: 11-20-01 Draft No. 6
Introduced: September 19, 2000
Enacted: November 20, 2001
Executive: November 28, 2001
Effective: February 27, 2002
Sunset Date: None
Ch. 27, Laws of Mont. Co. 2001

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

AN ACT to:

- (1) require the Department of Environmental Protection to maintain certain storm water management facilities under certain circumstances;
- (2) require the County to maintain certain private storm water management facilities;
- (3) clarify maintenance responsibilities for privately and publicly maintained storm water management facilities;
- (4) create a loan program to help property owners upgrade storm water management facilities before petitioning the County to assume maintenance responsibility for the facilities;
- (5) impose a water quality protection charge on certain properties, and provide for setting the rates of and collecting the charge; and
- [[(5)]] (6) consolidate duplicative provisions, and generally amend County laws regarding storm water management.

By amending

Montgomery County Code
Chapter 19, Sediment Control and Storm Water Management
[[Sections 19-20 through 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 19-20 through 19-35 are]] Chapter 19 is amended as**
 2 **follows:**

3 * * *

4 **[[19-19. Penalties and other forms of relief.**

5 Any violation of any provisions of this chapter or regulations adopted under
 6 this chapter is punishable as a class A violation as set forth in section 1-19 of chapter
 7 1 of this Code. Each day a violation continues to exist constitutes a separate
 8 offense.]]

9 **ARTICLE II. STORM WATER MANAGEMENT.**

10 **19-20. Purpose of article; [authority] scope.**

11 (a) It is the policy of the [c]County to:

- 12 (1) protect and promote the public health, safety and general welfare
- 13 through the management of storm water,
- 14 (2) [to] protect public and private property from damage,
- 15 (3) [to] reduce the effects of development on land and stream
- 16 channel erosion,
- 17 (4) [to] assist in the attainment and maintenance of water quality
- 18 standards, and
- 19 (5) [to] preserve and enhance the environmental quality of stream
- 20 valleys.

21 [To accomplish these purposes, functional master plans for watershed
 22 conservation and management shall be prepared, public storm water
 23 management facilities shall be planned and programmed, and
 24 regulations for storm water management shall be promulgated. It is
 25 further the policy of the county that, insofar as practicable, and in
 26 conformance with this chapter, all development occurring within the

27 county shall, as a minimum, be developed under a plan that minimizes
 28 water quality impacts on receiving streams and either contain on-site or
 29 provide off-site storm water management facilities adequate to control
 30 the increased runoff produced by the calculated two-year storm, or at
 31 such other standard as state law or the department shall adopt. The
 32 location and storage requirements shall be determined as provided by
 33 this chapter. In addition, a program for inspection and maintenance of
 34 storm water management shall be established by the executive.]

35 (b) The Maryland Storm Water Management Act, under the [Natural
 36 Resources] Environment Article, [s] Section [8-11A-01] 4-201 et seq., of
 37 the [Annotated Code of] Maryland Code, provides that a local
 38 government must not issue a grading or building permit [may not be
 39 issued] for a property unless the local government has approved a storm
 40 water management plan [has been approved by the local jurisdiction].
 41 This [a] Article does not infringe on the authority given to the [d] District
 42 by state law.

43 (c) The [county executive, or his designee, shall be] Departments of
 44 Environmental Protection and Permitting Services are responsible for
 45 [the coordination] coordinating and [enforcement of the provisions of]
 46 enforcing this [a] Article.

47 (d) This Article does not apply to construction of a single-family residence
 48 and any accessory building on a lot of 2 or more acres.

49 **19-21. Definitions.**

50 In this Article, the following words and phrases have the following meanings:

51 **Applicant:** A landowner, contract purchaser or other person[, partnership,
 52 corporation, other legal entity, or agent thereof, or any public agency, which] that

53 assumes the legal responsibility for [development of] developing land[,] subject to
 54 this Article [and Chapter].

55 **Associated nonresidential property:** a nonresidential property from which
 56 storm water drains into a storm water management facility that primarily serves
 57 one or more residential properties.

58 **Board:** The Montgomery County Planning Board[,] of the Maryland-National
 59 Capital Park and Planning Commission.

60 **[Commission:** The Maryland-National Capital Park and Planning
 61 Commission.]

62 **[Council:** The Montgomery County Council.]

63 **[County:** Montgomery County, Maryland.]

64 **Department:** The Department of [Permitting Services] Environmental
 65 Protection.

66 **[Detention facility:** A storm water management facility that does not have a
 67 permanent body of water.]

68 **Development:** A project [consisting] that consists of [the subdivision of]
 69 subdividing land[,] or adding buildings and other improvements to individual parcels
 70 of land[, including buildings and other improvements].

71 **Director:** The Director of the Department of [Permitting Services]
 72 Environmental Protection or [a duly authorized agent] the Director's designee.

73 **Director of Permitting Services:** The Director of the Department of
 74 Permitting Services or the designee of the Director of Permitting Services.

75 **District:** The Montgomery Soil Conservation District.

76 **[Easement:** A grant or reservation by the owner of land for the use of such
 77 land by others for a specific purpose or purposes, and which must be included in the
 78 conveyance of land affected by such easement.]

79 **Erosion:** The process by which the ground surface is worn away by the action
80 of wind [and/]or water.

81 **Executive:** The [c]County [e]Executive [of Montgomery County] or [a duly
82 authorized agent] the County Executive's designee.

83 **[Extended detention:** The controlled release of storm water over a prescribed
84 period of time.]

85 **Functional master plan:** A master plan for [the conservation] conserving and
86 [management of] managing a watershed [approved by the District Council and
87 adopted by the Commission].

88 **[Impervious:** The condition of being impenetrable by water.]

89 **[Imperviousness:** The degree to which a site is impervious.]

90 **[Maintenance:** Any action necessary to preserve storm water management
91 facilities in proper working condition, in order to serve their intended purposes and to
92 prevent structural failure of such facilities.]

93 **Off-site storm water management:** The design and construction of a facility
94 [necessary] to control storm water runoff from more than one development. An off-
95 site storm water management facility may be located in a development and would be
96 on-site with respect to that development, but the facility is off-site with respect to all
97 other developments the facility serves.

98 **On-site storm water management:** The design and construction of a facility
99 [necessary] to control all storm water runoff [within] in a development.

100 **Preliminary plan:** A preliminary plan of subdivision, [as provided for by]
101 approved under Chapter 50 [of this Code].

102 **Residential property:** A property that contains a detached dwelling unit, one
103 or more townhouses, duplexes or other attached dwelling units, or a multi-family
104 dwelling.

105 **[Retention facility:** A storm water facility which has a permanent body of
106 water.]

107 **Storm water:** That precipitation which travels over natural, altered, or
108 impervious surfaces to the nearest stream, channel, conduit, or impoundment and
109 appears in surface waters. **Storm water** also includes snow melt.

110 **Storm water management:** The collection, conveyance, storage, treatment
111 and disposal of storm water runoff [in a manner] as needed to prevent accelerated
112 channel erosion, increased flood damages [and/or [reduction of] reduced water
113 quality.

114 **Storm water management facility:** An infiltration device, vegetative filter,
115 structure, channel, pipe, weir, orifice, or combination of those measures, designed
116 and constructed to control storm water runoff in a way that prevents accelerated
117 stream channel erosion and the pollution of surface waters.

118 **Storm water management plan:** A set of representations[/, drawings or
119 other documents, including development phasing statements, submitted by an
120 applicant and containing the information and specifications as required by the
121 Department of Permitting Services under regulations adopted under this [a]Article
122 [and the provisions of this Chapter] pertaining to storm water management.

123 **Structural maintenance:** The inspection, construction, reconstruction,
124 modification, or repair of any part of a storm water management facility undertaken
125 to assure that the facility remains in the proper working condition to serve its
126 intended purpose and prevent structural failure. **Structural maintenance** does not
127 include landscaping, grass cutting, or trash removal.

128 **19-22. Watershed plans.**

129 [Pursuant to] Under [a]Article 28[, Annotated Code of] of the Maryland Code,
130 the [c]County [p]Planning [b]Board [shall] must prepare functional master plans for
131 conserving and managing each watershed in the County for the County Council's

132 review and approval [of the county council, functional master plans for the
 133 conservation and management of each watershed in the county]. Each functional
 134 master plan [shall] must contain, among other things, recommendations for potential
 135 locations of off-site storm water management and[/or] flood control facilities, and
 136 indicate the storage capacity required for each segment of the watershed contained in
 137 the plan. These plans [shall] must serve as a guide for public policies to protect the
 138 watersheds and for [the selection] selecting and scheduling [of] specific facilities for
 139 inclusion in the capital improvements program.

140 **19-23. Storm water management chapter.**

141 The [e]Executive [shall cause to be prepared] must submit a storm water
 142 management chapter to the Council, to be included as an integral part of the [ten] 10-
 143 year water supply/sewerage systems plan[, for approval by the county] that the
 144 Council adopts. The storm water management chapter [shall] must:

145 (a) be guided by the adopted functional master plans, if any, for watershed
 146 conservation and management;

147 (b) [and shall] outline [c]County policies and objectives for [the
 148 development of] developing off-site storm water management and[/or]
 149 flood control facilities during the ensuing [ten (10)] years[. The
 150 chapter shall];

151 (c) identify potential sites for off-site storm water management facilities
 152 and[/or] flood control facilities needed during and after the ensuing
 153 [six]6-year [CIP] capital improvements program period [and thereafter.
 154 The chapter shall also];

155 (d) address the problems of non-point-source contamination of streams and
 156 rivers[,] arising [from both] inside and outside the suburban sanitary
 157 district[,] and [shall]

158 (e) recommend policies toward [attainment of] attaining national, state,
159 regional, [or] and [c]County water quality standards or objectives.

160 **19-24. Off-site storm water management facilities.**

161 The [e]Executive [is directed] must annually [to] recommend the design and
162 construction of off-site storm water management facilities as projects in the capital
163 improvements program. Those recommendations [shall] must be guided by the
164 adopted functional master plans, if any, [by] the adopted [ten] 10-year water supply
165 and sewerage systems plan, and [by] the general policies of this [a]Article. The
166 [e]Executive [shall] must recommend a construction schedule for [CIP] capital
167 improvements program projects [to meet the need] to provide adequate protection of
168 the watersheds from the increases in storm water in the basins where contributing
169 development[(s)] occurs.

170 **19-25. Storm water management required for all development.**

171 [No] The Board must not approve an application for preliminary plan of
172 subdivision [shall be approved] unless [it] the application includes a statement
173 and[/or] drawing describing, in concept, [the manner in which] how erosion,
174 sediment, water quality impacts, and storm water[,] resulting from the development[,]
175 will be controlled or managed. This concept plan, which must be approved by the
176 [d]Department of Permitting Services, [shall] must indicate whether storm water will
177 be managed on-site or off-site and, if on-site, the general location and type of
178 management. [Those storm water management plans shall be referred for comment
179 to the department and other public agencies, as provided by sections 50-33A and 50-
180 35 of this Code.] [No] The Department of Permitting Services must not issue a
181 building, grading, or sediment control permit [shall be issued by the department] for
182 any parcel or lot created [prior to,] before or [subsequent to,] after the effective date
183 of this [a]Article[,] unless the Director of Permitting Services has approved a plan for
184 on-site storm water management [plan,] or a waiver [thereof,] of the on-site storm

185 water management requirement for the plat or parcel[, shall have been approved by
 186 the director that is consistent with the requirements of this chapter]. [The provisions
 187 of this article do not apply to construction of single-family residences, or their
 188 accessory buildings, on lots of two (2) acres or more, as set forth in state law.]

189 **19-26. On-site requirements; waivers.**

190 [Every applicant shall] A person that applies for a building permit must
 191 provide for on-site storm water management[, unless [upon] the Director of
 192 Permitting Services waives this requirement after receiving a written request from the
 193 applicant[, the director waives this requirement]. If a waiver is granted, [based on
 194 criteria by executive regulation,] the [d]Department of Permitting Services [shall]
 195 must require the applicant to provide:

- 196 (a) monetary contributions,
- 197 (b) drainage or conveyance improvements, or
- 198 (c) the grant of an easement [and/]or [the] a dedication of land[, for the
 199 County to construct [or] a storm water management facility [from the
 200 applicant, in lieu of the required on-site storm water management].

201 **19-27. Contributions.**

- 202 (a) **Monetary amount.** When an applicant obtains a waiver of the required
 203 on-site storm water management, the monetary contribution required
 204 [shall] must be made [in accordance with] under a fee schedule [(unless
 205 the developer and the county agree on a greater alternate contribution)]
 206 established as [a] part of the [rules and] regulations [promulgated]
 207 adopted by the [county] [e]Executive[, pursuant to] under [s]Section 19-
 208 31 [of this article, and]. The fee schedule must be based on the cubic
 209 feet of storage required for on-site management of the development in
 210 question[, in accordance with] under the soil conservation service
 211 formula unless the developer and the County agree on a greater alternate

212 contribution. The County must credit all [All] of the monetary
 213 contributions [shall be credited by the county] to the appropriate capital
 214 improvements program project. The monetary contribution [shall] must
 215 not exceed the cost of the otherwise required on-site storm water
 216 management facility. The applicant must make the monetary
 217 contribution [shall be made] to the [c]County [prior to the issuance of
 218 any] before the County issues a building permit for the development.

- 219 (b) **Dedication of land.** [In lieu] Instead of the applicant making a
 220 monetary contribution[,] to the County when [an] the applicant obtains a
 221 waiver of the [required] requirement to provide for on-site storm water
 222 management [pursuant to] under [s]Section 19-26 [of this article], the
 223 applicant may agree with the [d]Department of Permitting Services or
 224 the [commission] Board, [(if the Department of Permitting Services
 225 consents in writing for the site [is] to be added to parkland,)] may enter
 226 into an agreement with the applicant for the granting of an easement or
 227 the dedication of] to dedicate land [by the applicant, to be used] for [the]
 228 construction of [an off-site] a storm water management facility. The
 229 applicant must sign the agreement [shall be entered into by the applicant
 230 and] with the [d]Department of Permitting Services or the [commission]
 231 Board [prior to] before [the] recording [of] the plats. [or, if] If no
 232 [record] recorded plat is required, then the applicant must enter into the
 233 agreement with the Department of Permitting Services or the Board
 234 [prior to the issuance of] before the Department of Permitting Services
 235 issues the building permit. Whenever an applicant signs an agreement
 236 with the Board, the applicant must provide a certified copy to the
 237 Department of Permitting Services.

238 **19-28. County participation in on-site facilities.**

239 When the [d]Department of Permitting Services determines that additional
 240 storage capacity[,] beyond that required [by] of the applicant for on-site storm water
 241 management[,] is [necessary in order] needed to correct an existing problem[,] or to
 242 provide protection in a more desirable fashion for future development, [it] the
 243 Department may acquire, by purchase or dedication, additional land from the
 244 applicant or owner[, by purchase or dedication, additional land] as [may be]
 245 necessary, [and/]or the Department may participate financially in the construction of
 246 a storm water management facility to the extent that [it] the facility exceeds the
 247 required on-site storm water management. [Funds for participation in such projects
 248 shall be provided in the capital improvements program.]

249 **19-29. Inspection and maintenance[- Off] of off-site storm water**
 250 **management facilities.**

251 The Department must inspect and approve all off-site storm water
 252 management facilities for acceptance for County maintenance. [Following
 253 acceptance] After a facility is accepted, the Department must inspect each
 254 underground facility at least [twice each] once each year and each above-ground
 255 facility at least once every 3 years. The Department[, the Commission, or the
 256 Department of Public Works and Transportation] must maintain each accepted
 257 facility in good working condition [to ensure that the facility serves its intended
 258 purposes and to prevent structural failure of the facility].

259 **19-30. [Same-On] Inspection and maintenance of on-site storm water**
 260 **management facilities.**

261 (a) **Inspection and [enforcement of] maintenance of new facilities.**

262 (1) [Prior to the issuance of any] Before issuing a building permit[,]
 263 to develop any [residential property or associated
 264 nonresidential] property [which has] that requires an on-site
 265 storm water management facility [as one of the requirements of

266 the permit], the [d]Department [shall] of Permitting Services
267 must require the [applicant or] property owner to execute an
268 easement and an inspection and maintenance agreement that is
269 binding on all [[subsequent]] later owners of land served by the
270 on-site storm water management facility.

271 (2) The easement and agreement [shall provide for] must give the
272 County a perpetual right of access to the facility at [reasonable]
273 all times, [for periodic (yearly) inspection by the county, or their
274 contractor or agent, and for regular or special assessments of
275 property owners] to inspect, operate, monitor, install, construct,
276 reconstruct, modify, maintain, or repair any part of the storm
277 water management facility within the easement as needed to
278 [ensure] assure that the facility [is maintained] remains in proper
279 working condition [to meet] under approved design and
280 environmental standards [and any provisions established and
281 required by executive regulation]. The agreement must require
282 the owner to be responsible for all nonstructural maintenance of
283 the facility if the development consists of **residential** property or
284 **associated nonresidential property.** Otherwise, the agreement
285 must require the owner to be responsible for all maintenance of
286 the facility, including **structural maintenance.** [The easement
287 and agreement shall be recorded by the department in the land
288 records of the county. The agreement shall also provide that if,
289 after reasonable notice by the department to correct a violation of
290 the design standards or the executive regulation, satisfactory
291 corrections are not made by the owner(s), the department may
292 perform all necessary work to place the facility in proper working

293 condition, after proper notice, and assess the owner(s) of the
 294 facility for the cost of the work and any penalties; and the cost of
 295 the work shall be a lien on the property, or prorated against the
 296 beneficial users of the property, and may be placed on the tax bill
 297 and collected as ordinary taxes by the county.]

298 (3) The owner must record the easement and agreement in the
 299 County land records and deliver a certified copy of each recorded
 300 document to the Departments of Permitting Services and
 301 Environmental Protection.

302 (4) After the Department of Permitting Services issues a completion
 303 certificate for the new storm water management facility under
 304 Section 19-14, the County must perform all structural
 305 maintenance on the facility if the facility serves **residential**
 306 property or **associated nonresidential property**. No other
 307 person may perform structural maintenance on a storm water
 308 management facility that the County is required to structurally
 309 maintain without the County's written consent.

310 (b) **Maintenance of existing facilities.**

311 (1) The owner of an on-site storm water management facility that is
 312 not subject to subsection (a) must perform all structural
 313 maintenance needed to keep the facility in proper working
 314 condition. [[unless the]] The owner [[executes]] of a **residential**
 315 **property or associated nonresidential property, or a**
 316 **homeowners' association which includes the residential property,**
 317 **may execute a storm water management easement granting the**
 318 **County a perpetual right of access to inspect, operate, monitor,**
 319 **install, construct, reconstruct, modify, maintain, or repair any part**

320 of the storm water management facility within the easement as
 321 needed to assure that the facility remains in proper working
 322 condition.

323 (2) If the owner of a storm water management facility grants a storm
 324 water management easement to the County, the owner must make
 325 any structural repairs needed to place the facility in proper
 326 working condition, as determined by the Department, before the
 327 County enters into an agreement with the owner that obligates the
 328 County to assume responsibility for structural maintenance of the
 329 facility. After the owner and the County have agreed that the
 330 County will assume responsibility for structural maintenance of
 331 the facility, the owner must record the easement and any other
 332 agreements executed in conjunction with the easement that are
 333 binding on subsequent owners of land served by the facility in the
 334 County land records. The owner must deliver a certified copy of
 335 each recorded document to the Department of Environmental
 336 Protection.

337 (3) After the Department receives a certified copy of the easement
 338 and agreements, the County must structurally maintain the
 339 facility as provided in subsection (a).

340 (c) **Abandonment instead of repair.**

341 The Department must inspect each storm water management facility to
 342 see what repairs, if any, are needed to restore the facility to proper
 343 working condition. If after reviewing the existing drainage patterns,
 344 age, and design of a storm water management facility, the Director finds
 345 that it is more prudent to [[abandon]] stop using the facility for storm
 346 water control functions rather than restore it to proper working

347 condition, or finds that the facility is no longer needed to control storm
 348 water runoff because of later land use changes, the owner must
 349 [[remove the facility or take other appropriate abandonment action]]
 350 abandon the use of the facility for storm water functions as the Director
 351 orders. Any order issued under this subsection must not restrict the
 352 facility from being used for recreational or other purposes not related to
 353 storm water control.

354 (d) **Nonstructural maintenance.**

355 The owner of an on-site storm water management facility must provide
 356 landscaping and perform any other nonstructural maintenance that
 357 impacts the effectiveness of routine structural maintenance, performed
 358 either privately or publicly. Among other actions, the owner must:

- 359 (1) prevent the accumulation of solid waste on the property and the
 360 generalized growth of weeds or [[grasses higher than 12 inches]]
 361 plants in violation of Section 58-3;
 362 (2) clear any woody vegetation, including trees and brush, within 25
 363 feet of the facility's control structure and within 15 feet of an
 364 upstream or downstream dam embankment; and
 365 (3) abate any other condition on the property that the Department
 366 reasonably finds may adversely affect the facility's proper
 367 functioning.

368 [(b)] (e) **Emergency authority.**

369 If, after an inspection by the [d]Department, the [d]Director
 370 [determines] finds that the condition of a privately maintained storm
 371 water management facility presents an immediate danger to the public
 372 health or safety because of an unsafe condition or improper
 373 maintenance, then the [d]Director [shall] must take [such] needed

374 actions [as may be necessary] to protect the public and make the facility
 375 safe, including entering the property to make needed repairs. The
 376 County must assess any [Any] costs incurred [by the county] as a result
 377 of the [d]Director's [action] actions [shall be assessed] against [the] each
 378 owner[(s)] of the facility[, as provided in subsection (a) of this section].
 379 The assessment is a lien on the property and may be collected in the
 380 same manner and subject to the same penalties as ordinary taxes.

381 [(c) **Dedication in lieu of agreement.** In lieu of an inspection and
 382 maintenance agreement, the director may accept dedication of any
 383 existing or future storm water management facility for county
 384 maintenance, provided such facility meets all the requirements of this
 385 chapter and includes adequate and perpetual access and sufficient area,
 386 by easement or otherwise, for inspection and regular maintenance by the
 387 county.]

388 (f) **Disposal of materials from maintenance.** A person that transports
 389 materials or debris resulting from the repair, cleaning, or maintenance of
 390 a storm water management facility must dispose of the materials or
 391 debris at a facility that has a valid permit to accept the type of materials
 392 or debris being deposited.

393 **19-31. Regulations[; interagency agreements].**

394 The [director may recommend written regulations for the administration of the
 395 provisions of this article, and shall hold public hearings as part of this regulation-
 396 making process, with opportunity for full participation by the commission. Such
 397 regulations, and amendments thereto, shall not conflict with, nor waive, any of the
 398 provisions of this chapter, nor be less restrictive than its provisions, but may exempt
 399 development activities which the director determines do not require regulation under
 400 this chapter, and shall become effective upon their adoption by the] [c]County

401 [e]Executive may adopt regulations under method (2) [of section 2A-15 of this Code]
 402 to implement this Article. [Such] Those regulations [shall] must [include the
 403 establishment of] establish a fee schedule for the monetary contributions to be paid to
 404 the [c]County[, in lieu] instead of constructing the required on-site storm water
 405 management facility[, and]. The regulations may also include design standards and
 406 other criteria or procedures necessary to implement [the provisions of] this [a]Article.
 407 [The executive, the district and the board shall, within sixty (60) days following the
 408 effective date of this article, execute such agreements as may be necessary to
 409 implement its provisions, including the monitoring and review on a periodic basis, of
 410 the effect that the program has had on the watersheds of the county. These
 411 agreements shall become effective within thirty (30) days of their effective date,
 412 unless disapproved by the county council.]

413 **19-32. Performance bond.**

414 (a) **Procedures.**

415 (1) [Prior to the issuance of any] Before issuing a building permit
 416 [for construction of] to construct a development requiring a storm
 417 water management facility, the [d]Director of Permitting Services
 418 [shall] must require from the applicant or owner a performance or
 419 cash bond, irrevocable letter of credit, certificate of guarantee, or
 420 other instrument from a financial institution or issuing
 421 [organization or entity] person, in a form satisfactory to [him] the
 422 Director of Permitting Services and [approved by] the [c]County
 423 [a]Attorney, for the construction of the on-site storm water
 424 management facility in an amount equal to the estimated cost of
 425 [such] that construction.

426 (2) For [the] purposes of this [a]Article, a certificate of guarantee is
 427 an instrument issued by [an organization or entity which] a

428 person that is approved by the [d]Director of Permitting Services
 429 and meets [such] the capitalization and other reasonable criteria
 430 [as are] established by [executive] regulation [adopted under
 431 method (2) of section 2A-15 of this Code,]. [including, but not
 432 limited to] These criteria must include the demonstrated
 433 expertise of the issuing [organization] person or its members in
 434 storm water management[;] and the incidence of [violation of, or
 435 otherwise failing to comply] noncompliance with[, the provisions
 436 of] this [c]Chapter by all members of the issuing [organization or
 437 entity] person. The certificate of guarantee [shall] must only be
 438 issued by the approved [organization or entity] person on behalf
 439 of members in good standing of that [organization or entity]
 440 person. Any question [as to] concerning the eligibility of an
 441 applicant to post a certificate of guarantee [shall] must be
 442 resolved by the [d]Director of Permitting Services [in his sole
 443 discretion].

444 (3) The bond, letter of credit, certific ate [or] of guarantee, or other
 445 instrument [shall] must be conditioned [upon] on the faithful
 446 performance of the terms and conditions of the approved storm
 447 water management plan and the construction of the facility as [set
 448 forth] provided in [such] that plan and [the provisions of] this
 449 [a]Article. The bond, letter of credit, certificate of guarantee, or
 450 other instrument [shall] must inure to the benefit of the [c]County
 451 and to any person aggrieved by the [applicant's or owner's] failure
 452 of the applicant or owner to comply with the conditions [thereof]
 453 of that bond, letter of credit, certificate of guarantee, or other
 454 instrument.

- 455 (4) The Director of Permitting Services must not release the bond,
 456 letter of credit, certificate of guarantee, or other instrument [shall
 457 not be fully released by the director] until [a final inspection has
 458 been made by] the [d]Department of Permitting Services has
 459 made a final inspection and found that the storm water
 460 management facility [has been certified by the department as
 461 being in compliance] complies with the approved plan and [the
 462 provisions of] this [c]Chapter.
- 463 (5) [In addition, the department] The Department of Permitting
 464 Services may also [establish,] permit [by executive regulation,
 465 adopted under method (2) of section 2A-15 of this Code, a
 466 procedure whereby the] an applicant [may] to enter into an
 467 agreement with the [c]County and provide a bond, letter of credit,
 468 certificate of guarantee, or other instrument equal to the cost of
 469 the storm water management facility [with] to the [c]County.
 470 The agreement [shall] must [set forth] specify the various stages
 471 of the work to be done on the facility. [Upon completion of]
 472 After completing each stage, the applicant [shall] must notify the
 473 [d]Department that [he] the applicant is ready for an inspection
 474 and, [upon certification by] after the [d]Director of [the
 475 department] Permitting Services certifies that [such] the applicant
 476 has completed that stage [has been completed in accordance
 477 with] under the approved plan and requirements of this
 478 [c]Chapter, the [d]Director of [the department] Permitting
 479 Services may reduce the bond, letter of credit, certificate of
 480 guarantee, or other instrument pro rata[,] or may direct the
 481 [d]Director of [f]Finance to refund to the applicant a prorated

482 share of the amount deposited by the applicant with the
483 [c]County.

484 (b) The [d]Director of Permitting Services [shall] must immediately revoke
485 the building permit [upon failure of] if the permittee [to] does not
486 maintain [such] the bond or certificate of guarantee. Whenever the
487 [d]Director of Permitting Services [shall find a violation of] finds that a
488 person issuing certificates of guarantee has violated an applicable law or
489 regulation [by an organization or entity issuing certificates of
490 guarantee], [he] the Director of Permitting Services may immediately
491 revoke all permits of members of that [organization or entity] person for
492 which a certificate of guarantee has been posted[,]. [and] The Director
493 of Permitting Services may also post stop work orders wherever
494 applicable until the person substitutes an appropriate bond or other
495 instrument acceptable to the [c]County [is substituted] for the
496 certificates [or] of guarantee.

497 **19-33. Agreements between the [c]County and municipalities.**

498 (a) The [e]Executive [shall] must inform any incorporated [city, town,]
499 municipality [or other unit of local government located within] in the
500 [c]County [and possessing powers to] that may regulate storm water
501 management of any proposed storm water management facility,
502 development or plan [which] that could affect storm water management
503 [within its jurisdiction] in the municipality. The [b]Board [shall] must
504 inform any [such unit of government] municipality of any functional
505 master plan or preliminary plan of subdivision[, which] that may affect
506 storm water management[, within its jurisdiction] in the municipality.

507 (b) The [c]County and the [b]Board may enter into cooperative agreements
508 with any incorporated [city, town or other] municipality [within] in the

509 [c]County concerning any matter relating to storm water management,
 510 including[, but not limited to,] the planning, design, construction, and
 511 maintenance of storm water management facilities and monetary
 512 contributions for storm water management. The [c]County and the
 513 [b]Board may enter into [such] those cooperative agreements [in order]
 514 to coordinate storm water management activities with any [unit of local
 515 government,] municipality to avoid duplication of effort and to
 516 minimize the costs associated with an effective storm water
 517 management program.

518 (c) If a municipality operates a storm water management program that
 519 serves substantially the entire municipality and meets all applicable
 520 federal and state standards, the County must reimburse the municipality,
 521 subject to appropriation, for the cost of operating the program, limited to
 522 the amount the Director estimates the County would spend for that
 523 municipality if it were operating the program, by means of a cooperative
 524 agreement under subsection (b).

525 **19-34. Storm water management loan program.**

526 (a) The Department must create a Storm Water Management Loan
 527 Program. The Program must provide direct loans to eligible
 528 homeowners' associations and other **residential and associated**
 529 **nonresidential property** owners to:

- 530 (1) make structural repairs to restore a storm water management
 531 facility to acceptable design standards before the owner petitions
 532 the County to assume responsibility for future structural
 533 maintenance of the facility under Section 19-30(b), or
 534 (2) cover the cost of abandoning a facility under Section 19-30(c).

535 (b) The fund for the Program consists of:

- 536 (1) all funds appropriated to it;
- 537 (2) all payments on any loan from the Program;
- 538 (3) all interest earned on funds in the Program; and
- 539 (4) all funds received from any other public or private entity.
- 540 (c) The County Executive must adopt regulations under method (2) to
- 541 administer the Program. These regulations should include:
- 542 (1) lending standards and priorities;
- 543 (2) terms and conditions of loans;
- 544 (3) application procedures;
- 545 (4) procedures for loan applicants to request reconsideration of a
- 546 decision to deny a loan or a decision on interest rates, terms, and
- 547 conditions; and
- 548 (5) collection procedures in cases of nonpayment or default.

549 **[19-34] [[19-35. Violations[,] and penalties [and other relief].**

550 Any [person who violates any provisions] violation of this [a]Article [shall be

551 subject to the provisions of section 19-19] is punishable as a class A civil violation.

552 Each day that a violation continues is a separate offense.]]

553 **[19-35. Grandfather clause.**

554 Any applicant or owner of a parcel of land within the county, who has

555 constructed the required on-site storm water management facility or who is in the

556 process of meeting the storm water management requirements of the law at the time

557 of the effective date of this article may elect to apply to the director and/or the

558 planning board for reconsideration under the provisions of this article.]

559 **19-35. Water Quality Protection Charge.**

560 (a) As authorized by state law (Maryland Code, Environment Art., §4-204),

561 the Director of Finance must annually impose and collect a Water

562 Quality Protection Charge, as provided in this Section. The Director

563 must collect the Charge in the same manner as County real property
564 taxes, apply the same interest, penalties, and other remedies (including
565 tax sale) if the Charge is not paid, and generally treat the Charge for
566 collection and administration purposes as if it were a County real
567 property tax. The Director may treat any unpaid Charge as a lien on the
568 property to which the charge applies.

569 (b) The Charge must be imposed on each **residential property** and
570 **associated nonresidential property**, as specified in regulations
571 adopted by the Executive under Method (1) to administer this Section.
572 The regulations may define different classes of real property, depending
573 on the amount of impervious surface on the property, storm water
574 runoff from the property, and other relevant characteristics, for purposes
575 of applying the charge.

576 (c) The Council must set the rate or rates for the Charge by a resolution
577 adopted each year after holding a public hearing with at least 15 days'
578 notice. The resolution must be adopted no later than the date the
579 Council approves the annual operating budget and presented to the
580 Executive within 3 days after the Council adopts it. If the Executive
581 disapproves a resolution adopted under this Section within 10 days after
582 the Council adopts it and the Council readopts it by a vote of six
583 Councilmembers, or if the Executive does not act within 10 days after
584 the Council adopts it, the resolution takes effect. Unless the resolution
585 specifies otherwise, the rates must take effect on the July 1 after the
586 resolution is adopted.

587 (d) In the resolution adopted under subsection (c), the Council may set a
588 different rate for each type of property defined by regulation. If

589 different rates are set, the rates must generally reflect the relative
 590 amount of impervious surface on each type of property.

591 (e) The regulations may allow credits against and exemptions from the
 592 Charge:

593 (1) to the extent that credits and exemptions are not prohibited by
 594 state law; and

595 (2) if each credit or exemption will enhance water quality or
 596 otherwise promote the purposes of this Article.

597 (f) The Director must deposit funds raised by the Charge, and funds for this
 598 purpose from any other source, into a storm water management fund.

599 The fund must only be appropriated for:

600 (1) construction, operation, and maintenance of storm water
 601 management facilities, and related expenses;

602 (2) enforcement and administration of this Article; and

603 (3) any other activity authorized by this Article or Maryland Code,
 604 Environment Art., §4-204.

605 (g) This Charge does not apply to any property located in a municipality in
 606 the County which:

607 (1) operates a storm water management program that meets all
 608 applicable federal, state, and County requirements and has
 609 received any necessary federal or state permit; and

610 (2) imposes a similar charge or other means of funding its storm
 611 water management program in that municipality.

612 * * *

613 **[[19-46. Enforcement.**

614 Any violation of this chapter or regulations adopted under it is a class A
 615 violation.]]

616 * * *

617 **19-53. Enforcement[[, Penalties and Compliance]].**

618 * * *

619 [[(g) Any violation of this Article is a Class A violation. Each day a violation
620 continues is a separate offense.]]

621 [[(h)]] (g) * * *

622 [[(i)]] (h) * * *

623 * * *

624 **19-69 Violations.**

625 Any violation of this Chapter is a Class A violation. Each day a violation
626 continues is a separate offense.

627 **Sec. 2. Transition.** Until superseded, a Regulation issued before this Act
628 took effect remains in effect to the extent the regulation is consistent with Chapter 19,
629 as amended by this Act. This Act does not apply to a violation of Chapter 19 that
630 initially accrued before this Act took effect.

631 *Approved:*

632 /S/ November 21, 2001

Blair G. Ewing, President, County Council Date

633 *Approved:*

634 /S/ November 28, 2001

Douglas M. Duncan, County Executive Date

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

636 /S/ November 30, 2001

Mary A. Edgar, CMC, Clerk of the Council Date