

Bill No. 45-01
Concerning: Storm Water Management -
Requirements
Revised: 3-6-02 Draft No. 3
Introduced: December 11, 2001
Enacted: March 12, 2002
Executive: March 21, 2002
Effective: June 20, 2002
Sunset Date: None
Ch. 3, Laws of Mont. Co. 2002

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

AN ACT to:

- (1) bring the County's stormwater management law into compliance with state stormwater management requirements for local jurisdictions; and
- (2) generally amend County laws regarding stormwater management.

By amending

Montgomery County Code
Chapter 19, Sediment Control and Storm Water Management
Sections 19-20 through 19-34

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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

Sec. 1. Sections 19-20 to 19-34 are amended as follows:

ARTICLE II. [STORM WATER] STORMWATER MANAGEMENT.

19-20. Purpose of article; scope.

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

- (1) protect and promote the public health, safety and general welfare through the management of storm water,**
- (2) protect public and private property from damage,**
- (3) reduce the effects of development on land and stream channel erosion,**
- (4) assist in the attainment and maintenance of water quality standards, and**
- (5) preserve and enhance the environmental quality of stream valleys.**

(b) The Maryland Storm Water Management Act, under the Environment Article, Section 4-201 et seq., of the Maryland Code, provides that a local government must not issue a grading or building permit for a property unless the local government has approved a storm water management plan. This Article does not infringe on the authority given to the District by state law.

(c) The Departments of Environmental Protection and Permitting Services are responsible for coordinating and enforcing this Article.

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

The purpose of this Article is to protect, maintain and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with

27 increased stormwater runoff from developed and developing lands. The
 28 policy of the County is to minimize damage to public and private property,
 29 reduce the effects of development on stream water quality, control stream
 30 channel erosion, reduce local flooding, and, to the extent reasonable, maintain
 31 the pre-development runoff characteristics of land after development through
 32 proper management of stormwater runoff.

33 **19-21. Definitions.**

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

36 **Administration:** The Water Management Administration of the Maryland
 37 Department of the Environment.

38 **Applicant:** A landowner, contract purchaser or other person that assumes the
 39 legal responsibility for developing land subject to this Article.

40 **Associated nonresidential property:** [[a]] A nonresidential property from
 41 which [storm water] stormwater drains into a [storm water] stormwater
 42 management facility that primarily serves one or more residential properties.

43 **Best management practice:** A structural device or nonstructural practice
 44 designed to temporarily store or treat stormwater runoff to mitigate flooding, reduce
 45 pollution, recharge groundwater, and provide other amenities.

46 **Board:** The [[Montgomery]] County Planning Board [[of the Maryland-
 47 National Capital Park and Planning Commission]].

48 **Channel protection storage volume:** The volume used to design structural
 49 management practices to control stream channel erosion.

50 **Commission:** The Maryland-National Capital Park and Planning Commission.

51 **Department:** The [[Montgomery County]] Department of [Environmental
 52 Protection] Permitting Services.

53 **Design Manual:** The applicable Maryland Stormwater Design Manual which
54 serves as the official guide for stormwater management principles, methods, and
55 practices in Maryland.

56 **Development:** A project that consists of subdividing land or adding buildings
57 and other improvements to individual parcels of land.

58 **Director:** The Director of the Department of [Environmental Protection]
59 Permitting Services or the Director's designee.

60 **Director of [Permitting Services] Environmental Protection:** The Director of
61 the Department of [Permitting Services] Environmental Protection, or the designee of
62 the Director of [Permitting Services] Environmental Protection.

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

64 **Drainage area:** That area, which is enclosed by a ridge line, that contributes
65 runoff to a single point, measured in a horizontal plane.

66 **Erosion:** The process by which the ground surface is worn away by the action
67 of wind, [or] water, ice, or gravity.

68 **Executive:** The County Executive or the County Executive's designee.

69 **Extreme flood volume:** The storage volume required to control the infrequent
70 but large storm events during which overbank flows reach or exceed the boundaries
71 of the 100-year floodplain.

72 **Functional master plan:** A master plan for conserving and managing a
73 watershed [[approved by the District Council and adopted by the Commission]].

74 **Off-site [storm water] stormwater management:** The design and
75 construction of a facility to control [storm water] stormwater runoff from more than
76 one development. An off-site [storm water] stormwater management facility may
77 be located in a development and would be on-site with respect to that development,
78 but the facility is off-site with respect to all other developments that the facility
79 serves.

80 **On-site [storm water] stormwater management:** The design and
81 construction of a facility to control all [storm water] stormwater runoff in a
82 **development.**

83 **Person:** An individual, corporation, firm, partnership, joint venture, agency,
84 organization, municipal corporation, County or state agency, or any combination of
85 them.

86 **Preliminary plan:** A preliminary plan of subdivision, approved under Chapter
87 50.

88 **Recharge volume:** That portion of the water quality volume used to maintain
89 groundwater recharge rates at a development site.

90 **Redevelopment:** Any construction, alteration, or improvement which:

91 (a) exceeds 5,000 square feet of land disturbance; and

92 (b) is performed on a site where the existing land use is commercial,
93 industrial, institutional, or multifamily residential.

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

97 **Sediment:** Soils or other surficial materials transported or deposited by the
98 action of wind, water, ice, or gravity as a product of erosion.

99 **Site:** Any tract, lot, or parcel of land, or combination of tracts, lots, or parcels
100 of land, which are under one ownership, or are contiguous and under diverse
101 ownership, where development is performed as part of a unit, subdivision, or project.

102 **[Storm water] Stormwater:** That precipitation which travels over natural,
103 altered, or impervious surfaces to the nearest stream, channel, conduit, or
104 impoundment and appears in surface waters. **[Storm water] Stormwater** also
105 includes snow melt.

106 **[Storm water] Stormwater management:** The collection, conveyance,
 107 storage, treatment, and ~~[[disposal]]~~ control of [storm water] **stormwater** runoff as
 108 needed to [prevent] reduce accelerated channel **erosion**, increased flood damages, or
 109 [reduced] water [quality] pollution.

110 **[Storm water] Stormwater management facility:** An infiltration device,
 111 vegetative filter, structure, channel, pipe, weir, orifice, or combination of those
 112 measures, designed and constructed to control [storm water] **stormwater** runoff ~~[[in~~
 113 a way that prevents]] to reduce accelerated stream channel **erosion** and ~~[[the]]~~
 114 pollution of surface waters.

115 **[Storm water] Stormwater management plan:** A set of representations,
 116 drawings or other documents, including **development** phasing statements, [submitted
 117 by an applicant and containing] which contains all of the information and
 118 specifications [as required by] that the **Department** [of Permitting Services under
 119 regulations adopted under this Article pertaining to] requires an applicant to submit
 120 in order to obtain a [storm water] **stormwater management** approval.

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

126 **Watershed:** The total drainage area contributing runoff to a single point.

127 **Watershed management plan:** A plan to satisfy the regulatory requirements
 128 of the County's National Pollutant Discharge Elimination System permit issued by
 129 the Maryland Department of the Environment under the federal Clean Water Act.

130 **Water quality volume:** The volume needed to capture and treat 90 percent of
 131 the average annual runoff volume at a development site.

132 **19-22. Watershed plans.**

133 [Under Article 28 of the Maryland Code, the County Planning Board must
 134 prepare functional master plans for conserving and managing each watershed in the
 135 County for the County Council's review and approval. Each functional master plan
 136 must contain, among other things, recommendations for potential locations of off-site
 137 storm water management and flood control facilities, and indicate the storage
 138 capacity required for each segment of the watershed contained in the plan. These
 139 plans must serve as a guide for public policies to protect the watersheds and for
 140 selecting and scheduling specific facilities for inclusion in the capital improvements
 141 program.]

142 (a) The Department of Environmental Protection, in cooperation with the
 143 Department, the Board, and other appropriate agencies, may develop
 144 watershed management plans to implement stormwater
 145 management policies that apply individually to specific watersheds in
 146 the County. Each watershed management plan should:

- 147 (1) include detailed hydrologic and hydraulic analyses to determine
 148 hydrograph timing;
- 149 (2) evaluate stormwater quantity and quality, and base flow and
 150 groundwater management needs;
- 151 (3) include a cumulative impact assessment of watershed
 152 development;
- 153 (4) identify existing flooding, receiving stream channel, water
 154 quality, biological resources, and habitat conditions;
- 155 (5) specify the types of quantitative stormwater management,
 156 stream restoration and wetlands protection practices to be
 157 implemented;
- 158 (6) identify specific opportunities for stormwater retrofit, [[and]]
 159 stream and wetlands restoration, and groundwater recharge;

- 160 (7) specify where the Department may grant waivers of on-site
 161 stormwater management controls:
- 162 (8) be consistent with the Design Manual's General Performance
 163 Standards for Stormwater Management in Maryland: and
- 164 (9) be approved by the Administration.
- 165 (b) The Board should prepare functional master plans under Article 28 of
 166 the Maryland Code to preserve, conserve, and manage natural resources
 167 in each of the County's watersheds for the County Council's review
 168 and approval. Each functional master plan should address land use,
 169 improvements impact on streams and waterways, stream buffers, wildlife
 170 and stream habitat, forest preservation, and other issues related to the
 171 permitting of stormwater management facilities and the development
 172 of watershed management plans.

173 **[19-23. Storm water management chapter.**

174 The Executive must submit a storm water management chapter to the Council,
 175 to be included as an integral part of the 10-year water supply/sewerage systems plan
 176 that the Council adopts. The storm water management chapter must:

- 177 (a) be guided by the adopted functional master plans, if any, for watershed
 178 conservation and management;
- 179 (b) outline County policies and objectives for developing off-site storm
 180 water management and flood control facilities during the ensuing 10
 181 years;
- 182 (c) identify potential sites for off-site storm water management facilities
 183 and flood control facilities needed during and after the ensuing 6-year
 184 capital improvements program period;
- 185 (d) address the problems of non-point-source contamination of streams and
 186 rivers arising inside and outside the suburban sanitary district; and

187 (e) recommend policies toward attaining national, state, regional, and
 188 County water quality standards or objectives.]

189 **19-23. Stormwater management plans.**

190 (a) Concept plan. Before the **Board** may approve a **preliminary plan** of
 191 subdivision, **an applicant must submit a stormwater management**
 192 **concept plan to the Department for review and approval.** If a
 193 **preliminary plan of subdivision or site plan is not required,** the
 194 **applicant must submit a stormwater management concept plan to the**
 195 **Department for review and approval before submitting an application**
 196 **for a sediment control permit.** Each concept plan is subject to the
 197 following conditions and requirements:

- 198 (1) The plan must indicate how the stormwater management
 199 criteria will be applied to each proposed development or
 200 redevelopment project. The Department may require a plan to
 201 analyze the downstream effects of any proposed development or
 202 redevelopment project. The applicant may include structural
 203 and nonstructural stormwater management measures in the
 204 plan. The design criteria and methodologies used in developing
 205 the plan must be consistent with criteria specified in the Design
 206 Manual and any other criteria established by regulation.
- 207 (2) Any stormwater management plan must be consistent with any
 208 watershed management plan that the Department of
 209 Environmental Protection has approved or any flood
 210 management plan that the Maryland Department of the
 211 Environment has approved involving the site of the proposed
 212 development or redevelopment project.

213 (3) The Department must refer the concept plan back to the Board
 214 for comment before approving the plan if the Board so requests.

215 (4) The Department may require incrementally more specific
 216 submittals at each stage of the approval process for a project
 217 which requires site plan or development plan review.

18 (b) Design plan. Any person required under this Chapter to obtain a
 19 sediment control permit must include a stormwater management
 20 design plan as part of the permit application. The design plan must
 21 conform to the stormwater management concept plan and serve as the
 22 basis for all later construction. All construction specifications must
 23 adhere to the requirements in the Design Manual and any applicable
 24 regulation.

225 (c) Plan preparation. The Director may require the stormwater
 226 management concept and design plans to be prepared by a professional
 227 engineer, professional land surveyor, landscape architect licensed in
 228 Marvland, or any other individual whose qualifications are acceptable to
 229 the Department. If a stormwater best management practice requires
 230 either a dam safety permit from the Marvland Department of the
 231 Environment or a small pond approval from the District, the Director
 232 must require the design plan to be prepared by a professional engineer
 233 licensed by the State of Marvland.

234 **[19-24. Off-site storm water management facilities.**

235 The Executive must annually recommend the design and construction of off-
 236 site storm water management facilities as projects in the capital improvements
 237 program. Those recommendations must be guided by the adopted functional master
 238 plans, if any, the adopted 10-year water supply and sewerage systems plan, and the
 239 general policies of this Article. The Executive must recommend a construction

240 schedule for capital improvements program projects to provide adequate protection
 241 of the watersheds from the increases in storm water in the basins where contributing
 242 development occurs.]

243 **19-24. On-site requirements: County participation: waivers.**

244 (a) On-site stormwater management. A person that receives a building
 245 permit or a sediment control permit must provide on-site stormwater
 246 management unless the Director waives this requirement.

247 (b) County participation. If the [[Department]] Director of
 248 Environmental Protection finds that additional storage capacity in an
 249 on-site facility would correct an existing problem or provide sufficient
 250 capacity for future development or redevelopment projects, the
 251 [[Department]] County may participate financially in the construction
 252 of a stormwater management facility. The amount of participation
 253 must be determined by the extent to which the facility exceeds on-site
 254 stormwater management requirements.

255 (c) Waiver.

256 (1) An applicant seeking a waiver of any on-site stormwater
 257 management requirement must submit a request to the
 258 Department in writing in a form acceptable to the Director.
 259 The applicant must submit a separate written request for each
 260 later addition, extension, or modification to a development that
 261 has received a waiver.

262 (2) The Director may grant a waiver if the applicant shows that
 263 existing [[circumstances]] physical conditions prevent full
 264 compliance with any on-site stormwater management
 265 requirement.

- 266 (3) If a site is an infill development or redevelopment site, the
 267 Director may waive channel protection requirements if:
- 268 (A) the planned development or redevelopment project will
 269 not increase the impervious surface area on the site; or
- 270 (B) runoff from the site will drain through an adequately-sized
 271 existing improved storm drain system before discharging
 272 into a natural stream channel without adversely affecting
 273 the receiving channel, and the discharge to the storm drain
 274 system will not increase erosion in the receiving waters.
- 275 (4) The Director may also waive channel protection requirements if:
- 276 (A) an off-site facility was designed and constructed to provide
 277 the necessary runoff controls for the site; and
- 278 (B) the facility's design assures non-erosive conveyance of
 279 runoff from the site to the facility.
- 280 (5) The Director may grant a waiver only if:
- 281 (A) the applicant satisfies criteria established by regulation;
 282 and
- 283 (B) the waiver is consistent with an applicable watershed
 284 management plan approved by the Department of
 285 Environmental Protection.
- 286 (6) The [[Department]] Director may grant each waiver only on a
 287 case-by-case basis. The [[Department]] Director must consider
 288 the cumulative effects of all waivers granted in a drainage area
 289 or watershed.
- 290 (7) When a waiver is granted, the [[Department]] Director must
 291 require the applicant to:
- 292 (A) provide a monetary contribution:

- 293 (B) grant an easement or dedicate land for the County to
 294 construct a stormwater management facility; or
 295 (C) take specific stream or wetland restoration measures.

296 **[19-25. Storm water management required for all development.**

297 The Board must not approve an application for preliminary plan of subdivision
 298 unless the application includes a statement and drawing describing, in concept, how
 299 erosion, sediment, water quality impacts, and storm water resulting from the
 300 development will be controlled or managed. This concept plan, which must be
 301 approved by the Department of Permitting Services, must indicate whether storm
 302 water will be managed on-site or off-site and, if on-site, the general location and type
 303 of management. The Department of Permitting Services must not issue a building,
 304 grading, or sediment control permit for any parcel or lot created before or after the
 305 effective date of this Article unless the Director of Permitting Services has approved
 306 a plan for on-site storm water management or a waiver of the on-site storm water
 307 management requirement for the plat or parcel.]

308 **19-25. Contributions, dedications, and stream restoration.**

- 309 (a) Contributions. Each monetary contribution required under Section 19-
 310 24 must comply with a fee schedule set by Executive regulation. The
 311 County must credit each contribution to a capital improvement program
 312 project for planning and implementation of stormwater management
 313 and stream or wetland restoration.
- 314 (b) Dedications. The County may agree with an applicant to accept an
 315 easement or dedicate land to build a stormwater management facility.
 316 If the Department consents in writing for a facility to be located on
 317 parkland, the Board [[may]] must also agree [[with]] before the
 318 applicant [[to]] may dedicate land to build a stormwater management
 319 facility.

320 (c) Stream and wetlands restoration measures. The Department may
 321 allow an applicant to construct stream or wetland restoration measures
 322 instead of on-site stormwater management controls if:

323 (1) the Director of Permitting Services and the Director of
 324 Environmental Protection both find that it is in the County's
 325 best interest for the applicant to provide stream or wetland
 326 restoration measures; and

327 (2) the estimated cost of the stream or wetland restoration measures
 328 do not exceed the estimated cost of on-site stormwater
 329 management controls that the applicant would otherwise be
 330 required to construct.

331 **[19-26. On-site requirements; waivers.**

332 A person that applies for a building permit must provide for on-site storm
 333 water management unless the Director of Permitting Services waives this
 334 requirement after receiving a written request from the applicant. If a waiver is
 335 granted, the Department of Permitting Services must require the applicant to provide:

- 336 (a) monetary contributions,
- 337 (b) drainage or conveyance improvements, or
- 338 (c) the grant of an easement or a dedication of land for the County to
 339 construct a storm water management facility.]

340 **19-26. Stormwater management design criteria.**

341 (a) Each applicant must use recharge volume, water quality volume, and
 342 channel protection storage volume sizing criteria to design a
 343 stormwater management facility for new development as required by
 344 the Design Manual and any applicable regulation. Each applicant
 345 must also use water quality volume and channel protection storage
 346 criteria for any redevelopment project. If the Department finds that

347 historical flooding problems exist at the site of a new development or
 348 redevelopment project, the Director may require the use of overbank
 349 flood protection volume and extreme flood volume criteria.

350 (b) The Director may reduce the minimum control requirements if the
 351 applicant incorporates nonstructural stormwater management
 352 measures into the site design plans in accordance with the Design
 353 Manual and any applicable regulation.

354 (c) The applicant may use alternative structural and nonstructural practices
 355 to satisfy water quality volume requirements if the Director finds that
 356 those practices satisfy the criteria in the Design Manual and any
 357 additional criteria established by regulation. The Department must
 358 approve any alternative practice used for either a new development or
 359 redevelopment project. The Administration must also approve any
 360 alternative practice used for a new development project.

361 **[19-27. Contributions.**

362 (a) Monetary amount. When an applicant obtains a waiver of the required
 363 on-site storm water management, the monetary contribution required
 364 must be made under a fee schedule established as part of the regulations
 365 adopted by the Executive under Section 19-31. The fee schedule must
 366 be based on the cubic feet of storage required for on-site management of
 367 the development in question under the soil conservation service formula
 368 unless the developer and the County agree on a greater alternate
 369 contribution. The County must credit all of the monetary contributions
 370 to the appropriate capital improvements program project. The monetary
 371 contribution must not exceed the cost of the otherwise required on-site
 372 storm water management facility. The applicant must make the

373 monetary contribution to the County before the County issues a building
 374 permit for the development.

- 375 (b) Dedication of land. Instead of the applicant making a monetary
 376 contribution to the County when the applicant obtains a waiver of the
 377 requirement to provide for on-site storm water management under
 378 Section 19-26, the applicant may agree with the Department of
 379 Permitting Services or the Board, if the Department of Permitting
 380 Services consents in writing for the site to be added to parkland, to
 381 dedicate land for construction of a storm water management facility.
 382 The applicant must sign the agreement with the Department of
 383 Permitting Services or the Board before recording the plats. If no
 384 recorded plat is required, then the applicant must enter into the
 385 agreement with the Department of Permitting Services or the Board
 386 before the Department of Permitting Services issues the building permit.
 387 Whenever an applicant signs an agreement with the Board, the applicant
 388 must provide a certified copy to the Department of Permitting Services.]

389 **19-27.** **Financial security.**

390 (a) *Required.*

- 391 (1) Before issuing a building permit for a development which
 392 requires a stormwater management facility, the Director must
 393 require the applicant or owner to furnish a performance or cash
 394 bond, irrevocable letter of credit, certificate of guarantee, or other
 395 instrument from a financial institution or issuing person
 396 satisfactory to the Director and the County Attorney, for
 397 construction of the on-site stormwater management facility in
 398 an amount equal to the estimated cost of the construction.

399 (2) As used in this Article, a certificate of guarantee is an instrument
400 issued by an organization approved by the Director that satisfies
401 the capitalization criteria and other reasonable criteria established
402 by regulation. The certificate of guarantee must only be issued
403 by the approved organization on behalf of the organization's
404 members in good standing. Only the Director may resolve
405 questions concerning an applicant's eligibility to post a
406 certificate of guarantee.

407 (3) The bond, letter of credit, certificate of guarantee, or other
408 instrument must be conditioned on the faithful performance of the
409 terms and conditions of an approved stormwater management
410 plan and construction of the facility as provided in that plan and
411 under this Article. The bond, letter of credit, certificate of
412 guarantee, or other instrument must inure to the benefit of the
413 County if the applicant or owner does not comply with the
414 conditions of the bond, letter of credit, certificate of guarantee, or
415 other instrument.

416 (b) Release.

417 (1) The Director must not release a bond, letter of credit, certificate
418 of guarantee, or other instrument until the Department, after a
419 final inspection, has found that the stormwater management
420 facility complies with the approved plan and this Article.

421 (2) The Department may agree with an applicant regarding the
422 stages of the work to be done on the facility. After completing
423 each stage, the applicant must notify the Department that the
424 applicant is ready for an inspection and, after the Director
425 certifies that the applicant has completed that stage of work

426 under the approved plan and this Article, the Director may reduce
 427 the bond, letter of credit, certificate of guarantee, or other
 428 instrument pro rata, or may direct the Director of Finance to
 429 refund to the applicant a prorated share of the amount that the
 430 applicant deposited with the County.

431 (c) Revocation of permit. The Director must immediately revoke a building
 432 permit if the permittee does not maintain the bond, letter of credit,
 433 certificate of guarantee, or other instrument. If the Director finds that an
 434 organization issuing certificates of guarantee has violated an applicable
 435 law or regulation, the Director may immediately revoke any permit held
 436 by that organization's members to which a certificate of guarantee
 437 applies.

438 **[19-28. County participation in on-site facilities.**

439 When the Department of Permitting Services determines that additional
 440 storage capacity beyond that required of the applicant for on-site storm water
 441 management is needed to correct an existing problem or to provide protection in a
 442 more desirable fashion for future development, the Department may acquire, by
 443 purchase or dedication, additional land from the applicant or owner as necessary, or
 444 the Department may participate financially in the construction of a storm water
 445 management facility to the extent that the facility exceeds the required on-site storm
 446 water management.]

447 **19-28. Inspection and maintenance of stormwater management facilities.**

448 (a) *Installation inspections.*

449 (1) The Department, or an individual approved by the Department,
 450 must inspect each stormwater management facility under
 451 construction as needed to certify the facility's compliance with
 452 approved plans. The [Department] inspector must conduct

453 each inspection as provided in a checklist that the Department
 454 has approved for each type of stormwater management facility.
 455 The inspector must prepare a written inspection report that
 456 includes the following information:

457 (A) the date and location of the inspection:

458 (B) whether construction complied with the approved
 459 stormwater management plan;

460 (C) any variation from approved construction specifications:
 461 and

462 (D) any violations of law or regulations that the inspector
 463 observes.

464 (2) The Department must notify the applicant in writing if the
 465 inspector observes any violations of this Article during the
 466 inspection. The written notice must describe the nature of the
 467 violation and prescribe any corrective action needed.

468 (3) Construction work on a stormwater management facility must
 469 not proceed until the Department:

470 (A) inspects and approves the work previously completed; and

471 (B) furnishes the inspection reports to the applicant after each
 472 inspection.

473 (b) Inspection and maintenance of off-site facilities. The Department of
 474 Environmental Protection must inspect and approve each off-site
 475 stormwater management facility for acceptance for County
 476 maintenance. After a facility is accepted, the Department of
 477 Environmental Protection must inspect each underground facility at
 478 least once each year and each above-ground facility at least once every

479 3 years, and must maintain each accented facility in good working
480 condition.

481 **(c) Inspection and maintenance of new on-site facilities.**

482 **(1) Before issuing a building permit to develop any property that**
483 **requires an on-site stormwater management facility, the**
484 **Department must require the property owner to execute an**
485 **easement and an inspection and maintenance agreement that is**
486 **binding on all later owners of the land.**

487 **(2) The easement and agreement must give the County a perpetual**
488 **right of access to the facility at all times, to inspect, operate,**
489 **monitor, install, construct, reconstruct, modify, maintain, or**
490 **repair any part of the stormwater management facility within**
491 **the easement as needed to assure that the facility remains in**
492 **proper working condition under approved design and**
493 **environmental standards. The agreement must require the owner**
494 **to be responsible for all nonstructural maintenance of the facility**
495 **if the development consists of residential property or**
496 **associated nonresidential property. Otherwise, the agreement**
497 **must require the owner to be responsible for all maintenance of**
498 **the facility, including structural maintenance.**

499 **(3) The owner must record the easement and agreement in the**
500 **County land records and deliver a certified copy of each recorded**
501 **document to the Departments of Permitting Services and**
502 **Environmental Protection before the Department may issue a**
503 **completion certificate.**

504 **(4) After the Department issues a completion certificate for**
505 **construction of a new stormwater management facility, the**

506 County must perform all structural maintenance on the facility
 507 if the facility serves residential property or associated
 508 nonresidential property. No other person may perform
 509 structural maintenance on a stormwater management facility
 510 that the County is required to structurally maintain without the
 511 County's written consent.

512

513 (5) The Department of Environmental Protection must inspect each
 514 County-maintained underground facility at least once every year
 515 and each County-maintained above-ground facility at least once
 516 every 3 years.

517 (d) *Inspection and maintenance of existing on-site facilities.*

518 (1) The owner of an on-site stormwater management facility that
 519 is not subject to subsection (c) must perform all structural
 520 maintenance needed to keep the facility in proper working
 521 condition. The owner of a residential property or associated
 522 nonresidential property, or a homeowners' association which
 523 includes the residential property, may execute a stormwater
 524 management easement granting the County a perpetual right of
 525 access to inspect, operate, monitor, install, construct, reconstruct,
 526 modify, maintain, or repair any part of the stormwater
 527 management facility within the easement as needed to assure
 528 that the facility remains in proper working condition under
 529 approved design standards.

530 (2) If the owner of a stormwater management facility grants a
 531 stormwater management easement to the County, the owner
 532 must make any structural repairs needed to place the facility in

533 proper working condition. as determined by the Department of
 534 Environmental Protection. before the County enters into an
 535 agreement with the owner that obligates the County to assume
 536 responsibility for structural maintenance of the facility. After
 537 the owner and the County have agreed that the County will
 538 assume responsibility for structural maintenance of the facility,
 539 the owner must record in the County land records the easement
 540 and any other agreements executed in conjunction with the
 541 easement that are binding on later owners of the land [[in the
 542 County land records]]. The owner must deliver a certified copy
 543 of each recorded document to the Department of Environmental
 544 Protection.

545 (3) After the Department of Environmental Protection receives a
 546 certified copy of the easement and agreements. the County must
 547 structurally maintain and inspect the facility as provided in
 548 subsection (c).

549 (e) Abandonment instead of repair. The Department of Environmental
 550 Protection must inspect each stormwater management facility to see
 551 what repairs, if any, are needed to restore the facility to proper working
 552 condition. If the Director of Environmental Protection finds that the
 553 stormwater management facility is no longer needed to control
 554 stormwater runoff or that the benefits of a repaired stormwater
 555 management facility are not justified by the cost of repair, the owner of
 556 the stormwater management facility must abandon the use of the
 557 facility for stormwater functions as the Director of Environmental
 558 Protection orders. Any order issued under this subsection must not

559 restrict the facility from being used for recreational or other purposes
 560 not related to stormwater control.

561 **(f) Nonstructural maintenance of on-site facilities.** The owner of an on-
 562 site stormwater management facility must provide landscaping and
 563 perform any other nonstructural maintenance that impacts the
 564 effectiveness of routine structural maintenance, performed either
 565 privately or publicly. Among other actions, the owner must:

566 (1) prevent the accumulation of solid waste on the property and the
 567 generalized growth of weeds or plants in violation of Section 58-
 568 3;

569 (2) clear any woody vegetation, including trees and brush, within 25
 570 feet of the facility's control structure and within 15 feet of an
 571 upstream or downstream dam embankment; and

572 (3) abate any other condition on the property that the Department of
 573 Environmental Protection reasonably finds may adversely affect
 574 the facility's proper functioning.

575 **(g) Disposal of materials from maintenance.** A person that transports
 576 materials or debris resulting from the repair, cleaning, or maintenance of
 577 a stormwater management facility must dispose of the materials at a
 578 facility that has a valid permit to accept the type of materials or debris
 579 being deposited.

580 **(h) Emergency authority.** If, after inspection, the Director of
 581 Environmental Protection finds that the condition of a privately
 582 maintained stormwater management facility presents an immediate
 583 danger to the public health or safety because of an unsafe condition or
 584 improper maintenance, the Director of Environmental Protection may
 585 take needed actions to protect the public and make the facility safe,

586 including entering the property to make needed repairs. The County
 587 must assess any costs incurred as a result of the Director of
 588 Environmental Protection's actions against each owner of the facility.
 589 The County may collect the costs in the same manner as real property
 590 taxes are collected against the property where the facility is located. In
 591 addition, the County may seek reimbursement under any other method
 592 legally available to collect debts owed to the County.

593 **[19-29. Inspection and maintenance of off-site storm water management**
 594 **facilities.**

595 The Department must inspect and approve all off-site storm water
 596 management facilities for acceptance for County maintenance. After a facility is
 597 accepted, the Department must inspect each underground facility at least once each
 598 year and each above-ground facility at least once every 3 years. The Department
 599 must maintain each accepted facility in good working condition.]

600 **19-29. Stormwater management loan program.**

601 (a) The Department of Environmental Protection must create a
 602 Stormwater Management Loan Program. The Program must provide
 603 direct loans to eligible homeowners' associations and other residential
 604 and associated nonresidential property owners to:

605 (1) make structural repairs to restore a stormwater management
 606 facility to acceptable design standards before the owner petitions
 607 the County to assume responsibility for future structural
 608 maintenance of the facility under Section 19-28(d), or

609 (2) cover the cost of abandoning a facility under Section 19-28(e).

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

611 (1) all funds appropriated to the Program:

612 (2) all payments on any loan from the Program:

- 613 (3) all interest earned on funds in the Program: and
 614 (4) all funds received from any other public or private entity.
 615 (c) The County Executive must adopt regulations under method (2) to
 616 administer the Program. These regulations should include:
 617 (1) lending standards and priorities:
 618 (2) terms and conditions of loans;
 619 (3) application procedures:
 620 (4) procedures for loan applicants to request reconsideration of a
 621 decision to deny a loan or a decision on interest rates, terms, and
 622 conditions: and
 623 (5) collection procedures in cases of nonpayment or default.

624 **[19-30. Inspection and maintenance of on-site storm water management**
 625 **facilities.**

- 626 (a) Inspection and maintenance of new facilities.
 627 (1) Before issuing a building permit to develop any property that
 628 requires an on-site storm water management facility, the
 629 Department of Permitting Services must require the property
 630 owner to execute an easement and an inspection and maintenance
 631 agreement that is binding on all later owners of land served by
 632 the on-site storm water management facility.
 633 (2) The easement and agreement must give the County a perpetual
 634 right of access to the facility at all times, to inspect, operate,
 635 monitor, install, construct, reconstruct, modify, maintain, or
 636 repair any part of the storm water management facility within the
 637 easement as needed to assure that the facility remains in proper
 638 working condition under approved design and environmental
 639 standards. The agreement must require the owner to be

640 responsible for all nonstructural maintenance of the facility if the
641 development consists of residential property or associated
642 nonresidential property. Otherwise, the agreement must require
643 the owner to be responsible for all maintenance of the facility,
644 including structural maintenance.

645 (3) The owner must record the easement and agreement in the
646 County land records and deliver a certified copy of each recorded
647 document to the Departments of Permitting Services and
648 Environmental Protection.

649 (4) After the Department of Permitting Services issues a completion
650 certificate for the new storm water management facility under
651 Section 19-14, the County must perform all structural
652 maintenance on the facility if the facility serves residential
653 property or associated nonresidential property. No other person
654 may perform structural maintenance on a storm water
655 management facility that the County is required to structurally
656 maintain without the County's written consent.

657 (b) Maintenance of existing facilities.

658 (1) The owner of an on-site storm water management facility that is
659 not subject to subsection (a) must perform all structural
660 maintenance needed to keep the facility in proper working
661 condition. The owner of a residential property or associated
662 nonresidential property, or a homeowners' association which
663 includes the residential property, may execute a storm water
664 management easement granting the County a perpetual right of
665 access to inspect, operate, monitor, install, construct, reconstruct,
666 modify, maintain, or repair any part of the storm water

667 management facility within the easement as needed to assure that
668 the facility remains in proper working condition.

669 (2) If the owner of a storm water management facility grants a storm
670 water management easement to the County, the owner must make
671 any structural repairs needed to place the facility in proper
672 working condition, as determined by the Department, before the
673 County enters into an agreement with the owner that obligates the
674 County to assume responsibility for structural maintenance of the
675 facility. After the owner and the County have agreed that the
676 County will assume responsibility for structural maintenance of
677 the facility, the owner must record the easement and any other
678 agreements executed in conjunction with the easement that are
679 binding on subsequent owners of land served by the facility in the
680 County land records. The owner must deliver a certified copy of
681 each recorded document to the Department of Environmental
682 Protection.

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

686 (c) Abandonment instead of repair.

687 The Department must inspect each storm water management facility to
688 see what repairs, if any, are needed to restore the facility to proper
689 working condition. If after reviewing the existing drainage patterns,
690 age, and design of a storm water management facility, the Director finds
691 that it is more prudent to stop using the facility for storm water control
692 functions rather than restore it to proper working condition, or finds that
693 the facility is no longer needed to control storm water runoff because of

694 later land use changes, the owner must abandon the use of the facility
 695 for storm water functions as the Director orders. Any order issued
 696 under this subsection must not restrict the facility from being used for
 697 recreational or other purposes not related to storm water control.

698 (d) **Nonstructural maintenance.**

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

- 703 (1) prevent the accumulation of solid waste on the property and the
 704 generalized growth of weeds or plants in violation of Section 58-
 705 3;
- 706 (2) clear any woody vegetation, including trees and brush, within 25
 707 feet of the facility's control structure and within 15 feet of an
 708 upstream or downstream dam embankment; and
- 709 (3) abate any other condition on the property that the Department
 710 reasonably finds may adversely affect the facility's proper
 711 functioning.

712 (e) **Emergency authority.**

713 If, after an inspection by the Department, the Director finds that the
 714 condition of a privately maintained storm water management facility
 715 presents an immediate danger to the public health or safety because of
 716 an unsafe condition or improper maintenance, then the Director must
 717 take needed actions to protect the public and make the facility safe,
 718 including entering the property to make needed repairs. The County
 719 must assess any costs incurred as a result of the Director's actions
 720 against each owner of the facility. The assessment is a lien on the

721 property and may be collected in the same manner and subject to the
722 same penalties as ordinary taxes.

723 (f) Disposal of materials from maintenance. A person that transports
724 materials or debris resulting from the repair, cleaning, or maintenance of
725 a storm water management facility must dispose of the materials or
726 debris at a facility that has a valid permit to accept the type of materials
727 or debris being deposited.]

728 **19-30. Regulations.**

729 (a) The Executive may adopt regulations under method (2) to implement
730 this Article. Any regulation adopted under this Article must not conflict
731 with or waive any provision of this Chapter, and must not be less
732 restrictive than applicable requirements under state or federal law. The
733 regulations must establish a fee schedule for monetary contributions to
734 be paid to the County when the Department waives any on-site
735 stormwater management requirement. The regulations may also
736 include design standards and other criteria or procedures necessary to
737 implement this Article.

738 (b) The Executive may adopt plan review fees and inspection fees under
739 method (3) to cover the cost of administering this Article.

740 **19-31. Regulations.**

741 The County Executive may adopt regulations under method (2) to implement
742 this Article. Those regulations must establish a fee schedule for the monetary
743 contributions to be paid to the County instead of constructing the required on-site
744 storm water management facility. The regulations may also include design standards
745 and other criteria or procedures necessary to implement this Article.]

746 **19-31. Exemptions.**

747 The following development activities are exempt from the stormwater
 748 management requirements under this Article:

- 749 (a) agricultural land management activities:
- 750 (b) any addition or modification to an existing single family detached
 751 residential structure if the addition or modification does not disturb
 752 more than 5,000 square feet of land area;
- 753 (c) any development not associated with the construction of a new
 754 residential or commercial building if the development does not disturb
 755 more than 5,000 square feet of land area; and
- 756 (d) any land development activity that the Administration finds is subject
 757 to any State law that regulates stormwater management runoff.

758 **19-32. Transition for approved plans.**

759 Each new development or redevelopment project must comply with this
 760 Article, except that:

- 761 (a) A previously approved stormwater management concept plan remains
 762 valid if the Department issues a sediment control permit for the
 763 property covered by the plan [[within one year after the effective date of
 764 this Article]] before July 1, 2003. The applicant must construct the
 765 stormwater management system within 2 years after the Department
 766 issues the sediment control permit.
- 767 (b) A residential lot containing 2 or more acres is exempt from any on-site
 768 stormwater management requirement if the preliminary plan
 769 creating the lot was approved before [[the effective date of this Article]]
 770 July 1, 2002 and the Department issues the sediment control permit
 771 [[within one year after the effective date of this Article]] before July 1
 772 2003.

773 **[19-32. Performance bond.**

774 (a) Procedures.

775 (1) Before issuing a building permit to construct a development
776 requiring a storm water management facility, the Director of
777 Permitting Services must require from the applicant or owner a
778 performance or cash bond, irrevocable letter of credit, certificate
779 of guarantee, or other instrument from a financial institution or
780 issuing person, in a form satisfactory to the Director of Permitting
781 Services and the County Attorney, for the construction of the on-
782 site storm water management facility in an amount equal to the
783 estimated cost of that construction.

784 (2) For purposes of this Article, a certificate of guarantee is an
785 instrument issued by a person that is approved by the Director of
786 Permitting Services and meets the capitalization and other
787 reasonable criteria established by regulation. These criteria must
788 include the demonstrated expertise of the issuing person or its
789 members in storm water management and the incidence of
790 noncompliance with this Chapter by all members of the issuing
791 person. The certificate of guarantee must only be issued by the
792 approved person on behalf of members in good standing of that
793 person. Any question concerning the eligibility of an applicant to
794 post a certificate of guarantee must be resolved by the Director of
795 Permitting Services.

796 (3) The bond, letter of credit, certificate of guarantee, or other
797 instrument must be conditioned on the faithful performance of the
798 terms and conditions of the approved storm water management
799 plan and the construction of the facility as provided in that plan
800 and this Article. The bond, letter of credit, certificate of

801 guarantee, or other instrument must inure to the benefit of the
802 County and to any person aggrieved by the failure of the
803 applicant or owner to comply with the conditions of that bond,
804 letter of credit, certificate of guarantee, or other instrument.

805 (4) The Director of Permitting Services must not release the bond,
806 letter of credit, certificate of guarantee, or other instrument until
807 the Department of Permitting Services has made a final
808 inspection and found that the storm water management facility
809 complies with the approved plan and this Chapter.

810 (5) The Department of Permitting Services may also permit an
811 applicant to enter into an agreement with the County and provide
812 a bond, letter of credit, certificate of guarantee, or other
813 instrument equal to the cost of the storm water management
814 facility to the County. The agreement must specify the various
815 stages of the work to be done on the facility. After completing
816 each stage, the applicant must notify the Department that the
817 applicant is ready for an inspection and, after the Director of
818 Permitting Services certifies that the applicant has completed that
819 stage under the approved plan and requirements of this Chapter,
820 the Director of Permitting Services may reduce the bond, letter of
821 credit, certificate of guarantee, or other instrument pro rata may
822 direct the Director of Finance to refund to the applicant a prorated
823 share of the amount deposited by the applicant with the County.

824 (b) The Director of Permitting Services must immediately revoke the
825 building permit if the permittee does not maintain the bond or certificate
826 of guarantee. Whenever the Director of Permitting Services finds that a
827 person issuing certificates of guarantee has violated an applicable law or

828 regulation, the Director of Permitting Services may immediately revoke
 829 all permits of members of that person for which a certificate of
 830 guarantee has been posted. The Director of Permitting Services may
 831 also post stop work orders wherever applicable until the person
 832 substitutes an appropriate bond or other instrument acceptable to the
 833 County for the certificates of guarantee.]

834 **19-33. Agreements between the County and municipalities.**

- 835 (a) The Executive must inform any incorporated municipality in the County
 836 that may regulate [storm water] **stormwater** management of any
 837 proposed [storm water] **stormwater management facility,**
 838 **development** or plan that could affect [storm water] **stormwater**
 839 management in the municipality. The Board must inform any
 840 municipality of any **functional master plan** or **preliminary plan** of
 841 subdivision hat may affect [storm water] **stormwater** management in
 842 the municipality.
- 843 (b) The County and the Board may enter into cooperative agreements with
 844 any incorporated municipality in the County concerning any matter
 845 relating to [storm water] **stormwater** management, including the
 846 planning, design, construction, and maintenance of [storm water]
 847 **stormwater management facilities** and monetary contributions for
 848 [storm water] **stormwater** management. The County and the **Board**
 849 may enter into those cooperative agreements to coordinate [storm water]
 850 **stormwater management** activities with any municipality to avoid
 851 duplication of effort and to minimize the costs associated with an
 852 effective [storm water] **stormwater** management program.
- 853 (c) If a municipality operates a [storm water] **stormwater** management
 854 program that serves substantially the entire municipality and meets all

855 applicable federal and state standards, the County must reimburse the
 856 municipality, subject to appropriation, for the cost of operating the
 857 program, limited to the amount the **Director of Environmental**
 858 **Protection** estimates the County would spend for that municipality if it
 859 were operating the program, by means of a cooperative agreement under
 860 subsection (b).

861 **[19-34. Storm water management loan program.**

- 862 (a) The Department must create a Storm Water Management Loan
 863 Program. The Program must provide direct loans to eligible
 864 homeowners' associations and other residential and associated
 865 nonresidential property owners to:
- 866 (1) make structural repairs to restore a storm water management
 867 facility to acceptable design standards before the owner petitions
 868 the County to assume responsibility for future structural
 869 maintenance of the facility under Section 19-30(b), or
 - 870 (2) cover the cost of abandoning a facility under Section 19-30(c).
- 871 (b) The fund for the Program consists of:
- 872 (1) all funds appropriated to it;
 - 873 (2) all payments on any loan from the Program;
 - 874 (3) all interest earned on funds in the Program; and
 - 875 (4) all funds received from any other public or private entity.
- 876 (c) The County Executive must adopt regulations under method (2) to
 877 administer the Program. These regulations should include:
- 878 (1) lending standards and priorities;
 - 879 (2) terms and conditions of loans;
 - 880 (3) application procedures;

- 881 (4) procedures for loan applicants to request reconsideration of a
 882 decision to deny a loan or a decision on interest rates, terms, and
 883 conditions; and
 884 (5) collection procedures in cases of nonpayment or default.]

885 **19-35. Water Quality Protection Charge.**

886

* * *

- 887 (b) The Charge must be imposed on each **residential property** and
 888 **associated nonresidential property**, as specified in regulations
 889 adopted by the Executive under Method (1) to administer this Section.
 890 The regulations may define different classes of real property, depending
 891 on the amount of impervious surface on the property, **[[storm water]]**
 892 **stormwater runoff** from the property, and other relevant characteristics,
 893 for purposes of applying the charge.

894

* * *

- 895 (f) The Director must deposit funds raised by the Charge, and funds for this
 896 purpose from any other source, into a **[[storm water]] stormwater**
 897 **management fund**. The fund must only be appropriated for:
 898 (1) construction, operation, and maintenance of **[[storm water]]**
 899 **stormwater management facilities**, and related expenses;
 900 (2) enforcement and administration of this Article; and
 901 (3) any other activity authorized by this Article or Maryland Code,
 902 Environment Art., §4-204.


- 903 (g) This Charge does not apply to any property located in a municipality in
 904 the County which:
 905 (1) operates a **[[storm water]] stormwater** management program that
 906 meets all applicable federal, state, and County requirements and
 907 has received any necessary federal or state permit; and

908 (2) imposes a similar charge or other means of funding its [[storm
909 water]] stormwater management program in that municipality.

910 (h) A person that believes that the Director of Environmental Protection has
911 mistakenly assigned a Charge to the person's property or computed the
912 Charge incorrectly may apply to the Director of Environmental
913 Protection in writing for a review of the Charge, and request an
914 adjustment to correct any error, within 21 days after receiving a bill for
915 the Charge. If the Director of Environmental Protection denies any
916 requested adjustment, the applicant may request reconsideration of the
917 Director's denial in writing within 10 days after the date of the denial.
918 An aggrieved property owner may appeal the Director's final decision
919 to the County Board of Appeals within 10 days after the Director issues
920 the decision. The Board of Appeals may hear and decide all appeals
921 taken from a final decision of the Director of Environmental Protection
922 under this subsection as provided in Article I of Chapter 2A.

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

927 *Approved:*

928 
Steven A. Silverman, President, County Council

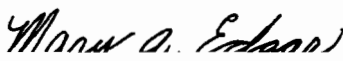
3/14/02
Date

929 *Approved:*

930 
Douglas M. Duncan, County Executive

3/21/02
Date

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

932 
Mary A. Edgar, CMC, Clerk of the Council

3/25/02
Date