

**MEMORANDUM**

TO: County Council

FROM: Jeffrey L. Zyontz  Legislative Attorney

SUBJECT: **Public Hearing:** Bill 13-13, Impervious Area - Calculation

Bill 13-13, Impervious Area - Calculation sponsored by Councilmember Rice, was introduced on May 7, 2013. A joint Transportation, Infrastructure, Energy and Environment/Planning, Housing and Economic Development Committee worksession is tentatively scheduled for July 15 at 9:30 a.m.

The definition of impervious area currently counts all pervious pavement area as an impervious surface. The stormwater management provisions of the current code require a developer to minimize the imperious surface in a development. In special protection areas, water quality plans are not required when the impervious area is 8 percent of the site area or less.

Councilmember Rice believes that the County Code should actively encourage the provision of pervious pavement. Permeable pavement when properly installed, is already an approved stormwater management facility in an environmentally sensitive design. Bill 13-13 would define permeable pavement and require the DPS Director to count only a percentage of permeable pavement area (25 percent) toward any limit on impervious surface area and to specifically allow permeable pavement as a method to limit impervious area.

This packet contains:	<u>Circle #</u>
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Bill No. 13-13  
Concerning: Impervious Area - Calculation  
Revised: April 9, 2013 Draft No. 1  
Introduced: May 7, 2013  
Expires: November 7, 2014  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmember Rice

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**AN ACT** to:

- (1) define permeable pavement;
- (2) allow the substitution of permeable pavement for standard pavement to minimize impervious surface;
- (3) include a percentage of permeable pavement in the calculation the impervious area; and
- (4) generally amend the laws governing erosion, sediment control, and stormwater management.

By amending

Montgomery County Code  
Chapter 19, Erosion, Sediment Control, and Storm Water Management  
Article II, Stormwater Management  
Sections 19-21, and 19-22A

Article V, Water Quality Review in Special Protection Areas  
Section 19-61

And adding

Section 19-62A

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

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

1 **Sec. 1. Sections 19-21, 19-22A and 19-61 are amended and Section 19-62A**  
2 **is added as follows:**

3 **Sec. 19-21. Definitions.**

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

6 \* \* \*

7 *Design Manual*: The [2000] Maryland Stormwater Design Manual, as [revised from  
8 time to time which] amended, serves as the official guide for stormwater  
9 management principles, methods, and practices in Maryland.

10 \* \* \*

11 *Impervious area or impervious surface*: Any surface that prevents or significantly  
12 impedes the infiltration of water into the underlying soil, including any structure,  
13 building, patio, sidewalk, compacted gravel, pavement, asphalt, concrete, stone,  
14 brick, tile, swimming pool, or artificial turf. Impervious surface also includes any  
15 area used by or for motor vehicles or heavy commercial equipment, regardless of  
16 surface type or material, including any road, driveway, or parking area.

17 \* \* \*

18 *Person*: An individual, corporation, firm, partnership, joint venture, agency,  
19 organization, municipal corporation, County or state agency, or any combination of  
20 them.

21 *Permeable pavement*: Concrete or asphalt that allows the infiltration of water and  
22 satisfies the surface and subsurface specifications in the Maryland Stormwater  
23 Design Manual as amended.

24 \* \* \*

25 **Sec. 19-22A. Stormwater management measures.**

26 \* \* \*

27 (b) ESD planning techniques and practices.

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(3) The use of ESD planning techniques and treatment practices specified in this Section must not conflict with existing State or County laws.

(4) Permeable pavement may be used to minimize a development's impervious surface area as required by this Section.

**Sec. 19-61. Definitions.**

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

\* \* \*

*Erosion and Sediment Control Concept Plan* means a statement or drawing or both describing how erosion and sediment, resulting from a development, will be controlled or managed to minimize the discharge of pollutants into surface waters.

Impervious area is defined in Section 19-21.

Land Use Plan means the County's General Plan ("On Wedges and Corridors") and all amendments or additions, including master plans, sector plans, and functional plans, adopted by the District Council.

Permeable pavement is defined in Section 19-21.

\* \* \*

**Sec. 19-62A Impervious surface area calculation.**

To determine if any limits on impervious surface area are satisfied, the Director must include as impervious surface area only 25% of any area that an applicant proposes to cover with permeable pavement.

\* \* \*

*Approved:*

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Nancy Navarro, President, County Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 13-13

### *Impervious Area - Calculation*

**DESCRIPTION:** The Bill would amend Charter 19 to treat permeable pavement more favorably when impervious surface area is considered.

**PROBLEM:** Permeable pavement has environmental benefit over impervious pavement but that benefit is not recognized in the current code. Impervious pavement is less expensive than permeable pavement and in the absence of a regulatory benefit, less permeable pavement will be used.

**GOALS AND OBJECTIVES:** Is it the goal of this Bill to be consistent with ZTA 13-03 and to provide more incentive for the use permeable pavement.

**COORDINATION:** DPS and Planning Department

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:**

**APPLICATION WITHIN MUNICIPALITIES:** To be researched.

**PENALTIES:** None