

Expedited Bill No. 1-18
Concerning: Water Quality Protection
Charge – Appeals
Revised: 2/1/2018 Draft No. 2
Introduced: February 6, 2018
Enacted: April 3, 2018
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

AN EXPEDITED ACT to:

- (1) allow a property owner to obtain review by the Director of Finance of certain decisions by the Director of Environmental Protection involving the Water Quality Protection Charge;
- (2) allow a final Water Quality Protection Charge decision by the Director of Finance to be appealed to the Maryland Tax Court; and
- (3) generally amend County law regarding the Water Quality Protection Charge.

By amending

Montgomery County Code
Chapter 19, Erosion, Sediment Control, and Stormwater Management
Article II
Sections 19-21 and 19-35

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

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

Sec. 1. Sections 19-21 and 19-35 are amended as follows:

19-21. Definitions.

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

* * *

Director of Finance: The Director of the Department of Finance or the Director's designee.

* * *

19-35. Water Quality Protection Charge.

* * *

(e) (1) A property owner may apply for, and the Director of Environmental Protection must grant, a credit equal to a percentage, set by regulation, of the Charge if:

(A) the property contains a stormwater management system for which the County does not perform structural maintenance that either treats on-site drainage only or both on-site drainage and off-site drainage from other properties located within the same drainage area;

(B) the property does not contain a stormwater management system, but is located in the same drainage area as another that contains a stormwater management system for which the County does not perform structural maintenance and both properties have the same owner;

(C) the property contains a stormwater management system built as part of a County-approved stormwater management participation project; or

(D) the property does not contain a stormwater management system, but is located in the same drainage area as a property containing a stormwater management system built as part of a County-approved stormwater management participation project and both properties have the same owner.

(2) To receive the credit, the property owner must apply to the Director of Environmental Protection in a form prescribed by the Director not later than September 30 of the year that payment of the Charge is due. Any credit granted under this subsection is valid for 3 years.

(3) The Director of Environmental Protection may revoke a credit granted under paragraph (2) if the property owner does not continue to take the measures needed to assure that the stormwater management system remains in proper working condition by correcting any deficiencies discovered by the Director during a maintenance inspection. The Director must not reinstate a revoked credit until the property owner has sufficiently corrected the deficiencies to fully satisfy the property owner's maintenance obligations under Section 19-28.

(4) The owner of an owner-occupied residential property, or any non-profit organization that can demonstrate substantial financial hardship may apply for an exemption from all or part of the Charge for that property, based on criteria set by regulation. [The] To receive the exemption, the owner or organization [may] must apply for the exemption to the Director of Finance not later than September 30 of the year that payment of the Charge is due. After

53 reviewing the request for exemption, the Director of Finance must
 54 issue a written decision. The owner or organization may appeal
 55 the decision of the Director of Finance to the Maryland Tax Court.
 56 The appeal must be filed within 30 days after the date of the
 57 decision.

58 * * *

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

67 (i) A [person] property owner that believes that the Director of
 68 Environmental Protection has incorrectly calculated a credit, revoked the
 69 property owner's credit or denied the [person's] property owner's
 70 application for a credit [or exemption] under subsection (e) [may appeal
 71 the Director's] (1), (2), or (3), or denied the property owner's request for
 72 an adjustment under subsection (h), may seek review of the Director's
 73 decision by submitting a written request for review with supporting
 74 reasons to the [County Board] Director of [Appeals] Finance within 30
 75 days after the [Director issues the] date of that decision. After reviewing
 76 the decision of the Director of Environmental Protection, the Director of
 77 Finance must notify the property owner in writing of the decision to
 78 affirm or reverse the decision of the Director of Environmental

Protection. The property owner may appeal the decision of the Director of Finance to the Maryland Tax Court. The appeal must be filed within 30 days after the date of the decision of the Director of Finance.

[(j) The Board of Appeals may hear and decide all appeals taken from a decision of the Director of Environmental Protection under this Section as provided in Article I of Chapter 2A.]

Sec. 2. Transition:

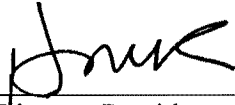
If an appeal of a final decision by the Director of Environmental Protection is pending before the Board of Appeals at the time this Act takes effect, the property owner may immediately withdraw the Board of Appeals proceeding and seek review of the Director's decision within 30 days of the withdrawal. If the property owner does not withdraw the Board of Appeals proceeding, the Board of Appeals must forward a recommended decision to the Director of Finance. The Director of Finance must issue a final written decision that adopts, modifies, or reverses the recommended decision. The property owner may appeal the decision of the Director of Finance to the Maryland Tax Court within 30 days after the date of the decision of the Director of Finance.

In COMCOR 19.35.01, any reference to the final decision of the Director of the Department of Environmental Protection must be treated as a reference to the Director's recommended decision to the Director of the Department of Finance and any reference to an appeal to the Board of Appeals must be treated as a reference to an appeal to the Maryland Tax Court.

Sec. 3. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Approved:



4-3-18

Hans D. Riemer, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Megan Davey Limarzi, Esq., Clerk of the Council

Date