COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2013 Legislative Session
Legislative Day #

BILL NO. 2013-11

Introduced by: Charles County Commissioners

WATERSHED PROTECTION AND RESTORATION PROGRAM

EMERGENCY LEGISLATION

Date introduced: 05 / 22 / 2013

Public Hearing: 06 / 12 / 2013 @ 6:00 p.m.

Commissioners Action: 06 / 18 / 2013

Commissioner Votes: CQK: Y, RC: Y, KR: Y, DD: Y, BR: Y

Pass/Fail: Pass

Effective Date: 06 / 18 / 2013

Remarks:

NOTE: CAPITALS indicate language added to existing law.
[Brackets] indicate language deleted from existing law.

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2013 Legislative Session

Bill No. 2013-11

Chapter No. 275

Introduced by Charles County Commissioners

Date of Introduction May 22, 2013

EMERGENCY BILL

AN ACT concerning

WATERSHED PROTECTION AND RESTORATION PROGRAM.

FOR the purpose of

Establishing a Watershed Protection and Restoration Program in Charles County.

BY adding a new:

Chapter 275 – WATERSHED PROTECTION AND RESTORATION PROGRAM

Code of Charles County, Maryland

(2013 Edition)

SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as follows:

CHAPTER 275

WATERSHED PROTECTION AND RESTORATION PROGRAM

SECTION 275.01. Statement of Purpose and Policy.

THE PURPOSE OF THE WATERSHED PROTECTION AND RESTORATION PROGRAM IS TO PROVIDE FINANCIAL ASSISTANCE FOR THE IMPLEMENTATION OF LOCAL STORMWATER MANAGEMENT PLANS THROUGH STORMWATER MANAGEMENT PRACTICES AND STREAM AND WETLAND RESTORATION ACTIVITIES, AS SET FORTH IN SECTION 4-201.1 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

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SECTION 275.02. DEFINITIONS. IN THIS CHAPTER, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED:

(A) AGRICULTURAL ASSESSED PROPERTY– PROPERTY ASSESSED AS AN AGRICULTURAL USE BY THE MARYLAND STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(B) DIRECTOR – THE DIRECTOR OF THE CHARLES COUNTY DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT, OR THE DIRECTOR'S DESIGNEE.

(C) IMPERVIOUS SURFACE – A SURFACE THAT DOES NOT ALLOW STORMWATER TO INFILTRATE INTO THE GROUND, AND INCLUDES, BUT IS NOT LIMITED TO, ROOFTOPS, DRIVEWAYS, SIDEWALKS, OR PAVEMENT.

(D) PROFESSIONAL ENGINEER – A PERSON LICENSED TO PRACTICE ENGINEERING UNDER THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(E) PROFESSIONAL LAND SURVEYOR – A PERSON LICENSED TO PRACTICE LAND SURVEYING UNDER THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(F) RESIDENTIAL CONDOMINIUM - A GROUP OF HOUSING UNITS IN A MULTI-UNIT STRUCTURE, WHERE EACH HOMEOWNER OWNS THEIR INDIVIDUAL UNIT SPACE, AND ALL HOMEOWNERS SHARE OWNERSHIP OF AREAS OF COMMON USE.

(G) ZONING DISTRICTS – DEFINED IN CHAPTER 297 OF THE CHARLES COUNTY CODE.

SECTION 275.03. WATERSHED PROTECTION AND RESTORATION FUND.

(A) PURPOSE – THE WATERSHED PROTECTION AND RESTORATION FUND SHALL BE FUNDED BY THE STORMWATER REMEDIATION FEE COLLECTED UNDER THIS CHAPTER, AND IT SHALL BE USED FOR:

(1) CAPITAL IMPROVEMENTS FOR STORMATER MANAGEMENT, INCLUDING STREAM AND WETLAND RESTORATION PROJECTS;

(2) OPERATION AND MAINTENANCE OF STORMWATER MANAGEMENT SYSTEMS AND FACILITIES;

(3) PUBLIC EDUCATION AND OUTREACH RELATING TO STORMWATER MANAGEMENT OR STREAM AND WETLAND RESTORATION;

(4) STORMWATER MANAGEMENT PLANNING, INCLUDING MAPPING AND ASSESSMENT OF IMPERVIOUS SURFACES; AS WELL AS MONITORING, INSPECTION, AND ENFORCEMENT ACTIVITIES TO CARRY OUT THE PURPOSES OF THE WATERSHED PROTECTION AND RESTORATION FUND;

(5) REASONABLE COSTS NECESSARY TO ADMINISTER THE WATERSHED PROTECTION AND RESTORATION FUND; AND

(6) GRANTS TO NONPROFIT ORGANIZATIONS FOR PROJECT COSTS FOR WATERSHED RESTORATION AND REHABILITATION PROJECTS BASED ON THE ANNUAL ALLOCATION OF THE FUND BUDGET. AWARDING OF GRANTS SHALL FOLLOW A POLICY DEVELOPED BY THE DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT. GRANTS SHALL BE FOR THE FOLLOWING PURPOSES:

(A) PLANNING, DESIGN, AND CONSTRUCTION OF STORMWATER MANAGEMENT PRACTICES;

(B) STREAM AND WETLAND RESTORATION; AND

(C) PUBLIC EDUCATION AND OUTREACH RELATED TO STORMWATER MANAGEMENT OR STREAM AND WETLAND RESTORATION.

(B) REPORT – BEGINNING JULY 1, 2014, AND EVERY 2 YEARS THEREAFTER, THE DEPARTMENT OF FISCAL AND ADMINISTRATIVE SERVICES WILL PUBLISH A REPORT INCLUDING:

(1) THE NUMBER AND CLASSIFICATION OF PROPERTIES SUBJECT TO A STORMWATER REMEDIATION FEE;

(2) THE AMOUNT OF MONEY DEPOSITED INTO THE WATERSHED PROTECTION AND RESTORATION FUND OVER THE PREVIOUS TWO (2) FISCAL YEARS;

(3) THE PERCENTAGE OF FUNDS IN THE WATERSHED PROTECTION AND RESTORATION FUND SPENT ON EACH OF THE PURPOSES IN SUBSECTION (A) OF THIS SECTION;

(4) THE NUMBER OF PROPERTIES RECEIVING CREDITS, THE AMOUNT OF CREDITS, AND THE RESULTING FEE;

(5) INFORMATION ABOUT THE GRANT PROGRAM; AND

(6) THE NUMBER OF ANNUAL APPEALS.

SECTION 275.04. STORMWATER REMEDIATION FEE.

(A) FEE – ALL PROPERTIES WITH IMPERVIOUS SURFACE AREA SHALL PAY A STORMWATER REMEDIATION FEE ACCORDING TO THE SCHEDULE OF FEES AND CHARGES AS SET BY THE COMMISSIONERS EACH YEAR.

(1) EXEMPTIONS- THE FOLLOWING ARE EXEMPT FROM THE STORMWATER REMEDIATION FEE:

(A) PROPERTY OWNED BY THE FEDERAL GOVERNMENT, STATE GOVERNMENT, THE COUNTY, A MUNICIPALITY, A REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT, OR A REGULARLY ORGANIZED VOLUNTEER EMERGENCY MEDICAL SERVICE THAT IS RECOGNIZED BY THE COUNTY;

(B) PROPERTY LOCATED WITHIN THE MUNICIPAL BOUNDARIES OF THE TOWN OF INDIAN HEAD AND THE TOWN OF LA PLATA, AS LONG AS THOSE TOWNS ASSESS THEIR OWN STORMWATER REMEDIATION FEE AS DESCRIBED IN SECTION 4-201.1 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND;

(C) PROPERTY OWNED BY A DISABLED VETERAN;

(D) PROPERTY WITH NO IMPERVIOUS SURFACE;

(E) PROPERTY SUBJECT TO AN NPDES STORMWATER PERMIT CONTAINING A PROVISION TO PROVIDE STORMWATER MANAGEMENT FOR 20% OF THE UNMANAGED IMPERVIOUS SURFACE WITHIN A FIVE YEAR TIME PERIOD; AND

(F) PROPERTY OWNED BY A PERSON OR PERSONS WHO DEMONSTRATE SUBSTANTIAL FINANCIAL HARDSHIP ACCORDING TO THE QUALIFICATIONS IN SECTION (E) BELOW.

(2) THE STORMWATER REMEDIATION FEE IS SEPARATE FROM ANY CHARGES RELATED TO STORMWATER MANAGEMENT FOR NEW DEVELOPMENTS, INCLUDING FEES FOR PERMITS, REVIEW OF STORMWATER MANAGEMENT PLANS, INSPECTIONS, AND MONITORING.

(3) THE STORMWATER REMEDIATION FEE SHALL BE BILLED, COLLECTED, AND DEPOSITED IN THE WATERSHED PROTECTION AND RESTORATION FUND BY THE DEPARTMENT OF FISCAL AND ADMINISTRATIVE SERVICES.

(4) THE STORMWATER REMEDIATION FEE IMPOSED UNDER THIS CHAPTER AND ALL INTEREST AND PENALTIES ON THE CHARGES ARE A PERSONAL DEBT OWED BY THE OWNER OF THE PROPERTY SUBJECT TO THE FEE.

(5) THE STORMWATER REMEDIATION FEE, AND ALL ACCOMPANYING INTEREST AND PENALTIES ON A LATE OR UNPAID CHARGE, CONSTITUTES A LIEN IN FAVOR OF CHARLES COUNTY ON THE PROPERTY SUBJECT TO THE FEE. ALL INTEREST AND PENALTIES COLLECTED SHALL BE DEPOSITED INTO THE WATERSHED PROTECTION AND RESTORATION FUND.

(6) THE DEPARTMENT OF FISCAL AND ADMINISTRATIVE SERVICES MAY ADOPT RULES AND REGULATIONS NECESSARY OR PROPER TO FULLY ENFORCE AND COLLECT THE CHARGES IMPOSED UNDER THIS CHAPTER.

(B) REDUCTION OF FEE -

(1) A STORMWATER REMEDIATION FEE MAY BE REDUCED TO ACCOUNT FOR ON-SITE SYSTEMS, FACILITIES, SERVICES, OR ACTIVITIES THAT REDUCE THE QUANTITY OR IMPROVE THE QUALITY OF STORMWATER DISCHARGED FROM THE PROPERTY, AND MEET OR EXCEED THE "2000 MARYLAND STORMWATER DESIGN MANUAL, VOLUMES I AND II." THE STORMWATER REMEDIATION FEE MAY BE REDUCED A MAXIMUM OF 50% PER PROPERTY.

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(2) A STORMWATER FEE MAY BE REDUCED BY A MAXIMUM OF 50% ON AN AGRICULTURAL ASSESSSED PROPERTY, COVERED BY A SOIL CONSERVATION & WATER QUALITY PLAN THAT IS APPROVED BY THE LOCAL SOIL CONSERVATION DISTRICT, OR A PROPERTY COVERED BY A FOREST MANAGEMENT PLAN.

(3) THE DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT SHALL ESTABLISH POLICIES AND PROCEDURES FOR:

(A) DETERMINING WHICH PROPERTIES MAY BE ELIGIBLE FOR A FEE REDUCTION,

(B) THE METHOD FOR CALCULATING THE AMOUNT OF A FEE REDUCTION, AND

(C) PROCEDURES FOR MONITORING AND VERIFYING THE EFFECTIVENESS OF THE ON-SITE SYSTEMS, FACILITIES, SERVICES, OR ACTIVITIES IN REDUCING THE QUANTITY OR IMPROVING THE QUALITY OF STORMWATER DISCHARGED FROM THE PROPERTY.

(4) ANY FEE REDUCTION WILL BE REFLECTED ON THE BILL AS A CREDIT.

(5) ANY FEE REDUCTION MUST BE RENEWED EVERY THREE YEARS BY SUBMITTING AN APPLICATION PROVIDED BY THE DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT AND A LETTER FROM A PROFESSIONAL ENGINEER OR PROFESSIONAL LAND SURVEYOR, CERTIFYING THAT THE FACILITIES OR PRACTICES IDENTIFIED AND APPROVED IN ITEM (1) OF THIS SUBSECTION HAVE BEEN PROPERLY MAINTAINED AND ARE FUNCTIONING ACCORDING TO THE COUNTY APPROVED DESIGN.

(C) THE DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT MAY ADOPT POLICIES AND PROCEDURES FOR A REBATE PROGRAM FOR RESIDENTIAL PROPERTIES SUBJECT TO THE STORMWATER REMEDIATION FEE.

(D) INSPECTIONS - TO MONITOR OR VERIFY THE EFFECTIVENESS OF ON-SITE SYSTEMS, FACILITIES, SERVICES, OR ACTIVITIES OF SECTIONS (B) AND (C), THE COUNTY MAY:

(1) CONDUCT ON-SITE INSPECTIONS,

(2) AUTHORIZE A THIRD-PARTY TO CONDUCT ON-SITE INSPECTIONS, OR

(3) REQUIRE A PROPERTY OWNER TO HIRE A THIRD PARTY TO CONDUCT THE ON-SITE INSPECTION AND PROVIDE THE RESULTS OF SUCH INSPECTION AND ANY OTHER INFORMATION REQUIRED.

(E) APPEALS -

(1) A PROPERTY OWNER MAY REQUEST A REVIEW AND ADJUSTMENT OF THE STORMWATER REMEDIATION FEE BY PETITIONING THE DIRECTOR IN WRITING ON AN APPLICATION PROVIDED BY THE DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT. SUCH APPLICATION MUST BE MADE WITHIN 30 DAYS OF THE DATE OF THE BILL THE OWNER WISHES TO CONTEST.

(2) WHEN SUBMITTING A PETITION FOR REVIEW OF THE STORMWATER REMEDIATION FEE, THE PROPERTY OWNER MUST INCLUDE A DETAILED STATEMENT OF THE BASIS FOR THE PETITION AND DOCUMENTS SUPPORTING THE PROPERTY OWNER'S ASSERTION THAT THE PROPERTY IS NOT SUBJECT TO THE FEE UNDER APPLICABLE LAW.

(3) WITHIN 90 DAYS OF RECEIVING THE PETITION, THE DIRECTOR SHALL REVIEW THE PETITION AND MAKE A WRITTEN DETERMINATION OF WHETHER THE PROPERTY OWNER'S REQUEST FOR AN ADJUSTMENT OF THE STORMWATER REMEDIATION FEE SHOULD BE GRANTED OR DENIED. THE DIRECTOR MAY ALSO REQUEST ADDITIONAL INFORMATION FROM THE PROPERTY OWNER THAT THE DIRECTOR REASONABLY BELIEVES WILL HELP THE DIRECTOR DECIDE WHETHER THE PROPERTY OWNER IS ENTITLED TO AN ADJUSTMENT.

(4) IF THE DIRECTOR CONCLUDES THAT THE STORMWATER REMEDIATION FEE WAS LEVIED BY MISTAKE OR RESULTED FROM

AN INACCURATE COMPUTATION, THE DIRECTOR SHALL SUBMIT THE CORRECTED DATA TO THE DEPARTMENT OF FISCAL AND ADMINISTRATIVE SERVICES WITH A REQUEST FOR AN ADJUSTMENT TO THE PROPERTY OWNER'S BILL. AFTER RECEIVING THE DIRECTOR'S REQUEST, THE DIRECTOR OF FISCAL AND ADMINISTRATIVE SERVICES SHALL MAKE AN APPROPRIATE ADJUSTMENT BASED ON THE NEW DATA SUBMITTED BY THE DIRECTOR AND REFUND ANY OVERPAYMENT TO THE PROPERTY OWNER.

(F) SUBSTANTIAL FINANCIAL HARDSHIP

(1) A PROPERTY OWNER MAY REQUEST A SUBSTANTIAL FINANCIAL HARDSHIP EXEMPTION BY PETITIONING THE TREASURY DIVISION OF THE DEPARTMENT OF FISCAL AND ADMINISTRATIVE SERVICES IN WRITING BY OCTOBER 31 OF THE TAX YEAR FOR WHICH THE EXEMPTION IS CLAIMED.

(2) TO QUALIFY FOR A SUBSTANTIAL FINANCIAL HARDSHIP EXEMPTION:

(A) THE PROPERTY FOR WHICH THE EXEMPTION IS REQUESTED SHALL BE A SINGLE FAMILY DETACHED RESIDENCE, A TOWN HOUSE, A RESIDENTIAL CONDOMINIUM, OR AN AGRICULTURAL ASSESSED PROPERTY;

(B) AT LEAST ONE OF THE PROPERTY OWNERS SHALL BE AN OCCUPANT OF THE PROPERTY; AND

(C) AT LEAST TWO OF THE FOLLOWING FOUR CRITERIA SHALL BE MET:

I. THE COMBINED GROSS INCOME OF THE PROPERTY OWNERS, AS DEFINED IN THE TAX-PROPERTY ARTICLE, SECTION 9-104, OF THE ANNOTATED CODE OF MARYLAND, DOES NOT EXCEED THE POVERTY GUIDELINES UPDATED PERIODICALLY IN THE FEDERAL REGISTER BY THE UNITED STATES DEPARTMENT OF

HEALTH AND HUMAN SERVICES UNDER THE AUTHORITY OF 42 U.S.C. SECTION 9902(2), AS AMENDED;

II. AT LEAST ONE OF THE PROPERTY OWNERS WHO RESIDES AT THE PROPERTY RECEIVES AN ENERGY ASSISTANCE SUBSIDY IN ACCORDANCE WITH A FUEL AND UTILITY ASSISTANCE PROGRAM ESTABLISHED UNDER THE HUMAN SERVICES ARTICLE, SUBSECTION 5-5A-07, OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED;

III. AT LEAST ONE OF THE PROPERTY OWNERS WHO RESIDES AT THE PROPERTY RECEIVES SUPPLEMENTAL SECURITY INCOME UNDER 42 U.S.C. SECTION 1381, ET SEQ., AS AMENDED, OR FOOD STAMPS UNDER 7 U.S.C. SECTION 2011, ET SEQ., AS AMENDED; OR

IV. AT LEAST ONE OF THE PROPERTY OWNERS WHO RESIDES AT THE PROPERTY RECEIVES VETERANS OR SOCIAL SECURITY BENEFITS UNDER THE SOCIAL SECURITY ACT, THE RAILROAD RETIREMENT ACT, ANY FEDERAL ACT FOR MEMBERS OF THE UNITED STATES ARMED FORCES, OR ANY FEDERAL RETIREMENT SYSTEM.

SECTION 275.05. SEVERABILITY.

IF ANY SECTION, SENTENCE, CLAUSE, OR PHRASE OF THIS CHAPTER IS HELD INVALID OR UNCONSTITUTIONAL BY ANY COURT OF COMPETENT JURISDICTION, THE RULING SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF THIS CHAPTER.

SECTION 2. BE IT FURTHER ENACTED, that an emergency is hereby declared to exist affecting the public health, safety or welfare of the citizens of Charles County, said emergency being the need to meet the requirements of State law relating to the implementation of local stormwater management plans.

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SECTION 3. BE IT FURTHER ENACTED, that this Act shall take effect on the day it becomes law.

ADOPTED THIS 18th DAY OF June, 2013.

COUNTY COMMISSIONERS
CHARLES COUNTY, MARYLAND

Candice Quinn Kelly, President

Reuben B. Collins, II, Esq., Vice President

Ken Robinson

Debra M. Davis, Esq.

Bobby Rucci

ATTEST:

Denise Ferguson, Clerk to the Commissioners

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