

## TITLE 7. WATERSHED PROTECTION AND RESTORATION PROGRAM

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### Section

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### § 13-7-101. Definitions.

In this title, the following words have the meanings indicated.

- (1) “Attached dwelling” means a duplex, semi-detached, or townhouse, dwelling as defined in § 18-1-101(30) of this Code.
- (2) “Base rate” means the stormwater remediation fee to be charged for each equivalent residential unit per year.
- (3) “Condominium” has the meaning stated in § 17-1-101(16) of this Code.
- (4) “Detached single-family dwelling” has the meaning stated for “dwelling, single-family detached” in § 18-1-101(30) of this Code.
- (5) “Dwelling unit” has the meaning stated in § 18-1-101(30) of this Code.
- (6) “Equivalent residential unit” means 2,940 square feet.
- (7) “Farm” means a property, or contiguous properties under the same ownership, with or without buildings, that is used for cultivating and managing the soil for composting, growing, harvesting, and selling of crops or the products of forestry, horticulture or hydroponics; processing agricultural products, regardless of whether there is a change in natural state of the product; breeding, raising, or managing livestock, including horses, cattle, poultry, fish, game, bees, or fur-bearing animals; dairying; or equestrian activities and events not conducted under a license issued by the State Racing Commission.
- (8) “Homeowners Association” means an incorporated or unincorporated homeowners association, civic or community association, council of condominium unit owners, or similar entity.
- (9) “Impervious surface” has the meaning stated in the Environment Article, § 4-201.1(d), of the State Code.
- (10) “Multifamily residential property” means real property located in any zoning district that is improved by a “dwelling, multifamily”, as that term is defined in § 18-1-101(30) of this Code.
- (11) “Nonresidential property” means real property located in a commercial, industrial, maritime, mixed use, Odenton Growth Management Area, Open Space, Town Center, or Small Business zoning district as shown on the Anne Arundel County Digital Zoning Layer adopted in accordance with § 18-2-106 of this Code, and includes real property in those zoning districts improved by an attached dwelling or a detached single family dwelling. “Nonresidential property” also includes real property located in a residential zoning district as shown on the Anne Arundel County Digital Zoning Layer adopted in accordance with § 18-2-106 of this Code with a use other

than a dwelling; real property owned by not-for-profit entities such as Homeowners Associations, fraternal organizations, religious groups or organizations, healthcare facilities, and other real property devoted to non-governmental charitable, or institutional uses; and real property located partially in a residential district and partially in any district other than a residential zoning district as shown on the Anne Arundel County Digital Zoning Layer adopted in accordance with § 18-2-106 of this Code.

(12) “Religious group or organization” means a religious organization that is certified under § 501(c)(3) or (d) of the Internal Revenue Code and that is exempt from real property tax under § 7-204 of the Tax-Property Article of the State Code.

(13) Residential property, tier one” means real property located in Zoning District RA or RLD as shown on the Anne Arundel County Digital Zoning Layer adopted in accordance with § 18-2-106 of this Code, and improved with a detached single-family dwelling.

(14) “Residential property, tier two” means real property located in Zoning District R1, R2, or R5 as shown on the Anne Arundel County Digital Zoning Layer adopted in accordance with § 18-2-106 of this Code, and improved with a detached single-family dwelling.

(15) “Residential property, tier three” means real property located in Zoning District R10, R15, or R22 as shown on the Anne Arundel County Digital Zoning Layer adopted in accordance with § 18-2-106 of this Code, and improved with an attached dwelling or a detached single-family dwelling. “Residential property, tier three” also includes real property in Residential Zoning District RA, RLD, R1, R2, or R5 that is improved by an attached dwelling or is a mobile home space under a license issued pursuant to Article 11, Subtitle 9 of this Code.

(16) “Stormwater remediation fee” means the fee charged in accordance with this title to fund or support, in full or in part, the purposes set forth in § 4-11-119(c) of this Code.

(17) “Unimproved property” means real property that has no impervious surface.  
(Bill No. 2-13; Bill No. 44-13; Bill No. 74-13)

### **§ 13-7-102. Watershed Protection and Restoration Program.**

(a) **Program established.** There is a Watershed Protection and Restoration Program as mandated by § 4-202.1 of the Environment Article of the State Code.

(b) **Purposes.** The purposes of the Watershed Protection and Restoration Program are to support compliance with the requirements of the County’s National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System permit, Chesapeake Bay Total Maximum Daily Load and local watershed Total Maximum Daily Load, and stormwater Watershed Implementation Plans through stormwater management practices and stream and wetland restoration activities, and to maintain and administer the Watershed Protection and Restoration Special Revenue Fund established under § 4-11-119 of this Code.

(Bill No. 2-13; Bill No. 42-13)

### **§ 13-7-103. Stormwater remediation fee.**

(a) **Fee established.** There is an excise tax known as the stormwater remediation fee imposed on the use of real property improved with impervious surface as required by § 4-202.1(e) of the Environment Article of the State Code. The stormwater remediation fee may not be imposed on real property in the City of Annapolis.

(b) **Base rate.** The base rate of the stormwater remediation fee for one equivalent residential unit shall be \$85 per year.

(c) **Residential property fee.** The stormwater remediation fee for each real property in the following categories shall be:

- (1) residential property, tier one - two times the base rate;

- (2) residential property, tier two - the base rate; and
- (3) residential property, tier three - 40% of the base rate for each dwelling unit or mobile home space.

(d) **Multifamily residential and nonresidential properties fee.** Except as provided in subsections (e), (f), (g), (h), (i) (j), (k), (l), and (m) the stormwater remediation fee for a multifamily residential property or a nonresidential property shall be determined in accordance with the following procedure:

(1) The Director determines the number of equivalent residential units assigned to the property by dividing the total impervious surface of the property by the value of one equivalent residential unit.

(2) For a non-residential property, the Director computes the stormwater remediation fee by multiplying the base rate by the number of equivalent residential units assigned to the property.

(3) For a multifamily residential property, the Director computes the stormwater remediation fee by multiplying the number of equivalent residential units assigned to the property by 40% of the base rate.

(e) **Condominiums fee.** If a multifamily residential property is a condominium, the stormwater remediation fee determined for buildings containing dwelling units in accordance with subsection (d) shall be divided by the number of dwelling units and that amount shall be billed separately to each condominium dwelling unit owner.

(f) **Private roads – fee.** If a nonresidential property is a private road with a separate tax account number and is not owned by a Homeowners Association, the stormwater remediation fee shall be the base rate.

(g) **Homeowners Associations – fee.** If a nonresidential property is owned by a Homeowners Association, the total stormwater remediation fee for all properties owned by the same Homeowners Association may not exceed the number of property tax accounts for the property owners within the boundaries of the Homeowners Association multiplied by 40% of the base rate.

(h) **Nonresidential properties – cap on fee.** The stormwater remediation fee for a nonresidential property may not exceed 25% of the State and County real property tax that would be levied based on the assessment of the property prior to any tax credits, deferrals, or exemptions that are applicable in accordance with the Tax-Property Article of the State Code or Article 4, Title 2 of this Code.

(i) **Certain marinas – fee.** Marinas in good standing with the Maryland Department of Natural Resources Clean Marina Initiative with more than seven-and-one-half acres of impervious surface shall pay a fee for each additional acre or fraction thereof in excess of seven-and-one-half acres equivalent to 25% of the base rate.

(j) **Private airfields or airports – fee.** If a nonresidential property is a private airfield or airport as defined in Article 18 of this Code, the stormwater remediation fee shall be two times the base rate.

(k) **Farms – fee.** The stormwater remediation fee for a farm shall be 40% of the base rate for each property tax account associated with the farm that has impervious surface.

(l) **Properties with certain permits – fee.** If a nonresidential property is subject to a National Pollutant Discharge Elimination System Permit including stormwater management controls, the stormwater remediation fee shall be 30 % of the rate calculated under subsection (d)(2).

(m) **Nonprofit organizations – fee.** Unless otherwise provided under this section, the stormwater remediation fee for nonresidential property owned by a nonprofit organization that is exempt from taxation under 501(c)(3) or (d) of the Internal Revenue Code and exempt from real property tax under the Tax-Property Article of the State Code shall be \$1.00.

(n) **Implementation of fee.**

(1) For residential properties, the stormwater remediation fee shall be charged in the following manner:

- (i) 60% of the fee beginning in fiscal year 2014;
- (ii) 80% of the fee beginning in fiscal year 2015; and
- (iii) 100% of the fee beginning in fiscal year 2016 and each fiscal year thereafter.

(2) For multifamily residential and non-residential properties, if the stormwater remediation fee calculated under subsection (d) is \$500 or greater, it shall be charged in the following manner:

- (i) 60% of the fee beginning in fiscal year 2014;
- (ii) 80% of the fee beginning in fiscal year 2015; and
- (iii) 100% of the fee beginning in fiscal year 2016 and each fiscal year thereafter.

(o) **Collection.** The stormwater remediation fee shall be billed annually to the owner of the real property on which it is imposed. The stormwater remediation fee shall be collected as provided in § 1-9-101 of this Code. The Controller shall include an explanation in each property tax bill that indicates that the stormwater remediation fee included on the property tax bill is a tax required by Maryland House Bill 987, enrolled as Chapter 151 of the Acts of the General Assembly, 2012, which was passed by the General Assembly and signed into law by the Governor on May 2, 2012, and is now codified as § 4.202.1(e) of the Environment Article of the State Code.

(Bill No. 2-13; Bill No. 40-13; Bill No. 42-13; Bill No. 43-13; Bill No. 44-13; Bill No. 45-13; Bill No. 74-13)

### § 13-7-104. Appeals.

(a) **Definitions.** In this section, the following words have the meanings indicated.

- (1) “Median impervious surface of residential property, tier 2” means 2940 square feet.
- (2) “Median impervious surface of residential property, tier 3” means 1200 square feet.

(b) **Administrative appeal.** A property owner may appeal a stormwater remediation fee to the Department. An appeal shall be submitted on or before September 30 in order to receive a correction of the stormwater remediation fee for the current billing year.

(c) **Grounds for appeal.** Grounds for appeal of the stormwater remediation fee include:

- (1) incorrect classification of real property for purposes of determining the stormwater remediation fee;
- (2) a property in the category residential property, tier 1 having less impervious surface than the median impervious surface of residential property, tier 2, for a charge at the tier 2 level;
- (3) a property in the category residential property, tier 2 having less impervious surface than the median impervious surface of residential property, tier 3, for a charge at the tier 3 level;
- (4) for nonresidential or multifamily residential property, errors in the calculation of the impervious surface of the property;
- (5) mathematical errors in calculating the stormwater remediation fee;
- (6) the real property is not subject to the stormwater remediation fee under § 13-7-105;
- (7) the property owner is exempt from the stormwater remediation fee under § 13-7-106;
- (8) errors in the identification of the property owner of real property subject to the stormwater remediation fee; or
- (9) for nonresidential property owned by a Homeowners Association, errors in the number of property tax accounts for the property owners within the boundaries of the Homeowners Association.

(d) **Application.** An appeal must be submitted in writing on an application form provided by the Department. A property owner shall include a detailed statement of the grounds of the appeal and all information or supporting documentation as required by the Department. Failure to provide all information required on the application form or to attach any relevant documentation is a basis for a denial of an appeal. If the basis for appeal is:

- (1) that the zoning district of the real property is incorrect, the property owner shall provide proof of the zoning district of the property as shown on the Anne Arundel County Digital Zoning

Layer adopted in accordance with § 18-2-106 of this Code;

(2) that there is an error in the calculation of the impervious surface of the property, the property owner shall supply documentation prepared and certified by a registered professional engineer or professional land surveyor of the impervious surface of the property; or

(3) that there is an error in the number of dwellings or dwelling units that may be billed by a Homeowners Association, the property owner shall provide proof of the number of property tax accounts for the property owners within the boundaries of the Homeowners Association.

(e) **Written decision.** The Director shall issue a written decision indicating whether the appeal is granted or denied and a copy shall be provided to the property owner, the Controller, and any counsel of record. The written decision of the Director shall set forth all reasons for the decision and shall set forth any change in the amount of the stormwater remediation fee. For fiscal year 2014, the Director shall issue the written decision within 90 days of the filing of the appeal. For any year after fiscal year 2014, the Director shall issue the written decision within 45 days.

(f) **Adjusted billing.** If the decision of the Director changes the amount of the stormwater remediation fee, the Controller shall issue a new bill to the property owner.

(g) **Stay.** An application for an appeal filed under subsection (d) shall act as an immediate stay on the collection of the stormwater remediation fee, without interest or penalty. A property owner shall pay the fee within 30 days of a final determination of the amount of fee.

(h) **Tax Court.** A property owner who is aggrieved by a decision of the Director on an appeal or by the imposition of a stormwater remediation fee shall pay the stormwater remediation fee and may request a refund in accordance with Local Government Article, § 20-113, of the State Code and may appeal to the Maryland Tax Court in accordance with Local Government Article, § 20-117, of the State Code.

(Bill No. 2-13; Bill No. 44-13; Bill No. 74-13; Bill No. 19-14)

### **§ 13-7-105. Exemptions – Property.**

(a) **State and local government property.** A stormwater remediation fee may not be imposed on real property owned by the entities listed in the Environment Article, § 4-202.1(e)(2), of the State Code.

(b) **Unimproved property.** A stormwater remediation fee may not be imposed on unimproved property.

(Bill No. 2-13)

### **§ 13-7-106. Exemptions – Substantial financial hardship.**

(a) **Program established.** There is a Substantial Financial Hardship Exemption Program. The purpose of the Program is to exempt from the payment of the stormwater remediation fee a property owner who is able to demonstrate substantial financial hardship as a result of the fee.

(b) **Qualifications for exemption.** To qualify for a substantial financial hardship exemption:

(1) the real property for which the exemption is requested shall contain a detached single family dwelling or a dwelling unit in an attached dwelling or multifamily residential property;

(2) at least one of the property owners shall be an occupant of the property; and

(3) at least two of the following four criteria shall be met to demonstrate substantial financial hardship:

(i) the combined gross income, as defined in the Tax-Property Article, § 9-104, of the State Code, 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. § 9902(2);

(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, § 5-5A-07, of the State Code;

(iii) at least one of the property owners who resides at the property receives supplemental Security Income under 42 U.S.C. § 1381, et seq. or food stamps under 42 U.S.C. § 2011, et seq.; or

(iv) at least one of the property owners who resides at the property receives veterans or Social Security disability 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.

(c) **Mobile home park tenants.** A person with a valid lease or contract to use a mobile home space in a licensed mobile home park qualifies for the substantial financial hardship exemption if at least one of the persons listed on the lease or contract is an occupant of a mobile home in the mobile home space and at least two of the four criteria set forth in subsection (b)(3) are met. If a substantial financial hardship exemption is granted under this subsection and the stormwater remediation fee is charged to an owner of a mobile home park, the stormwater remediation fee for the mobile home park shall be reduced by 40% of the base rate.

(d) **Rules and regulations.** The Office of Finance shall administer the Substantial Financial Hardship Exemption Program and the Controller shall adopt rules and regulations governing the Program. The rules and regulations shall provide:

- (1) the application deadline;
- (2) that the application shall be made on a form provided by the Office of Finance;
- (3) a description of documentation that shall be provided by an applicant; and
- (4) any other matters deemed necessary by the Controller to administer the Substantial

Financial Hardship Exemption Program.

(e) **Validity of exemption.** Any exemption granted is only valid for the year that payment of the stormwater remediation fee is due.

(Bill No. 2-13)

### **§ 13-7-107. Reduction of fee.**

The Director shall adopt rules and regulations in accordance with the Environment Article, § 4-202.1(f)(1), of the State Code to reduce, in an amount not to exceed 50%, the stormwater remediation fee for a real property that has a National Pollutant Discharge Elimination System permit that includes stormwater management controls, or to account for existing on site systems, facilities, services, or activities that reduce the quantity or improve the quality of stormwater discharged from a property. Marinas covered under a current National Pollutant Discharge Elimination System permit with stormwater management controls for marinas shall be entitled to a 25% reduction of the stormwater remediation fee for the marina. Marinas in good standing with the Maryland Department of Natural Resources Clean Marina Initiative shall be entitled to a total reduction not to exceed 50% of the stormwater remediation fee for the marina. The Director may enter into an agreement for a fee reduction conditioned upon the successful implementation of an approved stormwater remediation project.

(Bill No. 2-13)

### **§ 13-7-108. Competitive Grant Program.**

Beginning July 1, 2014, the Department may establish a grant program consistent with § 4-202.1(h)(4)(vi) of the Environment Article of the State Code to award grants on a competitive basis to an entity determined to be a 501(c) organization by the Internal Revenue Service for watershed restoration and rehabilitation projects relating to planning, design, and construction of stormwater management practices and stream and wetland restoration, consistent with § 4-202.1(h)(4)(vi) of the Environment Article of the State Code and the Department's Watershed Implementation Program.

