

THE EFFECTIVE DATE OF THIS ORDINANCE IS JULY 1, 2013

ORDINANCE NO. 13-06-634

Re: Watershed Protection and Restoration Special Revenue Fund and Program

In 2012, the Maryland General Assembly adopted and the Maryland Governor signed legislation requiring the Board of County Commissioners of Frederick County and nine (9) other jurisdictions to enact a watershed Protection and Restoration Program.

At the state of Maryland's direction, the required Watershed Protection and Restoration Program must include a stormwater remediation fee to fund the local watershed protection and restoration program.

To comply with the State's mandate, the Board of County Commissioners held a duly advertised public hearing on May 30, 2013, at which hearing the public had an opportunity to comment on this Ordinance as proposed.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Sections 1-15.2-11.0, et seq. are hereby added to the Frederick County Code to read as follows:

ARTICLE XI: WATERSHED PROTECTION AND RESTORATION PROGRAM

1-15.2-11.0. DEFINITIONS.

IN THIS ARTICLE, A PART OF CHAPTER 1-15.2 OF THE FREDERICK COUNTY CODE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

DIVISION. THE COMMUNITY DEVELOPMENT DIVISION OF FREDERICK COUNTY GOVERNMENT.

DIRECTOR. DIRECTOR OF FREDERICK COUNTY GOVERNMENT'S COMMUNITY DEVELOPMENT DIVISION, SOMETIMES ACTING THROUGH HIS OR HER DESIGNEE.

IMPERVIOUS SURFACE HAS THE MEANING STATED IN THE ANNOTATED CODE OF MARYLAND, ENVIRONMENT ARTICLE, § 4-201.1(D).

STORMWATER REMEDIATION FEE. THE FEE CHARGED IN ACCORDANCE WITH THIS TITLE TO FUND OR SUPPORT, IN FULL OR IN PART, THE PURPOSES SET FORTH IN SECTIONS 1-15.2-11.1 AND 1-15.2-11.2 OF THIS CODE.

1-15.2-11.1. WATERSHED PROTECTION AND RESTORATION PROGRAM.

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

(A) THERE IS HEREBY ESTABLISHED A WATERSHED PROTECTION AND RESTORATION PROGRAM.

(B) THE PURPOSES OF THE WATERSHED PROTECTION AND RESTORATION PROGRAM ARE TO SUPPORT AND FULLFILL THOSE STORMWATER MANAGEMENT GOALS SET FORTH IN THE ENVIRONMENT ARTICLE, § 4.202.1, OF THE STATE CODE.

1-15.2-11.2. WATERSHED PROTECTION AND RESTORATION SPECIAL REVENUE FUND.

(A) THERE IS HEREBY ESTABLISHED A WATERSHED PROTECTION AND RESTORATION SPECIAL REVENUE FUND INTO WHICH SHALL BE PAID THE REVENUE REQUIRED BY THE ENVIRONMENT ARTICLE, § 4-202.1(H)(3), OF THE STATE CODE.

(B) THE WATERSHED PROTECTION AND RESTORATION SPECIAL REVENUE FUND IS A SPECIAL, NONLAPSING FUND.

(C) REVENUE PAID INTO THIS WATERSHED PROTECTION AND RESTORATION SPECIAL REVENUE FUND SHALL BE DEDICATED TO AND APPROPRIATED ONLY FOR THOSE PURPOSES SET FORTH IN THE ENVIRONMENT ARTICLE, § 4-202.1(H)(4), OF THE STATE CODE.

(D) GENERAL FUND AND OTHER REVENUES MAY BE USED TO SUPPLEMENT APPROPRIATIONS FROM THE WATERSHED PROTECTION AND RESTORATION SPECIAL REVENUE FUND FOR THE PURPOSES SET FORTH IN SUBSECTION (C) ABOVE.

1-15.2-11.3. STORMWATER REMEDIATION FEE.

(A) A STORMWATER REMEDIATION FEE IS IMPOSED ON THE USE OF ALL REAL PROPERTY LOCATED WITHIN FREDERICK COUNTY THAT IS SUBJECT TO THE COUNTY'S SYSTEM BENEFIT CHARGE SET FORTH IN FREDERICK COUNTY CODE, SECTION 1-11-44. HOWEVER, THIS STORMWATER REMEDIATION FEE SHALL NOT BE IMPOSED ON REAL PROPERTY THAT IS LOCATED WITHIN A FREDERICK COUNTY INCORPORATED MUNICIPALITY OR OTHERWISE EXEMPT UNDER THE ENVIRONMENT ARTICLE, SECTION 4-202.1(E)(2), OF THE STATE CODE.

(B) THE STORMWATER REMEDIATION FEE FOR EACH TAX PARCEL OF REAL PROPERTY WITHIN THE COVERED AREA OF FREDERICK COUNTY SHALL BE ONE CENT (\$00.01) PER YEAR.

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

(C) THE STORMWATER REMEDIATION FEE SHALL BE A LIEN ON THE REAL PROPERTY ON WHICH IT IS IMPOSED AND SHALL BE BILLED ANNUALLY TO THE OWNER OF THE REAL PROPERTY ON WHICH IT IS IMPOSED. THE STORMWATER REMEDIATION FEE SHALL REMAIN AS A LIEN ON THE REAL PROPERTY UNTIL PAID. DELINQUENT STORMWATER REMEDIATION FEES MAY BE COLLECTED IN ANY MANNER AS PROVIDED UNDER THE TAX-PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND (INCLUDING THROUGH TAX SALE), BY CIVIL ACTION, OR AS OTHERWISE PERMITTED BY LAW OR EQUITY.

1-15.2-11.4. APPEALS.

(A) A PROPERTY OWNER MAY APPEAL A STORMWATER REMEDIATION FEE ASSESSMENT TO THE DIVISION. AN APPEAL SHALL BE SUBMITTED ON OR BEFORE SEPTEMBER 30 IN ORDER TO RECEIVE A CORRECTION OF THE STORMWATER REMEDIATION FEE.

(B) GROUNDS FOR APPEAL OF THE STORMWATER REMEDIATION FEE INCLUDE:

(1) MATHEMATICAL ERRORS IN CALCULATING THE STORMWATER REMEDIATION FEE;

(2) THE REAL PROPERTY IS NOT SUBJECT TO THE STORMWATER REMEDIATION FEE UNDER § 1-15.2-11.5;

(3) THE PROPERTY OWNER IS EXEMPT FROM THE STORMWATER REMEDIATION FEE UNDER § 1-15.2-11.6; OR

(4) ERRORS IN THE IDENTIFICATION OF THE PROPERTY OWNER OF REAL PROPERTY SUBJECT TO THE STORMWATER REMEDIATION FEE.

(C) AN APPEAL MUST BE SUBMITTED IN WRITING TO THE FREDERICK COUNTY DIRECTOR OF TREASURY ON AN APPLICATION FORM PROVIDED BY THE DIVISION. A PROPERTY OWNER SHALL INCLUDE A DETAILED STATEMENT OF THE GROUNDS OF THE APPEAL AND ALL INFORMATION OR SUPPORTING DOCUMENTATION AS REQUIRED BY THE DIVISION. FAILURE TO PROVIDE ALL INFORMATION REQUIRED ON THE APPLICATION FORM IS A BASIS FOR A DENIAL OF AN APPEAL.

(D) 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 DIRECTOR OF TREASURY, AND ANY COUNSEL OF RECORD. THE WRITTEN DECISION OF THE DIRECTOR SHALL SET

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

FORTH ALL REASONS FOR THE DECISION AND SHALL SET FORTH ANY CHANGE IN THE AMOUNT OF THE STORMWATER REMEDIATION FEE.

(E) IF THE DECISION OF THE DIRECTOR CHANGES THE AMOUNT OF THE STORMWATER REMEDIATION FEE, THE DIRECTOR OF TREASURY SHALL ISSUE A NEW BILL TO THE PROPERTY OWNER.

(F) 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 ARTICLE 24, § 9-710, OF THE STATE CODE AND MAY APPEAL TO THE MARYLAND TAX COURT IN ACCORDANCE WITH ARTICLE 24, § 9-712(D), OF THE STATE CODE.

1-15.2-11.5. EXEMPTIONS - SUBSTANTIAL FINANCIAL HARDSHIP.

(A) THERE IS A SUBSTANTIAL FINANCIAL HARDSHIP EXEMPTION PROGRAM WHOSE PURPOSE 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) TO QUALIFY FOR A SUBSTANTIAL FINANCIAL HARDSHIP EXEMPTION THE REAL PROPERTY FOR WHICH THE EXEMPTION IS REQUESTED MUST QUALIFY FOR AND RECEIVE A FINANCIAL HARDSHIP EXEMPTION FROM THE COUNTY'S BAY RESTORATION FUND FEE, WHICH HARDSHIP EXEMPTION PROGRAM IS ADOPTED AS THE STORMWATER REMEDIATION FEE SUBSTANTIAL FINANCIAL HARDSHIP EXEMPTION PROGRAM.

(C) THE DIRECTOR OF TREASURY SHALL ADMINISTER THE SUBSTANTIAL FINANCIAL HARDSHIP EXEMPTION PROGRAM AND, TO THE EXTENT NOT INCONSISTENT WITH THE COUNTY'S BAY RESTORATION FUND HARDSHIP EXEMPTION, MAY ADOPT RULES AND REGULATIONS GOVERNING THE PROGRAM TO INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

- (1) THE APPLICATION DEADLINE;
- (2) THE FORM OF THE APPLICATION;
- (3) DOCUMENTATION REQUIRED OF APPLICANTS; AND

(4) ANY OTHER MATTERS DEEMED NECESSARY BY THE DIRECTOR OF TREASURY TO ADMINISTER THE SUBSTANTIAL FINANCIAL HARDSHIP EXEMPTION PROGRAM.

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(D) ANY HARDSHIP EXEMPTION GRANTED IS ONLY VALID FOR THE YEAR THAT PAYMENT OF THE STORMWATER REMEDIATION FEE IS DUE.

1-15.2-11.6. 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 A PORTION OF THE STORMWATER REMEDIATION FEE FOR A REAL PROPERTY TO ACCOUNT FOR ON SITE SYSTEMS, FACILITIES, SERVICES, OR ACTIVITIES THAT REDUCE THE QUANTITY OR IMPROVE THE QUALITY OF STORMWATER DISCHARGED FROM A PROPERTY.

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on July 1, 2013.

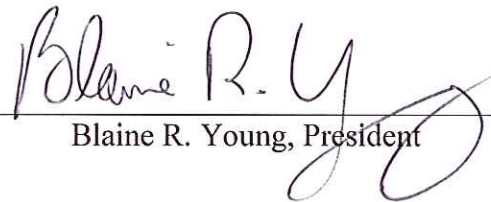
The undersigned hereby certifies that this Ordinance was approved and adopted on the 30th day of May, 2013.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND



Lori L. Depies, CPA
County Manager

By: 

Blaine R. Young, President

R.J.M.
5-30-13

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.