

Expedited Bill No. 45-15  
Concerning: Stormwater Management –  
Water Quality Protection Charge --  
Curative Legislation  
Revised: 10/22/15 Draft No. 2  
Introduced: October 27, 2015  
Enacted: November 17, 2015  
Executive: November 24, 2015  
Effective: July 1, 2013  
Sunset Date: None  
Ch. 54, Laws of Mont. Co. 2015

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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**AN EXPEDITED ACT** to:

- (1) designate the Water Quality Protection Charge as an excise tax imposed under the County's general taxing authority;
- (2) ratify the collection of stormwater management charges levied under Section 19-35 since July 1, 2013; and
- (3) continue the levy and collection of the Water Quality Protection Charge from property owners under the same terms and conditions as set out in Section 19-35.

By amending

Montgomery County Code  
Chapter 19, Sediment Control and Storm Water Management  
Sections 19-21 and 19-35

<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 and 19-35 are amended as follows:**

2                           **ARTICLE II. STORMWATER MANAGEMENT.**

3   **19-21. Definitions.**

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

6   \*       \*       \*

7           Water Quality Protection Charge: An excise tax charged to a property owner  
8           for the privilege of maintaining impervious surfaces on the owner's property.

9   **19-35. Water Quality Protection Charge.**

10           (a) As authorized by [State law] Section 52-17 (a) or Maryland Code,  
11           Environment Art., § 4-204, or both, the Director of Finance must  
12           annually impose and collect a Water Quality Protection Charge, as  
13           provided in this Section. The Director must collect the Charge in the  
14           same manner as County real property taxes, apply the same interest,  
15           penalties, and other remedies (including tax sale) if the Charge is not  
16           paid, and generally treat the Charge for collection and administration  
17           purposes as if it were a County real property tax. The Director may  
18           treat any unpaid Charge as a lien on the property to which the charge  
19           applies.

20   \*       \*       \*

21  
22           **Sec. 2. Expedited Effective Date:** The Council declares that this legislation  
23           is necessary for the immediate protection of the public interest. This Act takes effect  
24           on the date on which it becomes law.

25           **Sec. 3. Curative Effect:** This Act retroactively validates and ratifies the levy  
26 and collection under Section 19-35 of all stormwater management charges collected  
27 since July 1, 2013.

28           Expedited Bill 34-12 amended County Code Section 19-35 to subject all  
29 properties not otherwise exempt under State law to the Water Quality Protection  
30 Charge, allow property owners to obtain credits for undertaking certain water quality  
31 protection measures on their properties, and authorize financial hardship exemptions  
32 for certain owner-occupants of residential properties. The effective date of Expedited  
33 Bill 34-12 was July 1, 2013.

34           In *Paul N. Chod v. Board of Appeals for Montgomery County* (Civil No.  
35 398704-V, entered July 23, 2015) the Circuit Court for Montgomery County opined  
36 that the Water Quality Protection Charge “is invalid per se because this charge need  
37 not reasonably relate to the stormwater management services provided by the  
38 County.” The County has appealed this decision. This Act is intended to correct the  
39 potential defect noted by the Circuit Court by designating the stormwater  
40 management charges imposed by Section 19-35 as an excise tax imposed under the  
41 general taxing authority of Montgomery County to levy excise taxes. This Act is not  
42 intended to alter the policy, purposes, or substance of Section 19-35.

43           The County Council finds that:


- 44           (a) Montgomery County had the authority in 2013 to adopt Section 19-35  
45           under the County’s taxing authority—see Section 52-17;
- 46           (b) This Act furthers the original purpose of Section 19-35 to require  
47           individual owners of property with impervious surfaces to pay a share  
48           of the public costs associated with mitigating and remediating the  
49           environmental impact of stormwater runoff throughout the County;
- 50           (c) The legal defect in the adoption of Bill 34-12 (if any) was minor,  
51           because the County had in 2013 and continues to have the authority to

52 levy and collect from property owners an excise tax for the purpose of  
53 producing revenue to fund the water quality protection measures needed  
54 to ameliorate the environmental impact of stormwater runoff;

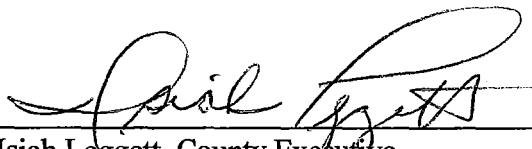
55 (d) All property owners have benefitted from water quality protection and  
56 restoration measures made possible by the revenues generated from the  
57 stormwater management charges imposed under Section 19-35; and

58 (e) It is just and proper that this Act take effect as of July 1, 2013 in order  
59 that the public will continue to benefit from the water quality protection  
60 and restoration measures undertaken and to be undertaken as a result of  
61 the revenues provided by the Water Quality Protection Charge.


62 *Approved:*

63  11/18/2015  
\_\_\_\_\_  
George Leventhal, President, County Council Date

64 *Approved:*

65  11/24/2015  
\_\_\_\_\_  
Isiah Leggett, County Executive Date

66 *This is a correct copy of Council action.*

67  11/27/15  
\_\_\_\_\_  
Linda M. Lauer, Clerk of the Council Date