

# SENATE BILL 440

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7lr2458  
CF HB 557

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By: **Senators Conway and Salling**

Introduced and read first time: January 30, 2017

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 28, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Environment – Water Management – Sediment Control at Large Redevelopment**  
3 **Sites**

4 FOR the purpose of prohibiting a county or municipality from issuing a grading or building  
5 permit until the developer submits a grading and sediment control plan approved by  
6 the Department of the Environment if the property that is the subject of the permit  
7 is, or is included in, a certain large redevelopment site; requiring the Department to  
8 determine certain criteria for certain large redevelopment sites; providing that the  
9 Department is the approval authority for certain large redevelopment sites; defining  
10 the term “large redevelopment site”; and generally relating to sediment control at  
11 large redevelopment sites.

12 BY repealing and reenacting, with amendments,  
13 Article – Environment  
14 Section 4–101.1, 4–103(a), and 4–105  
15 Annotated Code of Maryland  
16 (2013 Replacement Volume and 2016 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
18 That the Laws of Maryland read as follows:

19 **Article – Environment**

20 4–101.1.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) In this title the following words have the meanings indicated.

2 (B) “LARGE REDEVELOPMENT SITE” MEANS ANY REAL PROPERTY:

3 (1) CONSISTING OF ONE OR MORE CONTIGUOUS PARCELS THAT ARE  
4 COLLECTIVELY MORE THAN ~~100~~ 500 ACRES;

5 (2) THAT IS BEING USED, OR WAS FORMERLY USED, FOR INDUSTRIAL  
6 PURPOSES AND MANUFACTURING; AND

7 (3) FOR WHICH THE DEPARTMENT HAS RECEIVED:

8 (I) ONE OR MORE APPLICATIONS FOR PARTICIPATION IN THE  
9 VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THIS ARTICLE;  
10 OR

11 (II) ONE OR MORE PLANS FOR REMEDIAL ACTION BY A  
12 RESPONSIBLE PARTY, THE OWNER OR OPERATOR OF THE SITE, OR A PROSPECTIVE  
13 PURCHASER OF THE SITE IN ACCORDANCE WITH § 7-222 OF THIS ARTICLE.

14 [(b)] (C) “Person” includes the federal government, the State, any county,  
15 municipal corporation, or other political subdivision of the State, or any of their units.

16 [(c)] (D) “Pollution” means any contamination or other alteration of the physical,  
17 chemical, or biological properties of any waters of this State, including a change in  
18 temperature, taste, color, turbidity, or odor of the waters or the discharge or deposit of any  
19 organic matter, harmful organism, or liquid, gaseous, solid, radioactive, or other substances  
20 into any waters of this State, that will render the waters harmful or detrimental to:

21 (1) Public health, safety, or welfare;

22 (2) Domestic, commercial, industrial, agricultural, recreational, or other  
23 legitimate beneficial uses;

24 (3) Livestock, wild animals, or birds; or

25 (4) Fish or other aquatic life.

26 [(d)] (E) “Waters of this State” includes:

27 (1) Both surface and underground waters within the boundaries of this  
28 State subject to its jurisdiction, including that part of the Atlantic Ocean within the  
29 boundaries of this State, the Chesapeake Bay and its tributaries, and all ponds, lakes,  
30 rivers, streams, storm drain systems, public ditches, tax ditches, and public drainage  
31 systems within this State, other than those designed and used to collect, convey, or dispose  
32 of sanitary sewage; and

1 (2) The flood plain of free-flowing waters determined by the Department  
2 of Natural Resources on the basis of the 100-year flood frequency.

3 4-103.

4 (a) (1) A county or municipality may issue grading and building permits as  
5 provided by law.

6 (2) A grading or building permit may not be issued until the developer:

7 (i) Submits a grading and sediment control plan approved by:

8 1. The appropriate soil conservation district; [or]

9 2. A municipal corporation in Montgomery County that is  
10 designated under paragraph (4) of this subsection; [and] OR

11 **3. THE DEPARTMENT, IF THE PROPERTY THAT IS THE**  
12 **SUBJECT OF THE GRADING OR BUILDING PERMIT IS, OR IS INCLUDED IN, A LARGE**  
13 **REDEVELOPMENT SITE; AND**

14 (ii) Certifies that all land clearing, construction, and development  
15 will be done under the plan.

16 (3) **(I) [Criteria] EXCEPT FOR LARGE REDEVELOPMENT SITES,**  
17 **CRITERIA** for sediment control and the procedure for referring an applicant to the  
18 appropriate soil conservation district shall be acceptable to the soil conservation district  
19 and the Department of the Environment.

20 **(II) FOR LARGE REDEVELOPMENT SITES, CRITERIA FOR**  
21 **SEDIMENT CONTROL SHALL BE DETERMINED BY THE DEPARTMENT AND SHALL BE**  
22 **AS PROTECTIVE OF THE ENVIRONMENT AS THE CRITERIA REQUIRED UNDER**  
23 **SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

24 (4) A soil conservation district may delegate approval authority of a  
25 grading and sediment control plan to a municipal corporation in Montgomery County that:

26 (i) Has its own sediment control review provisions that are at least  
27 as stringent as the provisions of the grading and sediment control plan of the soil  
28 conservation district;

29 (ii) Issues sediment control permits; and

30 (iii) Meets the necessary performance standards established by  
31 written agreement between the district and the municipal corporation.

1 4-105.

2 (a) (1) (i) In this section, “construction” means land clearing, grubbing,  
3 topsoil stripping, soil movement, grading, cutting and filling, transporting, or otherwise  
4 disturbing land for any purpose.

5 (ii) “Construction” includes land disturbing activities for the purpose  
6 of:

- 7 1. Constructing buildings;
- 8 2. Mining minerals;
- 9 3. Developing golf courses; and
- 10 4. Constructing roads and installing utilities.

11 (2) (i) Before any person begins any construction, the appropriate  
12 approval authority shall first receive, review, and approve the proposed earth change and  
13 the sediment control plan.

14 (ii) Except as provided in subsection (b) of this section, the approval  
15 authority is:

- 16 1. The appropriate soil conservation district;
- 17 2. A municipal corporation in Montgomery County that is  
18 designated by a soil conservation district under paragraph (6) of this subsection;
- 19 3. Any municipality not within a soil conservation district;
- 20 4. If a State or federal unit undertakes any construction, the  
21 Department or the Department’s designee; [or]
- 22 5. For abandoned mine reclamation projects conducted by  
23 the Department pursuant to Title 15, Subtitles 5, 6, and 11 of this article, the Department;  
24 **OR**

25 **6. FOR LARGE REDEVELOPMENT SITES, THE**  
26 **DEPARTMENT.**

27 (iii) Criteria used by the Department or the Department’s designee  
28 for review and approvals under subparagraph (ii)4 of this paragraph:

- 29 1. Shall meet or exceed current Maryland standards and  
30 specifications for soil erosion and sediment control; or

1                   2.     If alternative standards are applied, shall be reviewed and  
2 approved by the Department.

3                   (3)    A person may not begin or perform any construction unless the person:

4                   (i)     Obtains an approved sediment control plan;

5                   (ii)    Implements the measures contained in the approved sediment  
6 control plan;

7                   (iii)  Conducts the construction as specified in the sequence of  
8 construction contained in the approved sediment control plan;

9                   (iv)   Maintains the provisions of the approved sediment control plan;  
10 and

11                  (v)     Implements any sediment control measures reasonably  
12 necessary to control sediment runoff.

13                  (4)    In consultation with the person responsible for performing the  
14 construction, the Department, jurisdictions delegated enforcement authority under §  
15 4-103(e)(2) of this subtitle, or the appropriate approval agency may require modifications  
16 to an approved sediment control plan if the approved plan is not adequate to control  
17 sediment or erosion.

18                  (5)    A person performing construction that proposes a major change to an  
19 approved sediment control plan shall submit the proposed change to the appropriate  
20 approval authority for review and approval.

21                  (6)    A soil conservation district may delegate approval authority under  
22 paragraph (2) of this subsection to a municipal corporation in Montgomery County that:

23                  (i)     Has its own sediment control review provisions that are at least  
24 as stringent as the provisions of the grading and sediment control plan of the soil  
25 conservation district;

26                  (ii)    Issues sediment control permits; and

27                  (iii)  Meets the necessary performance standards established by  
28 written agreement between the district and the municipal corporation.

29                  (b)    In Montgomery County, notwithstanding the provisions of subsection (c) of  
30 this section and § 4-103(a)(1) of this subtitle, the soil conservation district may delegate  
31 the authority to review and approve or reject any sediment control plans for nonagricultural  
32 construction to the Montgomery County government by written agreement between the

1 district and the county government department authorized by county law or regulation to  
2 perform those functions.

3 (c) In Prince George’s and Montgomery counties, the Washington Suburban  
4 Sanitary Commission, after consultation with and advice of the soil conservation districts  
5 of the two counties and the Department of the Environment, shall prepare and adopt rules  
6 and regulations for erosion and sediment control requirements for utility construction  
7 work. The rules and regulations shall be adopted and enforced as are others of the  
8 Commission under authority conferred by other laws. These rules and regulations apply to  
9 any utility construction work in Prince George’s and Montgomery counties. The provisions  
10 of this subsection do not apply until the soil conservation district in each county approves  
11 erosion and sediment control requirements for utility construction work in that county.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
13 1, 2017.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.