

Chapter 370

(Senate Bill 440)

AN ACT concerning

Environment – Water Management – Sediment Control at Large Redevelopment Sites

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

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

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

Article – Environment

4–101.1.

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

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

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

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

(3) FOR WHICH THE DEPARTMENT HAS RECEIVED:

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

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

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

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

- (1) Public health, safety, or welfare;
- (2) Domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses;
- (3) Livestock, wild animals, or birds; or
- (4) Fish or other aquatic life.

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

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

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

4-103.

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

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

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

1. The appropriate soil conservation district; [or]

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

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

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

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

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

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

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

(ii) Issues sediment control permits; and

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

4-105.

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

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

1. Constructing buildings;
2. Mining minerals;

3. Developing golf courses; and
4. Constructing roads and installing utilities.

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

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

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

6. FOR LARGE REDEVELOPMENT SITES, THE DEPARTMENT.

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

1. Shall meet or exceed current Maryland standards and specifications for soil erosion and sediment control; or
2. If alternative standards are applied, shall be reviewed and approved by the Department.

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

- (i) Obtains an approved sediment control plan;
- (ii) Implements the measures contained in the approved sediment control plan;
- (iii) Conducts the construction as specified in the sequence of construction contained in the approved sediment control plan;

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

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

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

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

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

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

(ii) Issues sediment control permits; and

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

(b) In Montgomery County, notwithstanding the provisions of subsection (c) of this section and § 4–103(a)(1) of this subtitle, the soil conservation district may delegate the authority to review and approve or reject any sediment control plans for nonagricultural construction to the Montgomery County government by written agreement between the district and the county government department authorized by county law or regulation to perform those functions.

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

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

Approved by the Governor, May 4, 2017.