

Chapter 474

(Senate Bill 64)

AN ACT concerning

Beach Erosion Control District – State– and City–Owned Structures

FOR the purpose of exempting the repair, renovation, reconstruction, or expansion of certain existing structures in the Beach Erosion Control District from a certain prohibition under certain circumstances and subject to certain requirements; repealing certain exemptions from a certain prohibition for the widening of the boardwalk in Ocean City and the construction of certain restroom facilities in the District; and generally relating to the Beach Erosion Control District.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 8–1102

Annotated Code of Maryland

(2012 Replacement Volume and 2021 Supplement)

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

Article – Natural Resources

8–1102.

(a) (1) Except as otherwise provided in paragraphs (2) [and (3)] **THROUGH (4)** of this subsection, for the purposes of maintaining the Atlantic Coast beaches of the State and the Beach Erosion Control District, the integrity and continuity of the dunal system and assuring adequate maintenance of the beaches, Beach Erosion Control District, and dunal system, to provide for shore erosion and sediment control and storm protection, and to minimize structural interference with the littoral drift of sand and any anchoring vegetation, any land clearing, construction activity, or the construction or placement of permanent structures within the Beach Erosion Control District is prohibited.

(2) This prohibition does not apply to any project or activity approved by the Department and the appropriate soil conservation district specifically for storm control; beach erosion and sediment control; maintenance projects designed to benefit the Beach Erosion Control District; ~~the widening of the boardwalk in Ocean City up to an additional 40 feet to the east between South Second Street and the south side of Worcester Street and from the south side of Somerset Street to the southerly terminus of the steel and concrete bulkhead at 4th Street, and an additional 80 feet to the east between the south side of Worcester Street and the south side of Somerset Street to include associated appurtenances and construction of one restroom facility in an easterly direction between South Second Street and the southerly terminus of the steel and concrete bulkhead at 4th Street for the~~

~~purpose of public health, safety, and welfare;~~ and a planned public utility pipeline carrying treated sewage effluent from a unit not exceeding 14 million gallons per day, if, in addition to the approvals required by all other applicable federal and local laws and regulations, it is approved by the Board of Public Works as essential to the public health, safety, and welfare of the citizens of Worcester County, after having received the permission of the Secretaries of the Environment and Natural Resources, and the Secretary of Planning, including a guarantee that in any contract under this provision a person will not make any significant permanent environmental disruption to the area, and the construction area for the purpose of laying a single pipe with a diameter not exceeding 36 inches is limited to a single 100 foot wide area perpendicular eastward from the west crest of the natural dune line on Assateague Island and in Ocean City, and if the Secretaries of the Environment and Natural Resources and the Secretary of Planning find that there is no economically and environmentally feasible alternative, and that there is insufficient capacity at the existing Ocean City wastewater treatment facility and discharge pipe.

(3) (i) Subject to subparagraph (iii) of this paragraph, this prohibition does not apply to the construction and installation of a qualified submerged renewable energy line, as defined in § 7–208 of the Public Utilities Article, if the project does not result in any significant permanent environmental damage to the Beach Erosion Control District, as determined by the Department.

(ii) An application for a certificate of public convenience and necessity to construct a qualified submerged renewable energy line, as defined in § 7–208 of the Public Utilities Article, is subject to review by the Department and the Department of the Environment, as provided in § 3–306 of this article.

(iii) The Public Service Commission may not approve an application for a qualified submerged renewable energy line to be constructed or installed within the Assateague National Seashore Park or the Assateague State Park.

(4) (I) SUBJECT TO ~~SUBPARAGRAPH (II)~~ SUBPARAGRAPHS (II), (III), AND THROUGH (IV) OF THIS PARAGRAPH, THIS PROHIBITION DOES NOT APPLY TO THE REPAIR, RENOVATION, RECONSTRUCTION, OR EXPANSION OF AN EXISTING STRUCTURE OWNED BY THE STATE OR THE MAYOR AND CITY COUNCIL OF OCEAN CITY IF THE PROJECT DOES NOT RESULT IN ANY SIGNIFICANT PERMANENT ENVIRONMENTAL DAMAGE TO THE BEACH EROSION CONTROL DISTRICT, AS DETERMINED BY THE DEPARTMENT.

(II) A RECONSTRUCTION OR EXPANSION PROJECT CARRIED OUT UNDER THIS PARAGRAPH ~~SHALL COMPLY WITH SITING AND DESIGN CRITERIA ESTABLISHED UNDER § 3-1009 OF THIS ARTICLE.~~

~~(III) PRIOR TO THE COMMENCEMENT OF A RECONSTRUCTION OR EXPANSION PROJECT CARRIED OUT UNDER THIS PARAGRAPH, THE MAYOR AND CITY COUNCIL OF OCEAN CITY SHALL APPROVE THE PROJECT.~~

~~(IV) 1. AN EXPANSION PROJECT CARRIED OUT UNDER THIS PARAGRAPH MAY NOT:~~

~~A. RESULT IN ANY INCREASE IN HEIGHT ABOVE THE EXISTING STRUCTURE; OR~~

~~B. EXTEND BEYOND ANY EXISTING DULY RECORDED PROPERTY OR FRANCHISE BOUNDARY.~~

~~2. IF NO BOUNDARY UNDER SUBSUBPARAGRAPH 1B OF THIS SUBPARAGRAPH EXISTS AT THE PROJECT SITE, AN EXPANSION PROJECT CARRIED OUT UNDER THIS PARAGRAPH:~~

~~A. SHALL BE SOLELY FOR PURPOSES OF BRINGING THE EXISTING STRUCTURE INTO COMPLIANCE WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT OR THE TOWN OF OCEAN CITY FIRE PREVENTION STANDARDS; AND~~

~~B. MAY NOT INCREASE THE ABOVE GRADE FOOTPRINT OF THE EXISTING STRUCTURE IN A NORTH OR SOUTH SHALL:~~

~~1. COMPLY WITH SITING AND DESIGN CRITERIA ESTABLISHED UNDER § 3-1009 OF THIS ARTICLE; AND~~

~~2. BE APPROVED BY THE MAYOR AND CITY COUNCIL OF OCEAN CITY.~~

~~(III) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH, A RECONSTRUCTION OR EXPANSION PROJECT CARRIED OUT UNDER THIS PARAGRAPH MAY NOT:~~

~~1. RESULT IN ANY INCREASE IN HEIGHT ABOVE THE EXISTING STRUCTURE; OR~~

~~2. EXTEND BEYOND ANY EXISTING DULY RECORDED PROPERTY OR FRANCHISE BOUNDARY.~~

~~(IV) IF NO RECORDED PROPERTY OR FRANCHISE BOUNDARY EXISTS FOR A RECONSTRUCTION OR EXPANSION PROJECT CARRIED OUT UNDER THIS PARAGRAPH, THE PROJECT:~~

~~1. MAY ONLY BRING THE EXISTING STRUCTURE INTO COMPLIANCE WITH:~~

- OR
- A. THE FEDERAL AMERICANS WITH DISABILITIES ACT;**
- B. TOWN OF OCEAN CITY FIRE PREVENTION STANDARDS; AND**
- 2. MAY NOT INCREASE THE ABOVE-GRADE FOOTPRINT OF THE EXISTING STRUCTURE IN A NORTHERLY OR SOUTHERLY DIRECTION.**

(b) The Secretary of the Environment, the Secretary of Natural Resources, and the Secretary of Planning, with the approval of the Board of Public Works, shall jointly adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article for the purpose of implementing the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.

Approved by the Governor, May 16, 2022.