

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 543 (Senators Ellis and Guzzone)
Education, Energy, and the Environment

Charles County - Cemeteries - Sediment Control, Stormwater Management, and
Forest Conservation

This bill exempts cemeteries located in Charles County from specified sediment control and stormwater management requirements applicable to grading and construction/building. The bill also exempts the development of land for use as a cemetery in Charles County from the requirements of the Forest Conservation Act (FCA). **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances.

Local Effect: Potential minimal decrease in Charles County revenues from any fees related to sediment control, stormwater management, and forest conservation requirements that otherwise would have been assessed in the absence of the bill. County expenditures are not materially affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Sediment Control Plans and Grading and Building Permits

Generally, a county or municipality may only issue a grading and building permit to a developer who has submitted a grading and sediment control plan approved by the

appropriate approval authority. In addition, before a person begins any land clearing, grubbing, topsoil stripping, soil movement, grading, cutting and filling, transporting, or other disturbing of land for any purpose, the appropriate approval authority must review and approve the proposed earth change and the sediment control plan. In Charles County, the approval authority is the Charles County Soil Conservation District.

Grading, earth change, and sediment control plan requirements do not apply to (1) agricultural land management practices; (2) construction of agricultural structures; or (3) except in Calvert County, to the construction of single-family residences or their accessory buildings that disturb an area of less than one-half acre and occur on lots of two acres or more. Regulations also exempt grading activities that disturb less than 5,000 square feet (ft²) of land area and less than 100 cubic yards of earth.

Stormwater Management Plans and Grading and Building Permits

The General Assembly first enacted the Stormwater Management Act in 1982 and has amended it several times since. The statutory intent of the Stormwater Management Act is to reduce, as much as possible, the adverse effects of stormwater runoff. To achieve that goal, the Act requires each county and municipality to have an ordinance implementing a stormwater management program consistent with flood management plans and that meets certain minimum requirements.

A person may generally not develop any land for residential, commercial, industrial, or institutional use without submitting a stormwater management plan to the county or municipality that has jurisdiction and obtaining plan approval. Further, a grading or building permit may not be issued for a property unless a stormwater management plan has been approved that is consistent with the Stormwater Management Act. Developers must certify that all land clearing, construction, development, and drainage is conducted according to the plan. Regulations exempt (1) additions or modifications to existing single-family detached residential structures if they do not disturb more than 5,000 ft² of land area; (2) any developments that do not disturb more than 5,000 ft² of land area; and (3) land development activities that are determined to be regulated under specific State laws, which provide for managing stormwater runoff.

In Charles County, stormwater management plans are approved by the county, and the county is responsible for ensuring plan compliance.

Forest Conservation Act

The Department of Natural Resources' (DNR) Forest Service administers FCA, but it is primarily implemented on the local level. FCA and local forest conservation programs developed under it apply to any public or private subdivision plan or application for a

grading or sediment control permit by any person, including a unit of State or local government, on areas 40,000 ft² or greater, subject to certain exceptions. Exceptions include:

- State or local government (or State-funded) highway construction activity that is subject to separate reforestation requirements;
- cutting or clearing of forest in areas governed by the Critical Area law;
- specified commercial logging and timber harvesting operations;
- agricultural activity that does not result in a change in land use category;
- specified cutting or clearing of public utility rights-of-way;
- routine maintenance of public utility rights-of-way;
- specified activity that does not result in the cutting, clearing, or grading of more than 20,000 ft² of forest;
- specified strip or deep mining of coal and noncoal surface mining;
- a county that has and maintains 200,000 acres or more of its land area in forest cover;
- cutting or clearing of trees to comply with federal requirements relating to objects affecting navigable airspace;
- cutting or clearing of trees to comply with State law requirements related to obstructions to air navigation, under certain circumstances;
- specified stream restoration projects; and
- specified maintenance or retrofitting of a stormwater management structure.

Pursuant to FCA, a proposed construction activity goes through a process of evaluating existing vegetation on a site and the development of a forest conservation plan for the site defining how forest area will be retained and/or afforestation or reforestation will be undertaken. If afforestation or reforestation requirements cannot be reasonably accomplished on site or off site (which can include use of off-site forest mitigation banks), payment may be made into the applicable forest conservation fund (fee-in-lieu payments) to be spent by the State or the local government on reforestation and afforestation, maintenance of existing forest, and achieving urban canopy goals.

The review of the forest conservation plan must be concurrent with the review process of the State or local authority for the subdivision plan, or the grading or sediment control permit, whichever is submitted first. Before the approval of the final subdivision plan, or the issuance of the grading or sediment control permit, the applicant must have an approved forest conservation plan.

Pursuant to FCA, Charles County has a forest conservation ordinance.

Small Business Effect: Cemeteries in Charles County that are small businesses may benefit to the extent the bill reduces costs associated with any grading and/or construction/building. The bill may reduce opportunities for any small businesses that would otherwise provide services needed to comply with sediment control, stormwater management, or forest conservation requirements (*e.g.*, engineering firms). According to DNR, there are approximately 61 cemeteries within Charles County, including historic cemeteries, family burial areas on private property, and approximately three large cemeteries available to the public.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 663 of 2021.

Designated Cross File: None.

Information Source(s): Charles County; Maryland Department of the Environment; Department of Natural Resources; Department of Legislative Services

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km/sdk

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