

Introduced	<u>3/4/19</u>
Public Hearing	<u>3/18/19</u>
Council Action	<u>4/1/19</u>
Executive Action	<u>4/5/19</u>
Effective Date	<u>4/5/19</u>

County Council of Howard County, Maryland

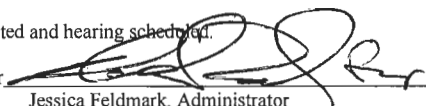
2019 Legislative Session

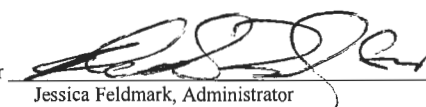
Legislative Day No. 4

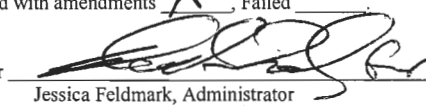
Bill No. 10 -2019

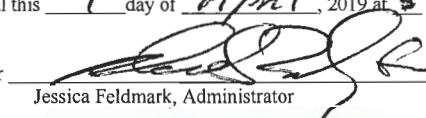
Introduced by the Chairperson at the request of the County Executive


AN ACT expanding and clarifying upon the purpose of Storm Drainage provisions in the Howard County Code; defining certain terms; allowing the authority to enter into certain buildings, structures or premises in order to take certain actions when there exists a possible impediment to the passage of water during rain events; clarifying that the failure of a property owner to complete certain corrective action is a violation of the Howard County Code; ~~and generally relating to Storm Drainage~~ and declaring that this Act is an Emergency Bill necessary to meet an immediate emergency affecting public health, safety, or welfare.

Introduced and read first time March 4, 2019. Ordered posted and hearing scheduled.
 By order 
 Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on March 18, 2019.
 By order 
 Jessica Feldmark, Administrator

This Bill was read the third time on April, 2019 and Passed , Passed with amendments , Failed
 By order 
 Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 4 day of April, 2019 at 5 a.m. p.m.
 By order 
 Jessica Feldmark, Administrator

Approved/ Vetoed by the County Executive April 5, 2019

 Carvin Bell, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 WHEREAS, as the County heads into rainier weather seasons, which in the last several
2 years have caused catastrophic floods, loss of human life, damage to property and
3 extraordinary use of public resources to combat flooding, there is an immediate need to
4 remove harmful debris from waterways before the debris becomes a threat to public
5 health, safety and welfare; and

6
7 WHEREAS, pursuant to Section 209(d) of the Howard County Charter, this
8 Emergency Bill is authorized as it is necessary to meet an immediate emergency affecting
9 public health, safety, or welfare.

10
11 **NOW, THEREFORE,**

12 *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard*
13 *County Code is amended as follows:*

14 *By amending*

15 *Title 18. Public Works.*

16 *Subtitle 5. Storm Drainage Systems.*

17 *1. Section 18.500. Purpose.*

18 *2. Section 18.501. Definitions.*

19 *3. Section 18.503. Right of Entry.*

20 *4. Subsection (a) of Section 18.504. Repair and maintenance of private*
21 *storm drain facilities in residential areas.*

22
23 **Title 18. Public Works.**

24 **Subtitle 5. Storm Drainage Systems.**

25
26 **Section 18.500. – Purpose.**

27 The purpose of this subtitle is to PROVIDE FOR THE PROPER FUNCTIONING OF THE STORM
28 DRAINAGE SYSTEMS WITHIN THE COUNTY, INCLUDING WATERWAYS, TO prohibit certain
29 stormwater and nonstormwater discharges [[into]]TO [[publicly and privately owned]] storm
30 drainage [[facilities]]SYSTEMS or [[waterways and]]WATERWAYS, to [[provide for]]REQUIRE the
31 repair and maintenance of privately owned storm drainage [[facilities]]FACILITIES, AND TO
32 PROVIDE THAT THE FAILURE TO MAINTAIN CERTAIN PRIVATELY OWNED STORM DRAINAGE
33 FACILITIES IS A VIOLATION OF THIS SUBTITLE.

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Section 18.501. - Definitions.

Terms used in this subtitle have the meaning indicated.

(a) *Best management practice* shall have the meaning set forth in title 18, subtitle 9 of the Howard County Code.

(b) *Department* means the Department of Public Works.

(c) *Director* means the Director of the Department of Public Works or the Director's authorized designee.

(D) *DISCHARGE* MEANS:

(1) THE ADDITION, INTRODUCTION, LEAKING, SPILLING, OR EMITTING OF A POLLUTANT INTO THE WATERS OF THIS STATE; OR

(2) THE PLACING OF A POLLUTANT IN A LOCATION WHERE THE POLLUTANT IS LIKELY TO POLLUTE.

([[d]]E) *Hazardous material* means a material, including a substance, waste, or combination thereof, which, because of its quantity, concentration, physical, chemical, or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

([[e]]F) *Illicit connection* means either:

(1) A drain or conveyance, either on the surface or subsurface, which allows a discharge, prohibited under section 18.502 of this subtitle, to enter a public storm drainage facility or waterway, regardless of whether the drain or conveyance had been previously allowed, permitted, or approved by the Department; or

(2) A drain or conveyance connected to a public storm drainage facility or waterway which has not been documented in a plan, map, or equivalent record and approved by the Department.

([[f]]G) *National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit* means a permit issued by the Environmental Protection Agency or by a State acting under authority delegated pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to waters of the United States. The permit may be applicable on an individual, group, or general area-wide basis.

([[g]]H) *Nonstormwater discharge* means any discharge to a storm drainage facility or waterway that is not composed entirely of stormwater.

1 ([[h]]I) *Person* means an individual, corporation, firm, partnership, association, organization, a
2 group acting as a unit, or an executor, Administrator, trustee, receiver or other representative
3 appointed according to law.

4 ([[i]]J) *Pollutant* means anything which causes or contributes to pollution. A pollutant may
5 include, but is not limited to, paints, varnishes and solvents, oil or other automotive fluids,
6 nonhazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, other discarded
7 or abandoned objects, ordinances and accumulations which may cause or contribute to pollution,
8 floatables, pesticides, herbicides, fertilizers, hazardous substances and wastes, sewage, fecal
9 coliform and pathogens, dissolved and particulate metals, animal wastes, construction wastes and
10 residues, noxious or offensive matter of any kind, or any other chemical substance.

11 ([[j]]K) *Premises* means a building, lot, parcel of land, or portion of land whether improved or
12 unimproved including, without limitation, adjacent sidewalks or parking strips.

13 ([[k]]L) *Storm drainage facility* means a facility in which stormwater is collected or conveyed,
14 including, without limitation, a road with a drainage facility, a municipal street, gutter, curb, inlet,
15 piped storm drain, pumping facility, best management practice, reservoir, or other drainage
16 structure.

17 (M) *STORM DRAINAGE SYSTEM* MEANS PUBLIC AND PRIVATELY-OWNED STORM DRAINAGE
18 FACILITIES AND WATERWAYS.

19 ([[l]]N) *Stormwater* means any surface flow, runoff, or drainage consisting entirely of water from
20 any form of natural precipitation and resulting from such precipitation.

21 ([[m]]O) *Waterway* means any natural, manmade, or altered stream, river, creek, ditch, gully,
22 ravine, lake, or wash, in and including any adjacent area that is subject to inundation from
23 overflow or flood water.

24

25 **Section 18.503. - Right of entry.**

26 (a) *Generally.* Except as provided in subsection (b) of this section, the Director may enter any
27 BUILDING, STRUCTURE, OR premises at any reasonable time for the purpose of enforcing this
28 subtitle AND FOR PERFORMING DUTIES RELATED TO THIS SUBTITLE.

29 (b) *Consent.* The Director may enter a private dwelling to inspect for a violation of this subtitle
30 with the consent of the occupant or owner. If entry is refused, the Director may seek a court order
31 to permit entry to the dwelling.

32 (c) *Threat to Public Health and Safety.* UPON PROVIDING PROOF OF IDENTITY PRIOR TO ENTRY,
33 THE [[The]] Director [[shall have the right to]]MAY enter a building, structure, or [[premises
34 where]]PREMISES:

- 1 (1) WHERE there is evidence that a violation of this subtitle exists which threatens or may
2 threaten the public health and safety for the purpose of performing duties pursuant to the
3 provisions of this [[subtitle. The Director shall produce proof of identity prior to
4 entry]]SUBTITLE; OR
- 5 (2) TO REMOVE NATURAL AND MAN-MADE OBSTRUCTIONS IN STREAM CHANNELS AND IN
6 THE FLOODWAY OF STREAMS, WHICH MAY IMPEDE THE PASSAGE OF WATER DURING RAIN
7 EVENTS. THIS PROVISION DOES NOT CREATE ANY RESPONSIBILITY OF THE COUNTY FOR
8 THE CLEARANCE OR MAINTENANCE OF THE STREAM, OR FOR FLOODING, AND DOES NOT
9 AFFECT THE RIGHTS AND OBLIGATIONS OF PRIVATE PROPERTY OWNERS REGARDING THE
10 FLOODPLAIN OR MAINTENANCE OF STREAM CHANNELS.

11

12 **Section 18.504. - Repair and maintenance of private storm drain facilities in residential**
13 **areas.**

14 (a) Single Residential Lot Storm Drainage Facilities:

- 15 (1) Privately owned storm drainage facilities which are associated with the development of a
16 lot or parcel for a single residence and which primarily benefit the owner or user of the
17 lot or parcel shall be the responsibility of the property owner to maintain, repair, or
18 replace.
- 19 (2) The repair or replacement of any storm drainage facility associated with the development
20 of a lot or parcel for a single residence may be made by the property owner after written
21 approval is obtained from the Department, and the work shall be done in accordance with
22 such approval.
- 23 (3) If the County determines that deficiencies exist in a private stormwater drainage facility
24 associated with the development of a lot or parcel for a single residence, the County shall
25 give notice to the property owner in writing of the deficiencies, describe the required
26 corrective action, and the time period to have the deficiencies corrected. The notice shall
27 be given by sending a letter by certified mail to the address of the owner as shown in the
28 current tax records kept by the Department of Finance. FAILURE OF THE PROPERTY
29 OWNER TO COMPLETE THE REQUIRED CORRECTIVE ACTION IN THE SPECIFIED TIME IS A
30 VIOLATION OF THIS SUBTITLE.
- 31 (4) If the property owner fails to correct the deficiencies within the specified time frame, the
32 County may apply to the appropriate court for an order allowing the County to enter the
33 property and to make, at the property owner's expense, the necessary repairs or
34 replacement of the facility.

1 (5) Following entry of the order and completion of the repair or replacement, the County
2 shall send to the property owner a bill for the costs to correct the deficiencies. If the bill is
3 not paid within 30 days, the County may file with the court a verified statement of costs,
4 for the purpose of entering a civil judgment in the County's favor against the property
5 owner.

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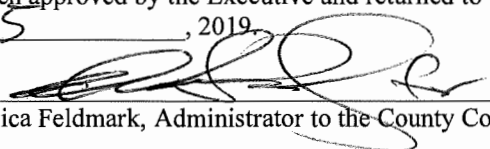
7 ~~**Section 2. And Be It Further Enacted** by the County Council of Howard County, Maryland, that
8 *this Act shall become effective 61 days after its enactment.*~~

9 **Section 2. And Be It Further Enacted** by the County Council of Howard County,
10 *Maryland that this Act is an Emergency Bill that is necessary to address an immediate*
11 *emergency affecting public health, safety, or welfare, and having been passed by two-*
12 *thirds of its members, this Act shall be effective immediately upon its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on

April 5, 2019.



Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2019.

Jessica Feldmark, Administrator to the County Council