



ANNE ARUNDEL COUNTY GOVERNMENT RELATIONS OFFICE

Legislative and Fiscal Summary of Administration Legislation

To: Members, Anne Arundel County Council

From: Ethan Hunt, Director of Government Affairs /s/

Date: June 16, 2025

Subject: Bill No. 62-25 – AN ORDINANCE concerning: Public Works –
Watershed Protection and Restoration Program

This summary was prepared by the Anne Arundel County Government Relations Office for use by members of the Anne Arundel County Council during consideration of Bill No. 62-25.

Summary

This Bill, introduced at the request of the Administration on behalf of the Department of Public Works (“DPW”), makes minor changes to the Watershed Protection and Restoration Fee (“WPRF” or “Fee”) to ensure greater consistency in assessment of the WPRF. The fee has been in place for over a decade in Anne Arundel County. Throughout that time, DPW staff have worked with property owners to ensure that the fee was applied in a fair and equitable manner, generally trying to resolve fee disputes with an eye to interpreting the fee rules as charitably as possible to the benefit of the public. With more than a decade of experience, enough unusual situations have arisen that this package of minor changes is requested to ensure consistent applicability of the program that aligns with the intent of the law. In total, there are seven proposed revisions; four of which relate to unusual circumstances in assessing the fee, as well as eliminating the deadline to file an appeal, and increasing the income threshold for requesting a hardship exemption. No change to the rate of the fee is proposed.

1. In the definitions portion of the legislation, there are updates to obsolete provisions and cross references, including adding references to new dwelling types that have been added in Article 18 since the adoption of the WPRF legislation. References to the zoning layer are updated for consistency. The only substantive change in the definitions is to add a definition of “common elements”. The reference to “common elements” is added in 13-7-103(f), with regard to including the common elements when calculating the fee.
2. The following alterations are intended to change the billing for certain properties so that they are billed more comparably to how other property owners are being billed for similar

Note: This Legislative and Fiscal Summary provides a synopsis of the legislation as introduced. It does not address subsequent amendments to the legislation.

uses and scenarios, and to close loopholes in the original legislation:

- a. *Includes common elements in the calculation of the fee for condominiums.* DPW staff have discovered that the State Department of Assessments and Taxation (“SDAT”) does not always assign a tax account to common element land within a condominium complex. This depends on whether the common area was transferred by deed to a Condo Association (tax account) or whether the common area was submitted to a Condominium Regime by recordation of its governing documents (no tax account). When the second instance occurs, it has resulted in the fee for a common element’s impervious area not being billed to any tax account. This is inconsistent with how other common element properties are billed and was not the intent of the original legislation. This revision would allow a fee to be billed for the common element’s impervious surfaces in all circumstances.
- b. *Revises provisions regarding the fees for private roads.* Two issues regarding private roads are addressed by this provision. First, under current law, when a private road in a subdivision is in the subdivision developer’s name, it meets the definition of a Private Road and is billed a low flat-rate fee. When the road is transferred to the homeowners’ association (“HOA”), it then meets the definition of an HOA-owned property, and is billed based on the amount of impervious surface, resulting in a much larger fee. In cases where the road parcels were never properly transferred from the developer to the HOA, HOAs take up paying the bills for these roads but enjoy a large discount because the SDAT-listed owner is not an HOA. For consistency, this legislation would bill such a road as “Non-Residential” when it is in the developer’s name, which would result in the same fee as an HOA-owned property, unless the HOA is eligible for the HOA cap. This change would not apply to developments with 15 or fewer lots or dwelling units, as the fee for these smaller developments is still limited to the base rate to protect individual owners or small groups of individual owners from being who own a road in common from being charged an excessive fee. The second issue of private roads relates to roads in apartment complexes, which meet the definition of a Private Road, and are billed a low flat-rate fee. This legislation would make an alteration so that private roads in apartment complexes are billed at the rate of the rest of the apartment complex property (Multi-Family Residential Property). Multi-Family Residential Properties are billed at 40% of the base rate.
- c. *Clarifies that the cap on the fee based on the assessment of a property does not apply for properties that have a zero assessment.* Currently, non-residential properties with a \$0 assessment prior to any tax credits, deferrals, or exemptions fall under the 25% tax cap. This means the fee for those properties cannot exceed \$0. DPW has discovered that on occasion, SDAT assigns a property’s assessment value to adjacent related properties, resulting in that property being assigned a zero dollar assessment. For example, there have been instances where a property that consists of a shared area (such as a parking lot or a commercial condo property whose common element area was not owned by a condo association) has a zero dollar assessment because the assessment value of that shared area was instead assigned to the tax accounts for the building unit owners that use the

shared area, rather than directly to the tax account for the shared area. Under current law, this results in the fee for the shared area's impervious surfaces not being billed to any tax account, which is inconsistent with how other properties are billed, and was not the intention of the original legislation. This clarification would allow a fee to be billed for the shared area's impervious surfaces. Note that not all shared/common use areas are assigned assessment values in this manner, but we have come across several that have been.

- d. *Clarifies that when a property has a farm and is also residential, the fee for a farm, which is the lower of the two fees, shall prevail.* The current law does not clarify which fee should prevail when a property is both a farm and a residential property. This clarification provides the County with guidance on how to bill such properties.
3. Currently, the Code includes an appeal deadline of September 30 for a property owner to appeal the calculation of WPRF. However it was determined that appeals should be able to be submitted at any point during the year and that the County would follow the state law allowing for a refund. Accordingly, the September 30 appeal deadline is removed.
4. Currently, the financial hardship income limits do not match those the County uses for the Bay Restoration Fee, and the limits for the WPRF are lower. This legislation would change the threshold to qualify for a financial hardship exemption from the US poverty guidelines to the limits the State uses for the Home Energy Program, which is also used for Bay Restoration Fee ("BRF") funding. This is a more permissive threshold. Currently the income limits that the State uses for the Energy Program are twice that of the US poverty guidelines.

Purpose

The purpose of this legislation is to make revisions to the Watershed Protection Restoration Fee Program to ensure consistency in assessing the fee, as well as eliminating the deadline to file an appeal, and increasing the income threshold for requesting a financial hardship exemption.

Fiscal Impact

Please see the Fiscal Note the Budget Office has prepared for an explanation of the fiscal impact of this Bill.

Additional Information

The Government Relations Office is available to answer any additional questions regarding this Bill. Specific questions should be directed to Kelly Kenney, Office of Law, or Erik Michelsen, Department of Public Works. Thank you.

cc: Honorable Steuart Pittman, County Executive
Christine Anderson, Chief Administrative Officer
Jenny Proebstle, Chief of Staff
Karen Henry, Director of Public Works
Gregory Swain, County Attorney
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