

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2021 Legislative Session

Bill No. CB-46-2021

Chapter No. 33

Proposed and Presented by Council Member Glaros

Introduced by Council Members Glaros, Hawkins, Dernoga, Davis, Taveras, Turner,
Anderson-Walker, Ivey, Harrison and Franklin

Co-Sponsors _____

Date of Introduction September 28, 2021

BILL

1 AN ACT concerning

2 Stormwater Management and Residential Resilience Retrofit Program

3 For the purpose of providing for certain definitions; establishing and administering the
4 Stormwater Management and Residential Resilience Retrofit Program; providing for eligibility
5 requirements; providing for certain rebates; providing for a certain increase in certain residential
6 lifetime rebate ceilings; providing for an increase in certain municipal stormwater management
7 projects under certain conditions; providing for conservation landscaping; providing for certain
8 funding; providing for certain reporting; and generally relating to the Stormwater Management
9 and Residential Resilience Retrofit Program.

10 BY repealing and reenacting with amendments:

11 SUBTITLE 32. WATER RESOURCES

12 PROTECTION AND GRADING CODE.

13 Sections 32-171, 32-201.01, 32-201.02,

14 32-201.03, 32-201.04, and 32-201.05

15 The Prince George's County Code

16 (2019 Edition; 2020 Supplement).

17 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
18 Maryland, that Sections 32-171, 32-201.01, 32-201.02, 32-201.03, 32-201.04, and 32-201.05
19 of the Prince George's County Code be and the same are hereby repealed and reenacted with the
20 following amendments:

1 **SUBTITLE 32. WATER RESOURCES PROTECTION AND GRADING CODE.**

2 **DIVISION 3. STORMWATER MANAGEMENT.**

3 **SUBDIVISION 4. STORMWATER MANAGEMENT AND**
4 **RESIDENTIAL RESILIENCE RETROFIT PROGRAM.**

5 **Sec. 32-171. - Definitions.**

6 (a) For purposes of this Division, the following terms, phrases and words, and their
7 derivations shall have the meaning given herein:

8 * * * * *

9 **(15) Conservation Agreement.** A formal agreement that commits a grading or building permit
10 applicant to the execution of various approved elements of a Conservation Plan, including a
11 stormwater concept management plan, an approved sediment and erosion control plan, a
12 vegetation management plan and other plans that may be required by the Department or the
13 Prince George's County Planning Board.

14 **(15.1) Conservation Landscaping.** A native plant landscape or intentional naturalization
15 designed to provide climate resilient and ecosystem benefits including cooler surfaces, carbon
16 sequestration, pollinator and wildlife support, reduced runoff and pollution, and healthy soils.
17 Types of conservation landscapes and practices may include but not be limited to: Bayscapes,
18 Stormwater Gardens, Urban Meadow, Landscape Restoration, Urban Soil Restoration, and
19 Baywise Maintenance. All practices must incorporate low carbon methods. Soil restoration
20 practices must include vertical composting into compacted soil, eroded soil, or urban fill to re-
21 establish a healthy soil structure and biome.

22 **(16) Conservation Plan.** A plan developed in accordance with Subtitle 5B, which demonstrates
23 how a project has been designed to meet the specific Critical Area Commission criteria. The
24 Conservation Plan consists of an approved stormwater management concept plan, an approved
25 sediment and erosion control plan, a vegetation management plan, and such other plans relating
26 to environmental systems as may be required by the Washington Suburban Sanitary
27 Commission, the Maryland-National Capital Park and Planning Commission, the Prince
28 George's County Health Department, the Department or the Prince George's Soil Conservation
29 District.

30 * * * * *

31 **Sec. 32-201.01. - [Establishment of] Stormwater Management and Residential Resilience**

1 **Retrofit Program.**

2 (a) There is hereby established the Stormwater Management and Residential Resilience Retrofit
3 Program, hereinafter the "Program", for the purpose of providing property owners the incentive
4 to invest in stormwater management to improve the quality of life in our communities with green
5 stormwater retrofits and to help Prince George's County meet its obligations under the Clean
6 Water Act to reduce stormwater pollution in its rivers and streams.

7 (b) The Program shall be administered by the Department of the Environment. The Program
8 shall be operated as a rebate program for eligible climate resilience and stormwater management
9 expenditures and the Director of the Department of Environment may promulgate regulations to
10 operate the program in a manner where the property owner and Department of Environment
11 execute projects via a cost-share agreement for any of the practices authorized in Section 32-
12 201.03 subsection (j).

13 **Sec. 32-201.02. - Eligibility requirements [for rebates].**

14 (a) Individuals, commercial businesses, multi-family dwellings, homeowners associations,
15 condominium associations, civic associations, non-profit organizations and not-for-profit
16 organizations, including housing cooperatives, with property located in Prince George's County
17 are eligible to receive rebates pursuant to the Program[. Subject] subject to eligibility criteria[,
18 rebates are provided for eligible stormwater management techniques established on property
19 located in Prince George's County].

20 (b) A stormwater management retrofit application must be approved by the Department of
21 the Environment prior to construction to be eligible [for a rebate].

22 (c) An applicant for a rain barrel project must meet eligibility criteria established by the
23 Department of the Environment; however, preapproval by the Department of the Environment is
24 not required to receive a rebate.

25 (d) An applicant is eligible [for a rebate] as long as:

26 (1) The applicant owns the property or is a non-profit organization with an agreement
27 to complete a project on private or public land.

28 (2) The application for the project was approved within 12 months of the completion
29 date or in the case of a rain barrel, the receipt or invoice should be within 12 months of the rebate
30 received.

31 (3) The Department of the Environment has inspected a completed project and found it

1 to be in compliance with its original approved application and the project follows the
2 Department's best practice guidelines and criteria for that type of project.

3 (e) All invoices and receipts for the entire amount [of the rebate applied for] shall be
4 submitted to the Department of the Environment for review and approval. [A] If eligible for a
5 rebate, a rebate check will be provided by the Department of Finance.

6 (f) Applicants will not be eligible [for a rebate] if their project is associated with permit
7 approval requirements for new building construction, additions, or renovations.

8 (g) Applicants will not be eligible [for a rebate] if the property is located within a
9 municipality that has a similar rebate program for stormwater management projects. If a
10 municipality offers a tree-planting rebate program, but caps the program at less than the county,
11 a resident may apply to the county to allow for purchase of additional trees not addressed by the
12 municipal rebate program.

13 (h) The Department of the Environment shall promulgate regulations consistent with this
14 law to administer the Program. Regulations shall include the provision of best practice guidelines
15 and criteria for each type of stormwater project to aide an applicant's understanding of what is
16 required for a completed project to qualify [for a rebate]. Regulations shall include mechanisms
17 for enabling participation in under-served communities and equity areas. This may include a
18 sliding copay scale. Regulations shall be proposed by no later than 6 months after enactment,
19 and published in final form by no later than 12 months after enactment. The Department shall
20 prioritize establishing regulations and guidelines for rain barrels. Rain barrel rebates from funds
21 appropriated in the Fiscal Year 2013 budget may be used upon enactment of regulations that the
22 Department of the Environment promulgates for them.

23 (i) The Department of the Environment shall select a minimum of six target communities in
24 which to do intensified public outreach, education, and demonstrations for the [stormwater
25 retrofit program] Program. The target communities shall include at least [two] six communities
26 [in each of the Developed, Developing and Rural Tiers as designated in the approved County
27 General Plan] prioritizing regions of the county with significant impervious surface coverage.

28 (j) The Department of the Environment shall establish a list of qualified private and non-
29 profit contractors that property owners may utilize to implement a stormwater retrofit project,
30 including Prince George's based businesses.

31 **Sec. 32-201.03. - Rebates.**

1 (a) With the exception of rain barrels, applications for rebates shall commence with the
2 beginning of Fiscal Year 2014.

3 (b) Rebates will be awarded on a first-come first-served basis.

4 (c) The amount of a rebate provided shall not exceed the cost of the project.

5 (d) Lifetime rebate ceilings per property are [~~\$4,000~~] \$6,000 for residential projects and
6 \$20,000 for commercial, multi-family dwelling, home-owners associations, condominium
7 associations, civic associations, non-profit entities and not-for-profit organizations. An applicant
8 may do multiple projects until the rebate ceilings are met. Non-profit organizations may
9 annually perform community projects up to the \$20,000 ceiling that the Department of the
10 Environment determines to be an eligible use of the funds. Community projects are those
11 techniques performed by organizations that are established pursuant to Section 501(c)(3) of the
12 Internal Revenue Code. Community projects consist of stormwater management techniques that
13 benefit the community and are located on public property.

14 (e) The Department of the Environment is authorized to enter into contracts with non-profit
15 organizations and residential property owners for the purpose of financing Stormwater
16 Management and Residential Resilience Retrofit Program projects. The purpose of the contracts
17 is to provide upfront costs for the residential property owner who may otherwise not be able to
18 afford to participate in the Program. Non-profit organizations shall pay the initial costs and are
19 eligible to receive a rebate prior to construction with an approved application and an authorized
20 property owner agreement. Prior to receiving the rebate, non-profit organizations shall be
21 required to demonstrate capacity and resources to perform and complete the project pursuant to
22 the Department of the Environment Rain Check Rebate regulations. The property owner shall
23 pay the non-profit for the balance of the cost not covered by the rebate. The Department and non-
24 profit organizations shall focus on communities [within the Developed Tier in the approved
25 County General Plan] with significant impervious surface coverage or where the Program has the
26 potential to make an impact on residential flooding and quality of life. Contracts for payment of
27 upfront costs are subject to the Program requirements set forth in Sections 32-201.01, 32-201.02,
28 32-201.03, 32-201.04, and 32-201.05 of this Subtitle.

29 (f) The Department shall provide applicants for residential rebates the maintenance
30 guidelines for the project and available resources for technical assistance. The Department may
31 require applicants for residential rebates to sign a voluntary property owner agreement to

maintain the project.

(g) Applicants for a commercial or public use shall sign an operations and maintenance agreement for the project. The Department shall promulgate regulations to govern all aspects related to maintenance of the project over its useful life.

(h) Individual members of a housing cooperative may apply for rebates under the residential incentives category subject to Department regulations.

(i) In order to receive a rebate, an agreement shall be executed between the applicant and the County that shall allow the County to place promotional signage for the Program on their property, take and use photos, and do follow-up evaluations. There will also be a voluntary option to agreeing to participate in any project tours the County holds to promote the Program.

(j) The following techniques will be made available for rebates:

Technique	Residential One or more techniques may be installed for a lifetime maximum rebate of [\$4,000] <u>\$6,000</u> per property.	Commercial, Homeowner Associations, Condominium Associations, Civic Associations, Multi-Family Dwelling, Non Profits, Not-for-Profit Organizations One or more techniques may be installed for a lifetime maximum rebate of \$20,000 per property.
Urban Tree Canopy	\$150/tree	\$150/tree
Rain Barrels	\$2/gallon stored (must capture 50 gallons)	\$2/gallon stored (Must capture 100 gallons)
Cisterns	\$2/gallon stored, 250 gallons minimum	\$2/gallon stored, 250 gallons minimum
Rain Garden	\$10/square foot minimum size 100 square feet	\$10/square foot minimum size 100 square feet
Permeable Pavement	\$12/square foot	\$12/square foot 400 square foot minimum
Pavement Removal	\$6/square foot	\$6/square foot; 400 square foot minimum
Green Roofs	\$10/square foot; minimum ¼ roof retrofit	\$10/square foot - if less than 6" of planting material; \$20/square foot - if over 6" of planting material; minimum ¼ roof retrofit
<u>Conservation Landscaping</u>	<u>[\$2] \$5/square foot; minimum size [100] 250 square feet</u>	<u>[\$2] \$5/square foot; minimum size [100] 250 square feet</u>

1 **Sec. 32-201.04. - Funding of Stormwater Management and Residential Resilience Retrofit**
 2 **Program.**

3 (a) The source of funding for the Stormwater Management and Residential Resilience Retrofit
 4 Program shall be the Stormwater Management District Fund, set forth in Section 10-264 of the
 5 County Code.

6 (b) For Fiscal Year 2014 and for each fiscal year thereafter, the County shall appropriate \$3.0
 7 million in Stormwater Management District Funds to the [Stormwater Management Retrofit]
 8 Program, as provided for in the County's approved current expense budget.

9 (c) If the granting of a rebate would cause the annual appropriation to be exceeded, the rebate
 10 shall be granted in the next fiscal year, or fiscal years in the order of eligible applications
 11 received.

12 (d) Up to ten percent (10%) of the \$3.0 million appropriation, in each fiscal year maybe
 13 expended on technical assistance for managing the Program, educating owners on how to install
 14 and maintain their projects, promotional expenses, and other related stormwater management
 15 expenses. At least (50%) of the appropriation, in each fiscal year shall be utilized for rebates as
 16 described in Section 32-201.03; the remainder may be used to execute a cost-share program as
 17 described in Section 32-201.01(b).

18 (e) Pursuant to Section 10-248.05 of the County Code, at the end of each fiscal year,
 19 unexpended funds from the [Stormwater Management Retrofit] Program shall not automatically
 20 lapse into the general fund but shall accumulate within the Stormwater Management District
 21 Fund and be available for appropriation to the Stormwater Management District Fund in
 22 subsequent fiscal years.

23 **Sec. 32-201.05. - Reporting.**

24 The Director of the Department of the Environment shall provide an annual report to the County
 25 Council on the [Stormwater Management Retrofit] Program on or before December 31st of each
 26 year for the previous fiscal year, to include:

- 27 (a) The number of applications received;
 28 (b) The number of applications denied;
 29 (c) The amount and types of [rebate] applications approved; and
 30 (d) The location by Council District of the number of applications received and denied and
 31 the amount and types of [rebate] applications approved.

SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection, or section.

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 19th day of October, 2021.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Calvin S. Hawkins, II
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive