

# PROPOSED

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2020, Legislative Day No. 26

Bill No. 67-20

Introduced by Ms. Pickard, Chair  
(by request of the County Executive)

and by Ms. Pickard

By the County Council, September 8, 2020

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Introduced and first read on September 8, 2020  
Public Hearing set for October 5, 2020  
Bill Expires on December 12, 2020

By Order: JoAnne Gray, Administrative Officer

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## A BILL ENTITLED

1 AN ORDINANCE concerning: Floodplain Management, Erosion and Sediment Control,  
2 and Stormwater Management – Stormwater Management  
3

4 FOR the purpose of increasing the time period before the expiration of approved grading  
5 permits; requiring that a completed project meet all County as-built submittal  
6 requirements; requiring a certain warranty for best management practices installed by  
7 a homeowner's association; adding the conditions for warranty, security, and  
8 inspection of best management practices owned or maintained by a homeowner's  
9 association; requiring repair, restoration, and maintenance of private stormwater  
10 management practices; providing for the application of this Ordinance; providing for a  
11 delayed effective date; and generally relating to floodplain management, erosion and  
12 sediment control, and stormwater management.  
13

14 BY repealing and reenacting, with amendments: §§ 16-3-212(2); 16-4-302; and 16-4-  
15 303(a)  
16 Anne Arundel County Code (2005, as amended)  
17

18 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*  
19 That Section(s) of the Anne Arundel County Code (2005, as amended) read as follows:  
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21 **ARTICLE 16. FLOODPLAIN MANAGEMENT, EROSION AND SEDIMENT**  
22 **CONTROL, AND STORMWATER MANAGEMENT**

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EXPLANATION: CAPITALS indicate new matter added to existing law.  
[[Brackets]] indicate matter deleted from existing law.  
Captions and taglines in **bold** in this bill are catchwords and are not law.

1                                   **TITLE 3. EROSION AND SEDIMENT CONTROL**

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3   **16-3-212. Expiration of issued permit.**

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5       A grading permit expires:

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7           (2) ~~[[two]]~~ THREE years after approval by the Anne Arundel Soil Conservation  
8 District unless a renewal of the Anne Arundel Soil Conservation District approval is  
9 obtained;

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11                                   **TITLE 4. STORMWATER MANAGEMENT**

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13   **16-4-302. Completion.**

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15       (a) **As-built plans and certification.** When construction is complete, the applicant  
16 shall submit to the Department as-built plans and an as-built certification prepared by a  
17 design professional. At a minimum, the as-built certification shall include a set of drawings  
18 comparing what was constructed to the approved stormwater management plan AND SHALL  
19 MEET THE LATEST AS-BUILT SUBMITTAL REQUIREMENTS SET BY THE DEPARTMENT. The  
20 Department may require any additional information that is necessary to determine that the  
21 work complies with the approved stormwater management plan.

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23       (b) **Certificate of occupancy.** A certificate of occupancy may not be issued until the  
24 required stormwater management system is completed to the satisfaction of the  
25 Department.

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27       (c) **Two-Year Warranty; Best Management Practice to be owned or maintained**  
28 **by homeowner's association.**

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30           (1) **Scope.** THIS SUBSECTION DOES NOT APPLY TO A BEST MANAGEMENT PRACTICE  
31 THAT IS INSTALLED BY THE COUNTY, BOARD OF EDUCATION, OR A PUBLIC UTILITY, OR  
32 THAT IS NOT REQUIRED FOR A NEW DEVELOPMENT OR A REDEVELOPMENT PROJECT.

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34           (2) **Warranty.** AT THE TIME OF SUBMISSION OF AS-BUILT PLANS AND  
35 CERTIFICATION AS REQUIRED BY SUBSECTION (A), THE APPLICANT SHALL PROVIDE A  
36 WRITTEN WARRANTY OF ANY BEST MANAGEMENT PRACTICE THAT WILL BE OWNED OR  
37 MAINTAINED BY A HOMEOWNER'S ASSOCIATION. THE WARRANTY SHALL RUN FOR A  
38 PERIOD OF TWO YEARS FROM THE DATE OF THE DEPARTMENT'S FINAL APPROVAL OF THE  
39 AS-BUILT PLANS, OR AS EXTENDED UNDER PARAGRAPH (6).

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41           (3) **Form of warranty.** THE FORM AND CONTENT OF THE WARRANTY PROVIDED  
42 BY THE APPLICANT SHALL BE IN A FORM ACCEPTABLE TO THE DEPARTMENT AND SHALL  
43 WARRANT THAT ANY BEST MANAGEMENT PRACTICE TO BE OWNED OR MAINTAINED BY  
44 A HOMEOWNER'S ASSOCIATION COMPLIES WITH ALL APPLICABLE REQUIREMENTS. THE  
45 WARRANTY SHALL INCLUDE VERIFICATION THAT THE APPLICANT HAS RESERVED A  
46 RIGHT OF ENTRY ONTO THE PROPERTY TO CONDUCT REPAIRS OR RESTORATION TO A BEST  
47 MANAGEMENT PRACTICE.

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49           (4) **Security.** THE WARRANTY SHALL BE ACCOMPANIED BY A SECURITY POSTED  
50 BY THE APPLICANT IN THE FORM APPROVED BY THE DEPARTMENT. THE SECURITY SHALL  
51 BE IN AN AMOUNT EQUAL TO THE CONSTRUCTION COSTS AS ESTIMATED AT THE TIME OF  
52 ISSUANCE OF THE GRADING PERMIT FOR ANY BEST MANAGEMENT PRACTICE THAT WILL

1 BE OWNED OR MAINTAINED BY A HOMEOWNER'S ASSOCIATION AND SHALL SECURE ANY  
2 REPAIR OR RESTORATION UNTIL THE TWO-YEAR WARRANTY, AS EXTENDED, EXPIRES.

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4 (5) **Inspection.** AT INTERVALS AT THE DISCRETION OF THE DEPARTMENT DURING  
5 THE WARRANTY PERIOD AND UPON FINAL INSPECTION PRIOR TO THE RELEASE OF THE  
6 WARRANTY, THE DEPARTMENT SHALL INSPECT ANY BEST MANAGEMENT PRACTICE THAT  
7 WILL BE OWNED OR MAINTAINED BY A HOMEOWNER'S ASSOCIATION. THE INSPECTIONS  
8 SHALL INCLUDE ALL REQUIRED ELEMENTS OF A MAINTENANCE INSPECTION DESCRIBED  
9 IN THE COUNTY PROCEDURES MANUAL. IF THE DEPARTMENT DETERMINES THAT ANY  
10 REPAIR OR RESTORATION TO A BEST MANAGEMENT PRACTICE IS REQUIRED, THE  
11 DEPARTMENT SHALL ISSUE A NOTICE TO THE APPLICANT.

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13 (6) **Extension of warranty.** IF AN APPLICANT IS ISSUED A NOTICE FROM THE  
14 DEPARTMENT DURING THE TWO-YEAR WARRANTY PERIOD TO REPAIR OR RESTORE A  
15 BEST MANAGEMENT PRACTICE, OTHER THAN FOR ROUTINE MAINTENANCE AND UPKEEP,  
16 THE WARRANTY AND SECURITY SHALL BE EXTENDED FOR ONE ADDITIONAL YEAR  
17 BEYOND THE ORIGINAL TWO-YEAR PERIOD. IF AN APPLICANT IS ISSUED A NOTICE DURING  
18 AN EXTENDED WARRANTY PERIOD TO REPAIR OR RESTORE A BEST MANAGEMENT  
19 PRACTICE, OTHER THAN FOR ROUTINE MAINTENANCE AND UPKEEP, THE WARRANTY AND  
20 SECURITY SHALL BE EXTENDED FOR ONE ADDITIONAL YEAR BEYOND THE EXTENDED  
21 WARRANTY PERIOD. THE TOTAL LENGTH OF THE WARRANTY PERIOD, INCLUDING  
22 EXTENSIONS, SHALL NOT EXCEED FOUR YEARS.

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24 (7) **Forfeiture of security.** IF AN APPLICANT FAILS TO REPAIR OR RESTORE A BEST  
25 MANAGEMENT PRACTICE AS DIRECTED BY THE DEPARTMENT, THE SECURITY SHALL BE  
26 FORFEITED TO THE COUNTY. IF THE COUNTY'S COST TO COMPLETE THE WORK TO REPAIR  
27 OR RESTORE A BEST MANAGEMENT PRACTICE IS GREATER THAN THE AMOUNT OF THE  
28 SECURITY, THE EXCESS COST SHALL BE BILLED TO THE APPLICANT.

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30 (8) **Release.**

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32 (I) THE DEPARTMENT SHALL CONDUCT A FINAL INSPECTION AT LEAST 30 DAYS  
33 PRIOR TO THE EXPIRATION OF THE WARRANTY PERIOD, AS EXTENDED, TO ENSURE THE  
34 BEST MANAGEMENT PRACTICE FUNCTIONS AS DESIGNED. IF, ON FINAL INSPECTION, NO  
35 REPAIR OR RESTORATION OF THE BEST MANAGEMENT PRACTICE IS REQUIRED, THE  
36 SECURITY PROVIDED UNDER THIS SECTION SHALL BE RELEASED UPON EXPIRATION OF  
37 THE WARRANTY PERIOD, AS EXTENDED.

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39 (II) IF THE WARRANTY IS EXTENDED BEYOND THE ORIGINAL TWO-YEAR  
40 WARRANTY PERIOD AND IF THE DEPARTMENT DETERMINES THAT A PARTIAL RELEASE OF  
41 THE SECURITY WILL NOT IMPAIR IMPLEMENTATION OF THE WRITTEN WARRANTY, THE  
42 DEPARTMENT MAY ALLOW A PARTIAL RELEASE, NOT TO EXCEED 75% OF THE TOTAL  
43 SECURITY REQUIRED BY THE WARRANTY. A PARTIAL RELEASE OF THE SECURITY DOES  
44 NOT RELIEVE THE APPLICANT OF ITS OBLIGATIONS TO REPAIR OR RESTORE THE BEST  
45 MANAGEMENT PRACTICE OR ITS LIABILITY UNDER PARAGRAPH (7).

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47 **16-4-303. Maintenance.**

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49 (a) **Generally.** The property owner shall perform preventive maintenance to ensure that  
50 a PRIVATE stormwater management system is functioning properly. The Department shall  
51 inspect all PRIVATE stormwater management practices [[during the first year of operation  
52 and]] every three years [[thereafter]] AFTER RELEASE OF THE GRADING PERMIT SECURITY  
53 OR, FOR BEST MANAGEMENT PRACTICES THAT REQUIRE A WARRANTY UNDER  
54 § 16-4-302(C), AFTER THE EXPIRATION OF THE TWO-YEAR WARRANTY, AS EXTENDED, to  
55 ensure that preventive and routine maintenance is performed.

1       SECTION 2. *And be it further enacted*, That this Ordinance shall apply to any new  
2 application for a grading permit, or any application for a major revision to a pending or  
3 issued grading permit, filed on or after January 1, 2021.

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5       SECTION 3 *And be it further enacted*, That this Ordinance shall take effect on January  
6 1, 2021.