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| Title: | County of Prince George's County Floodplain Ordinance |
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Abstract

Prince George's County has one of the strongest environmentally oriented statement of purposes, as the law intends to "protect the biological and environmental quality of the watersheds" under its jurisdiction. The ordinance does not prohibit development in the floodplain, but implements a series of innovative approaches to management that include compensatory storage and stream buffer zones.

Resource

DIVISION 2. FLOODPLAIN ORDINANCE.

Sec. 4-256. Purpose; Scope; Application.

(a) The purposes of this Division are:

- (1) To protect human life and health;
- (2) To minimize public and private property damage;
- (3) To encourage the use of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (4) To protect potential purchasers from unwittingly buying lands and structures which are unsuited for certain purposes because of the flood hazards;
- (5) To protect water supply, sanitary sewage disposal, and natural drainage;
- (6) To reduce financial burdens imposed on the community, its governmental units, and its residents by preventing the unwise design and construction of development in areas subject to flooding;

- (7) To increase public awareness of the flooding potential;
- (8) To protect the biological and environmental quality of the watersheds or portions thereof located in Prince George's County; and
- (9) To provide a unified comprehensive approach to floodplain management which addresses requirements of federal and State programs concerned with floodplain management, including without limitation: the National Flood Insurance Program and the President's Executive Order 11988 of May 27, 1977, on floodplain management; the State Waterway Construction Permit Program, State Wetlands Permit Program, the U.S. Army Corps of Engineers' Section 10 and Section 404 permit programs; and the State Coastal Zone Management Program.
 - (b) The provisions of this Division shall apply to all parts of Prince George's County, except for that area of the County within the boundaries of the City of Laurel.
 - (c) The provisions of this Division shall be:
 - (1) Considered as minimum requirements;
 - (2) Construed in favor of proper flood hazard management in the County; and
 - (3) Deemed neither to limit nor repeal any other powers granted under the Annotated Code of Maryland.
 - (d) In the event that other provisions of this Code affect the application of this Division, the more restrictive Code provisions shall apply.
 - (e) The granting of a permit or approval pursuant to this Division, shall not be a representation, guarantee, or warranty of any kind and shall create no liability upon the County, its officials or employees.
 - (f) This Division shall be applied and interpreted so as to meet or exceed the minimum requirements of federal and State floodplain regulations. In the event of a conflict between this Division and federal and State requirements, the more restrictive provisions shall prevail. (CB-24-1989)

Sec. 4-257. Definitions.

- (a) The following terms shall have the meanings indicated:

- (1) **100 Year Flood** or **base flood** means the flood which has one chance in one hundred or a one percent (1%) chance of being equalled or exceeded in any given year.
- (2) **Accessory structure**, for FEMA purposes only, means a detached structure on the same parcel of property as the principal structure, the use of which is incidental to the principal structure. Examples would be a shed or detached garage.
- (3) **Basement** means any area of a building having its floor subgrade (below ground level) on all sides.
- (4) **Community**, for FEMA purposes only, means any State or area or political subdivision thereof, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.
- (5) **County Floodplain** or **the Floodplain** means and includes all those areas within the County which will be inundated by the 100 year flood, as determined by FEMA and the County.
- (6) **Department** means the Department of Environmental Resources.
- (7) **Development** means any man-made change to improved or unimproved real estate including, but not limited to, any construction, reconstruction, modification, extension or expansion of buildings or other structures, placement of fill or concrete, construction of new or replacement infrastructure, dumping, mining, dredging, grading, paving, drilling operations, storage of materials, land excavation, land clearing, land improvement, landfill operation, or any combination thereof.
- (8) **Director** means the Director of Environmental Resources or the designee of the Director.
- (9) **Elevation certificate** means the certificate which verifies the as-built elevation of a structure using Mean Sea Level as established by the National Geodetic Vertical Datum of 1929 (NGVD) or the WSSC Datum submitted by a registered land surveyor or professional engineer on the official form prepared and distributed by the Federal Emergency Management Agency.
- (10) **FEMA** means the Federal Emergency Management Agency.
- (11) **FEMA maps** means the Flood Insurance Rate Maps and the Flood Boundary and Floodway Maps of the County prepared by FEMA and any subsequent amendments.

- (12) **Flood** means the general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or rapid unusual accumulation of runoff from any source.
- (13) **Flood Insurance Rate Map (FIRM)** means a map which depicts the minimum special flood hazard area to be regulated by this Ordinance (unless a Floodway Map is available).
- (14) **Floodplain** means in general:
- (A) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation;
 - (B) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source; or
 - (C) An area subject to tidal surges or extreme tides.
- (15) **Floodplain buffer** means an area extending beyond and paralleling the County floodplain to maintain the stability of steep slopes, to preserve the environmental integrity of stream or wetland habitats associated with a floodplain, and to otherwise protect and maintain the public safety.
- (16) **Floodproofing** means any combination of structural and nonstructural additions, changes, or adjustments of properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.
- (17) **Floodproofing certificate** means a form supplied by FEMA to certify that a building has been designed and constructed to be structurally dry floodproofed to the Flood Protection Elevation.
- (18) **Flood protection elevation (FPE)** means the elevation of the base flood plus one-foot freeboard.
- (19) **Floodway** means the channel and adjacent land area required to discharge the waters of the 100-year flood of a watercourse without increasing the water surface elevations more than a specified height.
- (20) **Floodway fringe** means that portion of the floodplain outside the floodway.
- (21) **Floodway Map** means a map which depicts floodways and special flood hazard areas to be regulated by this Code.

- (22) **Freeboard** means an increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, wave actions, subsidence, or other unpredictable effects.
- (22.1) **Geographic Information System (GIS) based floodplain model** means the hydrologic and hydraulic models the Department developed using GIS technologies and databases to determine peak discharges and flood elevations.
- (23) **Historic structure** means a structure listed individually on the National Register of Historic Places, the Maryland Inventory of Historic Properties, or the Historic Sites and Districts Plan of Prince George's County.
- (24) **Lowest floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that it is supplied with water equalizing vents.
- (25) **Manufactured home or building**, for FEMA purposes only, means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home or building" also includes park trailers, travel trailers, and other similar vehicles placed on a site for more than 180 consecutive days.
- (26) **NGVD** means National Geodetic Vertical Datum of 1929 elevation reference points set by the National Geodetic Survey based on mean sea level.
- (27) **New construction** means a structure for which the start of construction commenced on or after the effective date of the adoption of a floodplain management ordinance, and includes any subsequent improvements.
- (28) **Permanent construction**, for FEMA purposes only, means any structure occupying a site for more than 180 days per year.
- (29) **Proposed condition floodplain** means the 100-year floodplain conditions after the proposed development is completed.
- (30) **Recreational vehicle**, for FEMA purposes only, means a vehicle built on a single chassis which is 400 square feet or less at the longest horizontal projection, self-propelled or towable, and designed primarily for temporary living while traveling or camping.

- (31) **Registered engineer, registered land surveyor, or registered architect** means a professional engineer, land surveyor, or architect licensed to practice that profession and in good standing in the State of Maryland.
- (32) **Special flood hazard area** means an area within the County where, by local knowledge, the County has reason to believe that there is a serious potential of flooding or flood damage. For FEMA purposes only, this definition will include an area having special flood hazard and shown on a FEMA map as Zone A, A0 or A1-30.
- (33) **Start of construction**, for FEMA purposes only, means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement, or other improvement occurs within 180 days of the permit date. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction, as used in this definition, does not include land preparation such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not as part of the main structure.
- (34) **Structure**, for FEMA purposes only, means a walled and/or roofed building, including, but not limited to, a gas or liquid storage tank, a building foundation, platform, deck, fence, swimming pool, bulkhead, or greenhouse, that is affixed to a permanent site or location.
- (35) **Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
- (36) **Substantial improvement**, for FEMA purposes only, means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure (less land value) either:
- (A) Before the improvement or repair is started; or
 - (B) If the structure has incurred substantial damage and has been restored, before the damage occurred.

Substantial improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences. The minimum

repairs needed to correct previously identified violations of local health, safety, or sanitary codes, and alterations to historic structures which do not preclude their continued designation as historic structures are not considered substantial improvements.

(37) **Temporary structure**, for FEMA purposes only, means any structure completely removed within 180 days from issuance of the permit.

(38) **Use and occupancy permit** means the official approval of the Department that the structure has been built consistent with approved plans and may be legally inhabited or used for the intended purpose.

(39) **Variance or waiver** means the grant of relief from the terms of this floodplain management ordinance.

(40) **Wetland** means an area which is:

(A) Inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas;

(B) Considered "private wetland" or "State wetland" pursuant to Title 9, Wetlands and Riparian Rights, Natural Resources Article, Annotated Code of Maryland; or

(C) Defined as wetland under the procedures described in the "Federal Manual For Identifying And Delineating Jurisdictional Wetlands" by the Federal Interagency Committee for Wetland Delineation, most updated version and as amended from time to time.(CB-30-1975; CB-163-1977; CB-87-1979; CB-37-1983; CB-64-1987; CB-24-1989; CB-12-1992; CB-84-2000)

Sec. 4-258. Establishment of the County Floodplain.

(a) The Department shall establish as the County floodplain all the areas of the County which are subject to inundation by the 100 year flood and shall delineate them on the official floodplain maps which shall be prepared and maintained in force as part of this Division. Where flood elevations have been defined, the County floodplain shall be determined based on 100 year flood elevations rather than the area graphically delineated on the official floodplain maps. The County floodplain may also be determined using the County's GIS-based floodplain models.

(b) Areas included. The County floodplain shall include all of the following areas:

- (1) The 100 year floodplain as determined by FEMA, including all of the following FEMA subcategories:
 - (A) The Approximate Floodplain -- areas subject to inundation by the 100 year flood where a detailed study has not been performed but where a 100 year floodplain boundary has been approximated, delineated on the FEMA Maps as Zone A.
 - (B) The Floodway -- areas required to carry and discharge the water of the 100 year flood without increasing the water surface elevation at any point more than one (1) foot above existing 100 year flood conditions where defined by FEMA and delineated on the FEMA Maps.
 - (C) The Floodway Fringe -- areas subject to the 100 year flood which lie beyond the Floodway where a floodway has been determined or where detailed study data, profiles and 100 year flood elevations have been established, delineated on FEMA Maps as Zones A, AE and A1-A30.
 - (D) Coastal Floodplain -- areas subject to coastal or tidal flooding by the 100 year flood, where detailed study data are available, delineated on the FEMA Maps as Zones A, AE, and A1-A30.
- (2) Special Flood Hazard Areas, as defined herein and identified by the Department.
- (3) Wetland Floodplains -- areas of wetland subject to inundation by the 100 year flood.
- (4) Areas delineated by approved County Comprehensive Watershed Management Plans and supporting data to be subject to the 100 year flood or determined to be subject to the 100 year flood by any other floodplain study approved by the Department.
- (5) Areas delineated by any other floodplain studies prepared using the County's GIS-based floodplain models.
 - (c) The danger reach of a dam -- the area which will be flooded when a dam has been breached by flood waters, where it has been established using the latest methodology of the United States Department of Agriculture.
 - (d) Floodplain Buffer. Where proposed development is associated with a stream or tributary and the limits of the floodplain cannot be accurately determined because of the lack of detailed floodplain data and analysis or because of unknown effects of future development in the watershed, the Director may require that a floodplain buffer be established and maintained as part of the development.

- (e) Areas excluded. The area associated with a watercourse having less than fifty (50) acres of watershed may be excluded, subject to the approval of the Department.
- (f) Sources. The Department shall use the following sources for identifying the floodplain:
 - (1) The most current FEMA Flood Insurance Study for Prince George's County, Maryland;
 - (2) The FEMA Maps (the Floodway Maps, if available, must be used rather than the Flood Insurance Rate Maps);
 - (3) Approved County comprehensive watershed management plans;
 - (4) Other floodplain studies approved by the Department; and
 - (5) Other floodplain studies prepared by the Department or its designee using the County's GIS-based floodplain models.
- (g) The official floodplain maps shall be at a minimum the FEMA maps.
- (h) Revisions of the County floodplain.
 - (1) The Department may amend the limits of the County floodplain to reflect the effect of specific flood protection measures recommended in adopted County Watershed Plans which have been included in an adopted Prince George's County Capital Improvement Program (CIP) for planning, design and construction, and for which the Department has all necessary federal and State permits. However, the County floodplain may not be based upon flood elevations lower than shown on the currently adopted FEMA map until concurrence in the lowered elevations has been received from FEMA in accordance with applicable Federal regulations.
 - (2) The County floodplain limits shall be amended by the Department where studies or information provided by a qualified agency or person document the need or possibility for such revision. Where there are no available studies, or where existing studies have been determined by the Department to be inadequate, a new study of the area shall be required. All such floodplain studies shall be performed in accordance with the Department's requirements and criteria, which shall include, without limitation:

- (A) The system within the drainage basin either existing or included in an adopted County CIP for planning, design and construction; and for which the Department has all necessary federal and State permits; and
 - (B) Future land use based on existing zoning or based on adopted or approved master plans, whichever best reflects future land use, in the opinion of the Department.
- (3) Any proposed reduction or modification to any area of the County identified by FEMA as part of the 100 year floodplain must have the approval of FEMA. Proposed modifications must first be submitted to the Department for review, and the Department's recommendation on the proposed modification shall be transmitted to FEMA with a copy to the submitter. Any development in the floodplain which may result in any increase in water surface elevations or change to the FEMA floodplain boundaries must be submitted to FEMA for a Conditional Letter of Map Revision. Hydrologic and hydraulic analyses based on existing floodplain models and performed in accordance with standard engineering practices and certified by a registered professional engineer must be submitted. Failure to receive this Letter shall be grounds for denial of the permit. The Department shall notify the Federal Insurance Administrator of revisions to the FEMA Floodplain within six (6) months after the date of completion of the modification by submitting technical and scientific data in accordance with 44 Code of Federal Regulations, Part 65. All revisions and modifications of the FEMA floodplain shall be subject to the review and approval of FEMA and the Maryland Department of the Environment.

(CB-87-1979; CB-37-1983; CB-64-1987; CB-24-1989; CB-12-1992; CB-84-2000)

Sec. 4-260. Waiver requirements for development in floodplain.

- (a) In order to undertake any development in the County floodplain other than as permitted in the preceding Section, the applicant must obtain a waiver from the Director.
- (b) The request for such waiver shall include:
 - (1) The information required for a permit for development as set forth in this Division;
 - (2) A statement explaining the need for the development, any public benefit to be derived, and the actions that will be taken to reduce the threat of any potential flooding, flood damage, or adverse environmental impacts; and
 - (3) Plans and studies as required by the Director.

(c) Required plans and studies. The Director may require plans and studies to be submitted. All studies shall be subject to approval by the Department. All studies and calculations furnished to satisfy this provision shall become the property of the County and may be used by the County for reviewing other development or for other purposes.

(d) The Director shall grant a waiver only upon determining that:

(1) There is good and sufficient cause;

(2) The granting of the waiver will not result in additional threats to public safety, increased flood elevations, or other adverse impacts on other public or private property either upstream or downstream;

(3) The granting of the waiver will not result in fraud or victimization of the public;

(4) The waiver is the minimum necessary, considering the flood hazard, to afford relief to the owner, and local public funds may not be expended to mitigate the results of the waiver;

(5) The development will not violate other federal, state, or local laws or regulations; and

(6) The waiver does not violate the purpose and intent of this Division.

(e) Waivers will not be granted for any filling, or the construction or placement of any structures or obstructions which will ultimately be located in the FEMA-designated Floodways or in the County-designated Special Flood Hazard Areas which will increase the water surface elevation of the base flood. Within the proposed condition floodplain, waivers shall not be granted for any new structures the lowest floors of which are below flood protection elevations.

(f) If granted, a variance or waiver shall involve only the least modification necessary to provide relief. If it should become necessary to grant any variance, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program Regulations (60.3d) including the requirements for elevation, floodproofing, and anchoring. The applicant must also comply with any other requirements considered necessary by the County. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 100 year flood. Floodproofing is not an option in residential construction. All residential structures must be elevated.

- (g) A record of all waiver actions, including justifications for their issuance, shall be maintained by the Department, shall be included in the Biannual Report submitted to the Federal Insurance Administrator, and shall be available upon request by FEMA or its authorized agent during periodic assessments of the County participation in the National Flood Insurance Program.
- (h) As a condition of the waiver, the owner of the property being developed shall be required to execute covenants to provide notice of the waiver, the potential for higher insurance premium rates, the flood hazard, and any responsibilities of the owner to maintain floodproofing or stream modification facilities or systems, which covenants shall be recorded among the Land Records of the County. Where there will be enclosed areas below the 100 year flood elevation, a statement shall be recorded in the Land Records of the County which reads "No conversion of this area to habitable space is to occur unless the lowest floor is elevated to one (1) foot above the 100 year flood elevation. At this site the 100 year flood elevation is _____."

(CB-24-1989; CB-12-1992)

Sec. 4-261. Construction and design standards within the floodplain.

- (a) All development permitted in the County Floodplain shall comply with the following minimum standards where applicable.
 - (1) In general, all new construction and substantial improvements which are permitted in the floodplain by waiver pursuant to this Division shall be:
 - (A) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
 - (B) Constructed and placed on the lot so as to offer the minimum obstruction to the flow and height of the flood water;
 - (C) Constructed with materials and utility equipment resistant to flood damage; and
 - (D) Constructed by methods and practices that minimize flood damage and adverse environmental impacts.
 - (2) The elevation of the lowest floor of all new or substantially improved structures, except for garages, storage, and accessory structures, which are less than 300 square feet and not used for human habitation, shall be at least one (1) foot above the 100 year flood. Basements in buildings within the floodplain as herein defined are prohibited.

- (3) Enclosures below the lowest floor. The new construction or substantial improvement of fully enclosed areas below the lowest floor, including but not limited to crawl spaces, solid footings, and continuous foundations, shall be vented to equalize hydrostatic pressure by permitting the free entry and exit of floodwaters and shall include the following as a minimum:
 - (A) At least two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (B) The bottom of all openings shall be no higher than one foot above grade;
 - (C) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and
 - (D) A statement shall be included on the building plans which states: "No conversion of this area to habitable space is to occur unless the lowest floor is elevated to one (1) foot above the 100 year flood elevation. At this site the 100 year flood elevation is _____."
- (4) Accessory structures. The new construction or substantial improvement of garages, storage sheds, and similar accessory structures shall meet the requirements set forth in Paragraph (3), above.
- (5) Storage. Storage for materials that are buoyant, flammable, explosive, or that in times of flooding could be injurious to human, animal or plant life shall not be constructed or permitted below one (1) foot above the level of the 100 year flood.
- (6) Fill.
 - (A) Where allowed, fill material shall comply with the requirements of Sections 4-302 through 4-304 of this Subtitle.
 - (B) Fill slopes shall be no steeper than one (1) vertical to two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Department.
 - (C) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.
- (7) Landscape design.
 - (A) Where permitted, disturbance or removal of the natural vegetation in the floodplain shall be avoided or minimized.

- (B) Adequate ground cover shall be provided for soil stabilization.
 - (C) Design of land contours and choice of plant materials shall direct surface runoff away from structures and shall not increase surface runoff onto neighboring properties.
- (8) Electrical and plumbing systems.
- (A) All water heaters, furnaces, generators, heat pumps, air conditioners, and other permanent mechanical and electrical installations shall be permitted only at or above one (1) foot above the level of the 100 year flood.
 - (B) No electrical distribution panels shall be permitted at an elevation less than three (3) feet above the elevation of the 100 year flood.
- (9) Public and private utilities. The design, placement, and construction of all public and private utilities and facilities shall meet the following requirements:
- (A) new or replacement water supply systems and/or sanitary sewage systems shall be designed and floodproofed to eliminate or minimize infiltration of flood waters into the systems and discharges from the systems into flood waters, and to avoid impairment during flooding and to minimize flood damage.
 - (i) Cesspools and seepage pits are prohibited.
 - (ii) Septic tanks are permitted provided they are securely anchored to resist buoyant forces during inundation.
 - (iii) All pipes connected to sewage systems shall be sealed to prevent leakage.
 - (B) All gas, electrical, and other facility and utility systems shall be located, constructed, and floodproofed to eliminate or minimize flood damage.
 - (C) All new storm drainage facilities within and leading to or from the County floodplain shall be adequately designed, floodproofed, and installed to eliminate or minimize property damage resulting from the flood waters of the 100 year flood and to minimize adverse environmental impacts of their installation and use.
- (10) Recreational vehicles located within the floodplain may be exempted from the elevation and anchoring requirements provided they are:
- (A) Located on the site less than 180 consecutive days per year;

- (B) Fully licensed and ready for highway use; and
- (C) Properly permitted.

A recreational vehicle is ready for highway use if it is on its wheels and jacking system, is attached to the site only by quick disconnect type utilities and securing devices, and has no permanently attached additions. If it cannot meet all of these criteria, the recreational vehicle must be considered a manufactured home and is subject to the elevation and construction standards of this Code.

- (11) All notice of the flood hazard and the waiver action shall be placed on the deed or other title document of the property on which the waiver is granted.

(CB-24-1989; CB-12-1992)

Sec. 4-262. Coastal and wetland floodplain regulations.

- (a) Any development and construction in the coastal and wetland floodplains which is permitted pursuant to Section 4-260 of this Division, shall, in addition to all other requirements of this Division, meet the requirements of this Section.
- (b) The development shall be subject to the provisions of this Code regulating development in the Chesapeake Bay Critical Areas.
- (c) In the wetland floodplain the following regulations shall apply:
 - (1) The Department shall obtain, review, and reasonably utilize any wetlands classification data available from a federal, State, or other source to determine the boundaries and characteristics of the wetland floodplain. When the boundary of the wetland floodplain is unknown, obscure, or undefined, the Department, in cooperation with or with assistance from the Maryland Department of the Environment, shall evaluate each site to determine the actual extent of wetlands.
 - (2) Except where specifically allowed by the Department and the Maryland Department of the Environment and the U.S. Army Corps of Engineers, the following shall be prohibited:
 - (A) Filling, dumping, or excavation of any kind;
 - (B) Drainage or alteration of the natural drainage and circulation of surface or ground waters; or
 - (C) Removal of natural vegetation.

- (3) The Director may approve development or construction upon determining that the proposed uses:
 - (A) Require access to water or wetlands, or are water dependent;
 - (B) Have no prudent or feasible alternative site which does not involve wetland areas; and
 - (C) Will result in minimum feasible alteration or impairment to wetland functional characteristics and existing contour, vegetation, fish and wildlife resources, and hydrologic conditions of the wetland area.
- (4) All buildings and structures shall be prohibited with the exception of catwalks, piers, boathouses, boat shelters, fences, duck blinds, wildlife management shelters, footbridges, observation decks and shelters, and other similar water-related structures which are constructed on pilings to permit the unobstructed flow of waters and preserve the natural contour of the wetland area.

(CB-24-1989; CB-84-2000)

Sec. 4-263. Permit requirements within the floodplain.

(a) A permit is required for all development (including, but not limited to, construction of and/or substantial improvements to buildings and structures, placement of manufactured homes or buildings, fill, temporary development, new or replacement infrastructure, or any combination thereof) in the floodplain. However, for a development associated with a watercourse draining less than 50 acres of land, the detailed floodplain study may be waived, subject to the approval of the Department.

(b) An application for a permit shall be submitted to the Department. The application shall be part of the application for a building or grading permit when such a permit is otherwise required for the proposed development. The application shall include the information required for a building or grading permit and additional information as provided below.

(c) The following additional information shall be required where applicable:

(1) If the development includes any grading, new construction, or exterior modifications to existing structures, a detailed site plan prepared by a registered engineer or architect showing: the size and location of the proposed development and any existing buildings or structures; the location, dimensions, and elevation in mean sea level of the site in relation to the stream channel, shoreline, and the floodplain; the elevations of the 100 year flood, the existing and proposed final grading, and the lowest floor of all structures; the method of elevating the proposed structure, including

proposed fills, retaining walls, foundations, erosion protection measures; and such other information as may be required by the Director.

(2) For substantial improvement to existing structures, a summary description of the proposed work and estimated cost.

(3) For new construction or substantial improvements of nonresidential structures within the floodplain, certification by a registered engineer or architect that the nonresidential structure will be dry floodproofed watertight in accordance with the specifications of the U. S. Army Corps of Engineers to one (1) foot above the 100 year flood elevation.

(4) A plan showing the location of all existing and proposed public and private utilities, facilities, drainage structures, and road access. If the 100 year flood elevation has been determined, it shall be delineated on the proposed plan. For all proposals associated with a watercourse having drainage area of 50 acres or more, the Department or its designee shall determine the 100 year flood elevation using floodplain models and the developer shall delineate it on the proposed plan. Private consultant engineering studies and studies using the County's GIS-based floodplain models will be accepted by the Department until a date certain established by the Director. After the specified deadline and upon proper notice, only studies using the County's GIS-based floodplain models will be accepted by the Department, unless the Director or the Director's designee grants an applicant's written request to use a private consultant to perform the study. In addition, field survey information of structures within the floodplain, as may be required by the Department or its designee to complete the study, shall be supplied by the applicant. For all proposals associated with a watercourse having a drainage area of 50 acres or less, the delineation of the 100 year flood elevation may be excluded upon the approval of the Department. All plans shall be certified by a registered engineer.

(d) The application shall be reviewed by the Department to assure that:

(1) The proposed development is consistent with the construction and design requirements of this Division;

(2) Adequate drainage is provided to reduce exposure to flood hazards;

(3) The plans provide at least one access which will permit safe vehicular ingress and egress from the subdivision and/or new development during a 100 year flood;

(4) Adequate measures have been taken to minimize any potential adverse environmental impacts of the proposed development; and

- (5) The development complies with the requirements of this Division and all other applicable codes and ordinances.
- (e) No construction or development will occur until all other required federal, State, and local permits and approvals have been obtained.
- (f) During the construction period, the Department shall inspect the premises to determine that the work is progressing in compliance with the permit and with all applicable laws and ordinances. The premises shall also be subject to inspection by the Maryland Department of the Environment. In the event that the Department determines that the work is not in compliance with the permit or all applicable laws and ordinances, or that there has been a false statement or misrepresentation by the applicant, the Department shall report such fact to the Maryland Department of the Environment for whatever action it considers necessary as well as pursuing compliance as provided under this Division and Subtitle.
- (g) A use and occupancy permit shall not be approved until the Department has been provided with a completed elevation certificate prepared by a registered land surveyor or engineer certifying the "as-built" elevation of the subject construction.
- (h) A record or log of permits issued for development in the County floodplain shall be maintained by the Department and shall be available upon request to FEMA or its authorized agent (the Maryland Department of the Environment) during periodic assessments of the County participation in the National Flood Insurance Program. Such record shall include at a minimum the date the permit was issued, the as-built lowest floor elevation of all new construction or substantial improvement, the issuance date of the use and occupancy permit, a copy of the completed elevation certificate, and any map amendments issued by FEMA.

(CB-24-1989; CB-12-1992; CB-84-2000)

Sec. 4-264. Appeals.

- (a) A person aggrieved by a decision of the Director under this Division may file an appeal in writing with the Board of Appeals for Prince George's County within ten (10) days of receiving notice of the Director's decision.
- (b) The Board may reverse, modify, or remand the decision of the Director only if the decision of the Director is clearly erroneous, illegal, arbitrary or capricious, or unsupported by any substantial evidence. The Board shall not have the authority to issue an order which is in conflict with a lawful order of the Director, the requirements and provisions of this Ordinance, or the federal or State floodplain regulations.

(c) Further appeals shall be to the Circuit Court pursuant to the Maryland Rules on Administrative Appeals (CB-24-1989)

Sec. 4-265. Enforcement and penalties.

(a) The Department may issue a notice of violation to any person, firm, association, or corporation which fails to comply with the standards and requirements of this Division for construction or development in the floodplain, which notice may provide a reasonable time in which to comply.

(b) Any person who fails to comply with a notice of violation or other lawful direction of the Director shall be subject to civil citation and a monetary fine pursuant to Section 28-261 of this Code.

(c) Any person who violates the provisions of this Division shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than One Thousand Dollars (\$1,000) or imprisonment not exceeding six (6) months, or both, for each violation, with costs imposed in the discretion of the Court. Each day that the violation continues shall constitute a separate offense.

(d) The imposition of a civil or criminal fine or penalty for any violation or noncompliance with this Division shall not excuse the violator from the requirement to correct or remedy the violation within a reasonable time. The County Attorney may institute injunctive, mandamus, or other appropriate action or proceedings at law or equity for the enforcement of this ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

(e) Any structure constructed, reconstructed, enlarged, altered, or relocated in violation of the provisions of this Division shall be deemed an unsafe structure pursuant to Section 4-119 of this Subtitle, and shall be subject to the authority of the building official as provided thereunder.

(f) The Department shall promptly notify the Federal Insurance Administrator and the Maryland Department of the Environment of any structure or development in the floodplain which is in violation of this Division in order that new or renewal National Flood Insurance on the subject property may be denied or other appropriate remedies pursued by these agencies.

(CB-30-1975; CB-163-1977; CB-87-1979; CB-37-1983; CB-64-1987; CB-24-1989; CB-84-2000)

Sec. 4-259. Development regulations.

(a) Within the County floodplain no development (including the construction, placing, or substantial improvement of any structures or manufactured homes, or the placing of

any obstructions, filling, or changing the cross section of flow characteristics) shall be permitted except as provided in Subsection (b) unless a waiver is obtained from the Director which permits such development.

(b) Permitted Development. The following development shall be permitted:

(1) The modification, alteration, repair, reconstruction, or improvement of a structure which does not constitute substantial improvement to the structure (including improvements to historic structures which do not affect the exterior dimensions). The improvements shall be elevated and/or floodproofed to the greatest extent possible. The elevation of the lowest floor shall be at least one (1) foot above the elevation of the 100 year flood or those parts of the improvement below the elevation of one (1) foot above the 100 year flood shall be dry floodproofed in accordance with the U. S. Army Corps of Engineers flood-proofing regulations. Routine maintenance and repairs shall be excepted.

(2) Private and public utilities and facilities which conform to the construction, design, and floodproofing requirements of this Division.

(3) Private or public streets crossing the floodplain.

(4) Stormwater management facilities.

(5) Small projections leading off of the floodplain which would be enclosed by storm drainage pipes.

(6) Developments in which all structures will be elevated, by fill, to or above the flood protection elevations and will not be located within the proposed condition floodplain boundaries, provided that all development regulations stated in this Section are met.

(c) All areas within the County floodplain shall be dedicated to public use or for use as a park, or as a floodplain or conservation easement, whichever is appropriate; the dedication or easement shall meet County requirements for form and content and shall be recorded among the Land Records of the County. The easement requirement may be waived when, in the opinion of the Director, the waiver would not compromise any public or private interests including the rights of the landowners, safety, and environmental protection; would not conflict with any Federal, State, or County laws; and the establishment of an easement would constitute an unreasonable hardship on the applicant. A waiver may be granted only if the Director finds that applicant has demonstrated the following:

(1) The property is already essentially developed and occupied by the applicant; or

(2) The proposed disturbed area is less than 20% of the total area of a single residential lot; and

(3) The floodplain is clear of proposed improvements, including access roads, to the extent the floodplain area is not used in conjunction with the proposed improvement; and

(4) The floodplain area could not be used in the future for any activity not normally permitted in the floodplain; and

(5) The floodplain is not likely to increase in the future nor would it be damaged by continuing stream flows or flooding that may be caused, in part, by the existence of downgrade or upgrade public storm drain systems or stormwater management facilities.

(d) Fences and other matters or enclosures which may impede, retard, or change the direction of the flow of water, or that will catch or collect debris carried by such water, or that are placed where the natural flow of the stream or flood waters would carry such impediments downstream to the damage or detriment of either public or private property in or adjacent to the floodplain shall not be permitted without a waiver and permit as provided in this Division.

(e) All development shall be designed to minimize floodplain disturbance and shall conform to all other applicable codes, ordinances, regulations, flood management and watershed management plans where they have been prepared, and the requirements of the permit programs of all applicable federal, State, and local governments.

(f) Any new or substantially improved residential or nonresidential structures, including manufactured homes, shall be located outside the proposed condition floodplain and have the lowest floor and the surrounding ground elevated, by fill, to or above the flood protected elevation. Basements are not permitted. The elevation of the lowest floor shall be certified by a registered surveyor or professional engineer on the as-built plan or after the lowest floor is in place. All new structures in any subdivision shall be located outside the proposed condition's 100 year floodplain boundary. For every fill activity in the floodplain, the conditions described in Sections 4-259(g), 4-259(h), and 4-261(a)(6) must be met.

(g) If floodplain storage is reduced because of the project, an equal amount of compensatory storage within the floodplain shall be provided. A detailed site plan prepared by a registered engineer, showing a balance of cut-and-fill, shall also be submitted. The limits of the floodplain before and after development shall be clearly shown on the site plan. A detailed floodplain analysis shall be conducted to indicate that the new floodplain can carry the discharge of the 100 year flood without increasing the water surface elevation at any point on other private or public property either upstream or downstream from the tract to be developed, unless such land areas affected by an increase in water surface elevation are either acquired by the applicant

or reserved through acquisition of suitable floodplain easements, provided such increases will not, in the determination of the County, cause or aggravate damage to such properties. However, development shall not increase water surface elevation of the base flood more than one foot at any point. The floodplain analysis shall consider backwater conditions, local obstructions, and, where required by the Department, partial or complete failure or obstruction of any culvert or enclosed storm drainage system. The new floodplain shall be designed to prevent detrimental erosion, overflow, or nuisance of any kind and shall ultimately discharge into a storm drain facility or a watercourse in accordance with County standards and procedures.

(h) All proposals to offset the effects of development in the floodplain by construction of stream modifications shall be documented by an engineering study prepared by a registered engineer which fully evaluates the effects of such construction. The report shall use the 100 year flood and floodplain data prepared by FEMA, at a minimum, and other County-approved watershed studies. Evidence shall be provided that all adjacent communities and the Maryland Department of the Environment have been notified by certified mail and have approved of the proposed modification. Copies of these notifications shall then be forwarded to FEMA's Federal Insurance Administration. The Department or its designee will conduct a study to assure that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained. If required, the developer shall execute a stormwater management maintenance agreement with the County, which can be recorded in the Land Records.

(CB-30-1975; CB-163-1977; CB-87-1979; CB-37-1983; CB-110-1983; CB-64-1987; CB-24-1989; CB-12-1992; CB-84-2000)

Sec. 4-266. Fees for conducting the floodplain study.

The fees for the Department to conduct a floodplain study using the GIS-based floodplain models pursuant to this Subtitle shall be adopted by resolution of the Prince George's County Council. The County Executive shall propose and recommend to the County Council a schedule of fees that reflects the actual costs associated with conducting the study and administering and maintaining the GIS database software and hardware needed for the models pursuant to the floodplain study.

(CB-84-2000)