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COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

Legislative Session

1992

Bill No. _____ CB-12-

1992

Chapter No.

8

Proposed and Presented by The Chairman (by request -

_____ County

Executive) _____

Introduced by Council Members Del Giudice and

Casula

Co-Sponsors

Date of Introduction March 31,

1992

BILL

AN ACT concerning

Floodplain Ordinance

FOR the purpose of revising the County floodplain ordinance to conform to federal and State requirements for continued participation in the National Flood Insurance Program and federal and State financial assistance and disaster relief and

to clarify various requirements to conform to current practices.

BY repealing and reenacting with amendments:

SUBTITLE 4. BUILDING.

Sections 4-257,
4-258,
4-259,
4-260,
4-261, and
4-263,

The Prince George's County Code
(1991 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 4-257, 4-258, 4-259, 4-260, 4-261, and 4-263 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 4. BUILDING.

DIVISION 2. FLOODPLAIN ORDINANCE.

Sec. 4-257. Definitions.

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

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(1.1) **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.

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(8) **Elevation certificate** means the certificate [of elevation] 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.

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(11) **Flood** means [a] 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.

(11.1) **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).

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(14.1) **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.

(14.2) **Flood protection elevation** (FPE) means the elevation of the base flood plus one-foot freeboard.

(14.3) **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.

(14.4) **Floodway Map** means a map which depicts floodways and special flood hazard areas to be regulated by this Code.

(14.5) **Floodway fringe** means that portion of the floodplain outside the floodway.

(14.6) **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.

(14.7) **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.

(15) **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 [such enclosure is not built so as to render the

structure in violation of the applicable non-elevation design requirements of the Federal Emergency Management Agency, National Flood Insurance Program] it is supplied with water equalizing vents.

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(16.1) **NGVD** means National Geodetic Vertical Datum of 1929 elevation reference points set by the National Geodetic Survey based on mean sea level.

(16.2) **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.

(16.3) **Permanent construction**, for FEMA purposes only, means any structure occupying a site for more than 180 days per year.

(16.4) **Proposed condition floodplain** means the 100-year floodplain conditions after the proposed development is completed.

(16.5) **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.

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(20) **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 [, and that has at least 51% of its actual cash value, less land value, above ground].

(20.1) 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.

(21) Substantial improvement, for FEMA purposes only, means any repair, reconstruction, or improvement of a structure, [which increases the horizontal dimensions of the structure, or] the cost of which equals or exceeds 50 percent of the market value of the structure (less land value) either:
[(1)] (a) before the improvement or repair is started, or
[(2)] (b) if the structure has [been damaged] incurred substantial damage and [is being] has been restored, before the damage occurred. [For the purpose of this definition "substantial improvement is considered to occur] Substantial improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences [, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (i) any project for improvement of a

structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or (ii) any alteration of a structure listed in the National Register of Historic Places, the State Inventory of Historic Places, or the County Historic Sites and Districts Plan which does not affect the horizontal dimensions of the structure]. 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.

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

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(24) **Wetland** means an area which is: (i) 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; (ii) considered "private wetland" or "State wetland" pursuant to Title 9, Wetlands and Riparian Rights, Natural Resources Article, Annotated Code of Maryland; or (iii) [identified as a

"wetland" by the U. S. Army Corps of Engineers] 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.

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

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(f) Sources. The Department shall use the following sources for identifying the floodplain:

* * * * *

(2) The FEMA Maps (the Floodway Maps, if available, must be used rather than the Flood Insurance Rate Maps);

* * * * *

(h) Revisions of the County floodplain.

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(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 Natural Resources.

Sec. 4-259. Development regulations.

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(b) Permitted Development. The following development shall be permitted [without a waiver]:

* * * * *

(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) [The portion of development ultimately] 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 down grade or upgrade public storm drain systems or stormwater management facilities.

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(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 4-187(g), 4-187(h), and 4-187.2(f) must be met.

[(f)] (g) * * * * *
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[(g)] (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 State Water Resources Administration 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 developer shall assure the County, in writing, that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained. If required, the [developer] developer shall execute a stormwater management maintenance agreement with the County, which can be recorded in the Land Records.

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

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(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 [more than one foot at any point]. 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 the waiver is granted, the applicant shall be made aware that if the structure is built below the 100 year flood elevation and is not floodproofed, it may be susceptible to higher insurance premium rates for the structure and its

contents. The applicant shall be notified in writing by the Director of the increased premium rates for flood insurance and that construction below the level of the 100 year flood increases risks to life and property. Such notification shall be maintained as part of the record of all waiver actions as required in paragraph (h).]

[(g)] (f) * * * * *

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[(h)] (g) * * * * *

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[(i)] (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 _____."

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

All development permitted in the County Floodplain shall

comply with the following minimum standards where applicable.

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(c) 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 [designed] vented to equalize hydrostatic pressure by permitting the free entry and exit of floodwaters and shall include the following as a minimum:

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(j) Recreational vehicles located within the floodplain may be exempted from the elevation and anchoring requirements provided they are:

- (1) Located on the site less than 180 consecutive days per year;
- (2) Fully licensed and ready for highway use; and
- (3) 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.

[(j)] (k) * * * * *
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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 [or associated with a watercourse draining 50 or more acres of land]. However, for a development associated with a watercourse draining less than 50 ares of land, the detailed floodplain study may be waived, subject to the approval of the Department.

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

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[(4) Where there will be enclosed areas below the 100 year flood elevation, a statement on the building plans 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 _____".]

[(5)] (4) * * * * *

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SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 28th day of April, 1992.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:

Richard J. Castaldi
Chairman

ATTEST:

Joyce T. Sweeney
Acting Clerk of the Council

APPROVED:

DATE: _____

BY:
Parris N. Glendening
County Executive

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions
that remain
 unchanged.