

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**

**2000 Legislative Session**

Bill No. CB-84-2000

Chapter No. 80

Proposed and Presented by The Chairman (by request – County Exexecutive)

Introduced by Council Member Shapiro

Co-Sponsors \_\_\_\_\_

Date of Introduction October 17, 2000

**BILL**

1 AN ACT concerning

2 Floodplain Ordinance

3 For the purpose of defining Geographic Information System (GIS) based floodplain models,  
4 amending procedures for establishing floodplain areas, providing for a fee schedule, and  
5 generally relating to floodplain issues.

6 BY repealing and reenacting with amendments:

7 SUBTITLE 4. BUILDING.

8 Sections 4-257, 4-258, 4-259, 4-262, 4-263, 4-265 and 4-266,

9 The Prince George's County Code

10 (1999 Edition).

11 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
12 Maryland, that Sections 4-257, 4-258, 4-259, 4-262, 4-263, 4-265 and 4-266 of the Prince  
13 George's County Code be and the same are hereby repealed and reenacted with the following  
14 amendments:

15 SUBTITLE 4. BUILDING.

16 DIVISION 2. FLOODPLAIN ORDINANCE.

17 **Sec. 4-257. Definitions.**

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

19 \* \* \* \* \*

(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.

\* \* \* \* \*

#### **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.

1 (D) Coastal Floodplain -- areas subject to coastal or tidal flooding by the 100  
 2 year flood, where detailed study data are available, delineated on the FEMA Maps as Zones A,  
 3 AE, and A1-A30.

4 (2) Special Flood Hazard Areas, as defined herein and identified by the Department.

5 (3) Wetland Floodplains -- areas of wetland subject to inundation by the 100 year  
 6 flood.

7 (4) Areas delineated by approved County Comprehensive Watershed Management  
 8 Plans and supporting data to be subject to the 100 year flood or determined to be subject to the  
 9 100 year flood by any other floodplain study approved by the Department.

10 (5) Areas delineated by any other floodplain studies prepared using the County's GIS-  
 11 based floodplain models.

12 (c) The danger reach of a dam -- the area which will be flooded when a dam has been  
 13 breached by flood waters, where it has been established using the latest methodology of the  
 14 United States Department of Agriculture.

15 (d) Floodplain Buffer. Where proposed development is associated with a stream or  
 16 tributary and the limits of the floodplain cannot be accurately determined because of the lack of  
 17 detailed floodplain data and analysis or because of unknown effects of future development in the  
 18 watershed, the Director may require that a floodplain buffer be established and maintained as  
 19 part of the development.

20 (e) Areas excluded. The area associated with a watercourse having less than fifty (50)  
 21 acres of watershed may be excluded, subject to the approval of the Department.

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

24 (1) The most current FEMA Flood Insurance Study for Prince George's County,  
 25 Maryland;

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

28 (3) Approved County comprehensive watershed management plans; [and]

29 (4) Other floodplain studies approved by the Department [.]; and

30 (5) Other floodplain studies prepared by the Department or its designee using the  
 31 County's GIS-based floodplain models.

1 (g) The official floodplain maps shall be at a minimum the FEMA maps.

2 (h) Revisions of the County floodplain.

3 (1) The Department may amend the limits of the County floodplain to reflect the  
4 effect of specific flood protection measures recommended in adopted County Watershed Plans  
5 which have been included in an adopted Prince George's County Capital Improvement Program  
6 (CIP) for planning, design and construction, and for which the Department has all necessary  
7 federal and State permits. However, the County floodplain may not be based upon flood  
8 elevations lower than shown on the currently adopted FEMA map until concurrence in the  
9 lowered elevations has been received from FEMA in accordance with applicable Federal  
10 regulations.

11 (2) The County floodplain limits shall be amended by the Department where studies  
12 or information provided by a qualified agency or person document the need or possibility for  
13 such revision. Where there are no available studies, or where existing studies have been  
14 determined by the Department to be inadequate, a new study of the area shall be required. All  
15 such floodplain studies shall be performed in accordance with the Department's requirements and  
16 criteria, which shall include, without limitation:

17 (A) The system within the drainage basin either existing or included in an  
18 adopted County CIP for planning, design and construction; and for which the Department has all  
19 necessary federal and State permits; and

20 (B) Future land use based on existing zoning or based on adopted or approved  
21 master plans, whichever best reflects future land use, in the opinion of the Department.

22 (3) Any proposed reduction or modification to any area of the County identified by  
23 FEMA as part of the 100 year floodplain must have the approval of FEMA. Proposed  
24 modifications must first be submitted to the Department for review, and the Department's  
25 recommendation on the proposed modification shall be transmitted to FEMA with a copy to the  
26 submitter. Any development in the floodplain which may result in any increase in water surface  
27 elevations or change to the FEMA floodplain boundaries must be submitted to FEMA for a  
28 Conditional Letter of Map Revision. Hydrologic and hydraulic analyses based on existing  
29 floodplain models and performed in accordance with standard engineering practices and certified  
30 by a registered professional engineer must be submitted. Failure to receive this Letter shall be  
31 grounds for denial of the permit. The Department shall notify the Federal Insurance

1 Administrator of revisions to the FEMA Floodplain within six (6) months after the date of  
 2 completion of the modification by submitting technical and scientific data in accordance with 44  
 3 Code of Federal Regulations, Part 65. All revisions and modifications of the FEMA floodplain  
 4 shall be subject to the review and approval of FEMA and the Maryland Department of [Natural  
 5 Resources] the Environment.

6 **Sec. 4-259. Development regulations.**

7 \* \* \* \* \*

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

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

21 (a) Any development and construction in the coastal and wetland floodplains which is  
 22 permitted pursuant to Section 4-260 of this Division, shall, in addition to all other requirements  
 23 of this Division, meet the requirements of this Section.

24 (b) The development shall be subject to the provisions of this Code regulating  
 25 development in the Chesapeake Bay Critical Areas.

26 (c) In the wetland floodplain the following regulations shall apply:

27 (1) The Department shall obtain, review, and reasonably utilize any wetlands  
 28 classification data available from a federal, State, or other source to determine the boundaries  
 29 and characteristics of the wetland floodplain. When the boundary of the wetland floodplain is  
 30 unknown, obscure, or undefined, the Department, in cooperation with or with assistance from the

Maryland Department of [Natural Resources] 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[s] of [Natural Resources and] 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.

\* \* \* \* \*

#### **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.

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

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

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

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

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

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

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

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

30 (5) The development complies with the requirements of this Division and all other  
31 applicable codes and ordinances.

1 (e) No construction or development will occur until all other required federal, State, and  
2 local permits and approvals have been obtained.

3 (f) During the construction period, the Department shall inspect the premises to determine  
4 that the work is progressing in compliance with the permit and with all applicable laws and  
5 ordinances. The premises shall also be subject to inspection by the [Maryland Water Resources  
6 Administration] Maryland Department of the Environment. In the event that the Department  
7 determines that the work is not in compliance with the permit or all applicable laws and  
8 ordinances, or that there has been a false statement or misrepresentation by the applicant, the  
9 Department shall report such fact to the [Maryland Water Resources Administration] Maryland  
10 Department of the Environment for whatever action it considers necessary as well as pursuing  
11 compliance as provided under this Division and Subtitle.

12 (g) A use and occupancy permit shall not be approved until the Department has been  
13 provided with a completed elevation certificate prepared by a registered land surveyor or  
14 engineer certifying the "as-built" elevation of the subject construction.

15 (h) A record or log of permits issued for development in the County floodplain shall be  
16 maintained by the Department and shall be available upon request to FEMA or its authorized  
17 agent (the [Water Resources Administration] Maryland Department of the Environment) during  
18 periodic assessments of the County participation in the National Flood Insurance Program. Such  
19 record shall include at a minimum the date the permit was issued, the as-built lowest floor  
20 elevation of all new construction or substantial improvement, the issuance date of the use and  
21 occupancy permit, a copy of the completed elevation certificate, and any map amendments  
22 issued by FEMA.

#### 23 **Sec. 4-265. Enforcement and penalties.**

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

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

**Sec. 4-266. [Reserved.] Fee 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.

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

Adopted this 14th day of November, 2000.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Dorothy F. Bailey  
Chair

ATTEST:

\_\_\_\_\_  
Joyce T. Sweeney  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Wayne K. Curry  
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.