



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of Audits and Investigations

April 12, 2021

MEMORANDUM

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin
Senior Legislative Budget and Policy Analyst

FROM: Warren E. Burris, Sr.
Senior Legislative Budget and Policy Analyst

A handwritten signature in black ink, appearing to read "W E Burris", written over the name in the FROM field.

RE: Policy and Fiscal Impact Statement
CB-025-2021 – Plans and Studies Conducted Pursuant to the County's Floodplain Ordinance (Draft 1)

CB-025-2021 (sponsored by: Councilmember Anderson-Walker)

Assigned to Committee of the Whole (COW)

AN ACT CONCERNING PLANS AND STUDIES CONDUCTED PURSUANT TO THE COUNTY'S FLOODPLAIN ORDINANCE for the purpose of providing that certain plans and studies required pursuant to the County's Floodplain Ordinance include studies conducted by an independent third party; and generally relating to the Floodplain Ordinance.

Fiscal Summary

Direct Impact:

Expenditures: None

Revenues: None

Indirect Impact:

Potentially positive

Legislative Summary:

CB-025-2021, sponsored by Councilman Anderson Walker, was introduced on March 23, 2021 and referred to the Committee of the Whole. CB-025-2021 would require third party independent studies conducted for any potential development in the 100-year flood plain. CB-025-2021 would repeal and reenact Subtitle 32, Division 4 §§32-203, 32-204, 32-305, 32-206, and 32-209 of the Prince George’s County Code.

If enacted, CB-025-2021 would explicitly:

- require that a study conducted by an independent third party be a component of any study required to amend the County floodplain limits (page 3, lines 9-11);
 - give the Director of the Department of Permitting, Inspections, and Enforcement (DPIE) the discretion to require that the requisite study for development in the floodplain be reviewed by independent third-party (page 4, lines 4-8); and
 - subject any waiver for a watercourse having a drainage area of less than 50 acres to review by independent third-party (page 5, lines 2-4).
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Current Law/Background:

The current language in Subtitle 32 suggest that certain studies are required, and that waivers may be requested for development in the floodplain. Section 32-204(h)(2) requires a new study for any amendment/revisions to the County limits of the floodplain that has no study or an inadequate study. In addition, Section 32-205 requires that any applicant or developer that seeks a permit to offset the effects of development in the 100-year flood provide an engineering study to assure that the 1-percent annual chance (100-year) flood 5 carrying capacity within the altered or relocated portion of the watercourse in question will be 6 maintained. Lastly, Section 32-209 provides a process for a waiver of permit to develop in the floodplain if the watercourse has a drainage area of less than 50 acres.

Discussion/Policy Analysis:

As stated by the Federal Emergency Management Agency (FEMA) and the Maryland Department of the Environment, a permit is required for all construction or development in the 100-year floodplain. The National Flood Insurance Program (NFIP) requires counties and towns to issue permits for all development in the 100-year floodplain. According to FEMA, the NFIP provides flood insurance to property owners, renters and businesses, and having this coverage helps them

recover faster when floodwaters recede. The NFIP also encourages communities to adopt and enforce floodplain management regulations that help mitigate the effects of flooding.” “As a part of the National Flood Insurance Program (NFIP), the Community Rating System is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements. As a result, flood insurance premium rates are discounted to reflect the reduced flood risk resulting from the community actions meeting the three goals of the Community Rating System”

Unlike the NFIP, enactment of CB-025-2021 would recommend as an independent third party study be included as a component of any Flood Plain study for all development in the Floodplain to ensure there is no risk to county residents. As evidenced by the NFIP program, this system of evaluating developing in the flood plain is looked at through a monetary process regarding insurance rates and risk, as opposed to evaluating the risk for substantial loss of property and/or life. “Nationally, much of the development that’s taken place in floodplains is a consequence of federal regulations that do little to discourage construction in flood-prone areas. Larry Larson, director emeritus of the Association of State Floodplain Managers, sees it as a system of perverse incentives. Regardless of whether states take any steps to discourage risky developments, they still receive generous disaster relief assistance when devastation occurs.”

Resource Personnel:

Council District 8 Staff
DPIE
DOE

Discussion/Policy Analysis:

- *Potential Benefits of Enacting CB-025-2021 – Plans and Studies Conducted Pursuant to the County’s Floodplain Ordinance*

Enacting CB-025-2021 would potential provide the District Council with assurances that a detailed study was performed by the requisite authority indicating that any dwelling units developed in a floodplain would be reasonably protected for existential threats and devastation. The nation’s rivers and floodplains have become physically disconnected, leading to loss of floodplain functions. Thereby, completion of floodplain study would examine the existing or current state of the flood plain to assure that development would be sustainable, which could avoid future property damage, destruction and possible loss of human life from development in flood plain. This would result in a possible indirect impact for future residents in the new development.

- ***Potential Costs of Enacting CB-025-2021 - Plans and Studies Conducted Pursuant to the County's Floodplain Ordinance***

Enactment of CB-025-2021 would be relatively no cost or burden to the County government as the cost of the study would be borne by the development team proposing the development consistent with the County Code. This may result in less development in areas covered by the requirements, but that is not necessarily a "cost."

Fiscal Impact:

- *Direct Impact*

Enactment of CB-025-2021 would not have an adverse direct fiscal impact, since the costs of the required studies and reviews are to be borne by applicants.

- *Indirect Impact*

Enactment of CB-025-2021 may promote positive indirect impact through the increase of sustainable development and have assurances that no future losses or property damage would result from the new development in floodplains. This could result in cost savings in reduced County response to (avoided) flood-related damage.

- *Appropriated in the Current Fiscal Year Budget*

No.

Effective Date of Proposed Legislation:

This Act shall take effect forty-five (45) days after it becomes law.

If you require additional information, or have questions about this fiscal impact statement, please reach me via phone or email