

TEXT AMENDMENTS TO COUNCIL BILL 12-152

TITLE 7. OPEN SPACE AND ENVIRONMENTAL DISTRICTS

(1st Reader Copy)

Proposed by: Various

{To be offered to the Land Use and Transportation Committee}

Amendment No. 1 (T-359) {Open-Space Areas - Park Structures, etc.}

On page 118, strike lines 13 through 15, in their entireties.

Amendment No. 2 (T-361) {Floodplain Overlay - Definitions}

On page 119, after line 4, insert:

“§ 7-301. DEFINITIONS.

(A) GENERAL.

IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) FLOODPLAIN.

“FLOODPLAIN” HAS THE MEANING STATED IN CITY CODE ARTICLE 7 {“NATURAL RESOURCES”}, § 1-2(v) {“DEFINITIONS: FLOODPLAIN”}.

(C) FLOODPLAIN MAPS.

“FLOODPLAIN MAPS” MEANS THE SERIES OF MAPS AND PROFILES KNOWN AS THE FLOOD INSURANCE RATE MAPS AND FLOOD INSURANCE STUDY FOR THE CITY OF BALTIMORE, DATED FEBRUARY 2, 2012, AS PREPARED, REVISED, OR AMENDED FROM TIME TO TIME FOR THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE ADMINISTRATOR IN ACCORDANCE WITH CITY CODE ARTICLE 7, DIVISION I {“FLOODPLAIN MANAGEMENT”}.

(D) FLOODPLAIN OVERLAY ZONING DISTRICT; OVERLAY DISTRICT.

“FLOODPLAIN OVERLAY ZONING DISTRICT” OR “OVERLAY DISTRICT” MEANS ALL AREAS SHOWN AS FLOODPLAINS ON THE FLOODPLAIN MAPS.”;

and, on the same page, strike lines 16 through 31, in their entireties.

Amendment No. 3 (T-361) {Floodplain Overlay - Purpose of District}

On page 119, in line 5, strike “§ 7-301” and substitute “§ 7-302”; and, in line 7, after “WITH THE”, strike “INTENT OF” and substitute “DESIGN TOWARDS”; and, in line 12, after the semicolon, insert “AND”; and strike beginning with the semicolon in line 13 through “CITY” in line 15.

Amendment No. 4 (T-361) {Floodplain Overlay - Subdistricts}

On page 120, strike lines 1 through 37, in their entireties, and substitute:

“§ 7-303. OVERLAY SUBDISTRICTS.

(A) IN GENERAL.

THE FLOODPLAIN OVERLAY ZONING DISTRICT IS DIVIDED INTO THE FOLLOWING 6 SUBDISTRICTS, EACH DESIGNATING A MEASURABLE DEGREE OF FLOOD HAZARD, AS DELINEATED ON THE FLOODPLAIN MAPS.

(B) FLOODWAY.

THE FLOODWAY COMPRISES THAT PART OF THE OVERLAY DISTRICT THAT IS DESCRIBED IN CITY CODE ARTICLE 7, § 2-2(B) {“SUBDISTRICTS: FLOODWAY”}.

(C) FLOODWAY FRINGE.

THE FLOODWAY FRINGE COMPRISES THOSE LANDS WITHIN THE OVERLAY DISTRICT THAT ARE DESCRIBED IN CITY CODE ARTICLE 7, § 2-2(C) {“SUBDISTRICTS: FLOODWAY FRINGE”}.

(D) APPROXIMATED FLOODPLAIN.

THE APPROXIMATED FLOODPLAIN COMPRISES THOSE LANDS WITHIN THE OVERLAY DISTRICT THAT ARE DESCRIBED IN CITY CODE ARTICLE 7, § 2-2(D) {“SUBDISTRICTS: APPROXIMATED FLOODPLAIN”}.

(E) COASTAL FLOODPLAIN.

THE COASTAL FLOODPLAIN COMPRISES THOSE LANDS WITHIN THE OVERLAY DISTRICT THAT ARE DESCRIBED IN CITY CODE ARTICLE 7, § 2-2(E) {"SUBDISTRICTS: COASTAL FLOODPLAIN"}.

(F) COASTAL HIGH HAZARD AREA.

THE COASTAL HIGH HAZARD AREA COMPRISES THOSE LANDS WITHIN THE OVERLAY DISTRICT THAT ARE DESCRIBED IN CITY CODE ARTICLE 7, § 2-2(F) {"SUBDISTRICTS: COASTAL HIGH HAZARD AREA"}.

(G) FLOOD RESILIENCE AREA.

THE FLOOD RESILIENCE AREA COMPRISES THOSE LANDS WITHIN THE OVERLAY DISTRICT THAT ARE DESCRIBED IN CITY CODE ARTICLE 7, § 2-2(G) {"SUBDISTRICTS: FLOOD RESILIENCE AREA"}."

Amendment No. 5 (T-361) {Floodplain Overlay - Use Regulations}

On page 121, in line 2, strike "*GENERAL*" and substitute "*IN GENERAL*"; and, after line 2, insert the paragraph designator and caption "(1) PER UNDERLYING DISTRICT."; and, in line 3, after "BY THIS SECTION", insert "OR BY OTHER APPLICABLE LAW (SEE § 7-309 OF THIS SUBTITLE)"; and, in line 4, before "DISTRICT", insert "ZONING"; and, in line 6, strike the subsection designator "(B)" and substitute the paragraph designator "(2)"; and, in line 10 and line 16, strike "(C)" and "(D)", respectively, and substitute "(B)" and "(C)", respectively; and, in line 18, after "GOVERNMENT", strike "OFFICE" and substitute "SERVICE"; and, in line 21, strike "FLOOD WATERS" and substitute "FLOODWATERS"; and, strike beginning with "(E)" in line 24, through the period on page 122, in line 1.

Amendment No. 6 (DLR) {Floodplain Overlay - Bulk and Yard Regulations.}

On page 122, in line 5 and line 8, in each instance, before "DISTRICT", insert "ZONING".

Amendment No. 7 (T-361) {Floodplain Overlay - Variances & Conditional Uses}

On page 122, strike lines 11 through 13, in their entirety; and, in line 14 and in line 33, strike "(B)" and "(C)", respectively, and substitute "(A)" and "(B)", respectively; and, in line 18, before "DISTRICT", insert "ZONING"; and, in line 26, strike "ALL" and substitute "ALL"; and, on page 123, in line 1, strike "OF A STRUCTURE".

{DLR QUERY FOR POST-ENACTMENT CONSIDERATION: This section requires that a certain “warning” be issued whenever a conditional use or variance is granted by the BMZA. The question is why no similar warning is required when the conditional use or variance is granted by ordinance???}

Amendment No. 8 (DLR) {Floodplain Overlay - Amendments to Floodplain Maps}

On page 123, strike lines 4 through 9, in their entireties, and substitute “**§ 7-307. {RESERVED}**”.

{DLR NOTE: § 7-307 purports to govern how amendments to the “Floodplain Overlay District Maps” must be reviewed and approved under the “requirements of ... this Code”. However, as indicated in § 7-301(c) and (d) (Amendment #2 above), the Floodplain Overlay maps are nothing more nor less than the “floodplain maps” that have been “prepared, revised, or amended from time to time ... in accordance with City Code Article 7, Division I {‘Floodplain Management’}”. In this regard, see, e.g., City Code Article 7, § 2-1 {“Establishment of District”}, § 2-3 {“Official map”}, and § 2-5 {“Changes in District”}. These and other Article 7 sections, as well as related Federal and State laws, rules, and regulations, are what govern the review and approval of the “floodplain maps”, NOT “the requirements of Title 5, Subtitle 5[,] of th[e Zoning] Code” or the provisions of this § 7-307. THAT IS TO SAY, FOR THIS PARTICULAR OVERLAY DISTRICT, THE ZONING CODE AUTOMATICALLY INCORPORATES BY REFERENCE ALREADY EXISTING MAPS THAT WERE ESTABLISHED AND FROM TIME TO TIME MAY BE AMENDED UNDER ANOTHER, INDEPENDENT SET OF LAWS. IN SHORT, THEN, § 7-307 FAILS TO ACCOUNT FOR OR REFLECT FEDERAL, STATE, AND CITY REALITIES. AS SUCH, THE SECTION PROPOSED TO BE DELETED, LEST IT GENERATES INORDINATE CONFUSION.}

Amendment No. 9 (DLR) {Floodplain Overlay - Other Applicable Laws}

On page 123, in line 17, after “APPLICABLE” strike “STANDARDS” and substitute “**LAWS**”; and, in line 18, after “STANDARDS”, insert “**, LIMITATIONS, AND PROHIBITIONS**”; and, in the same line, after “SET FORTH IN”, insert “**OTHER APPLICABLE LAWS GOVERNING FLOODPLAINS AND FLOOD HAZARD AREAS, INCLUDING:**”; and, at the beginning of line 19, insert a return and the item designator “**(1)**”; and, in the same line, before the period, insert:

“**; AND**

(2) THE CITY BUILDING, FIRE, AND RELATED CODES”.

Amendment No. 10 (T-364) {Chesapeake Bay Overlay - “Significant Development”}

On page 125, in lines 17 and 18, strike “AS CERTIFIED BY THE DEPARTMENT OF PLANNING” and substitute “AS RECORDED IN THE STATE DEPARTMENT OF ASSESSMENT AND TAXATION’S DATABASE”.

Amendment No. 11 (T-365) {Chesapeake Bay Overlay - “Water-Dependent Facilities”}

On page 125, in line 31, strike “WATER-USE INDUSTRIES” and substitute “INDUSTRIES THAT WITHDRAW WATER FROM SURFACE WATERS REGULATED BY THIS STATE, REQUIRING A WATER APPROPRIATION AND USE PERMIT FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT”.

Amendment No. 12 (T-928) {Chesapeake Bay Overlay - “Civil Penalties”}

On page 133, in line 25, strike “\$10,000” and substitute “\$1,000”.

