

**CITY OF BALTIMORE  
COUNCIL BILL 09-0347  
(First Reader)**

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Introduced by: The Council President  
At the request of: The Administration (Planning Department)  
Introduced and read first time: June 8, 2009  
Assigned to: Land Use and Transportation Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Planning Commission, Baltimore Development Corporation, Commission on Sustainability

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Floodplain Management – Development Regulations**

3 FOR the purpose of authorizing a limited exception to the proscription against private  
4 development in certain areas; conforming, correcting, and clarifying related provisions; and  
5 generally relating to floodplain management.

6 BY repealing and reordaining, with amendments

7 Article 7 - Natural Resources  
8 Section(s) 3-21 through 3-30  
9 Baltimore City Code  
10 (Edition 2000)

11 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the  
12 Laws of Baltimore City read as follows:

13 **Baltimore City Code**

14 **Article 7. Natural Resources**

15 **Division I. Floodplain Management**

16 **Subtitle 3. Development Regulations**

17 ***Part 3. Floodway Regulations***

18 **§ 3-21. In general.**

19 In the Floodway (F1), the following regulations [shall] apply.

20 **§ 3-22. Private development [~~prohibited~~] RESTRICTED.**

21 (A) *IN GENERAL.*

EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.

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1 [Private] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, PRIVATE  
2 development, including residential, commercial, and industrial development, [shall be] IS  
3 prohibited.

4 (B) *EXCEPTION.*

5 THIS SECTION DOES NOT APPLY TO PRIVATE DEVELOPMENT THAT:

6 (1) OTHERWISE MEETS ALL OF THE REQUIREMENTS OF THIS SUBTITLE; AND

7 (2) IS LOCATED IN THE CARROLL CAMDEN URBAN RENEWAL PROJECT AREA, BEING  
8 THE RENEWAL AREA ESTABLISHED BY AND DESCRIBED IN ORDINANCE 02-296 AND  
9 AS MODIFIED BY ORDINANCE 07-548.

10 **§ 3-23. [Public development requires offset] OFFSET REQUIREMENTS.**

11 [Public] No development [shall not be] is permitted [except where] UNLESS:

12 (1) the effect of [such] THAT development on flood heights is fully offset by  
13 accompanying [stream modification] FLOODWAY MODIFICATIONS; and

14 (2) the development is approved by all appropriate local authorities, the Maryland Water  
15 [Resources] MANAGEMENT Administration, and the U. S. Army Corps of Engineers.

16 **§ 3-24. Engineering report.**

17 (a) *Report required.*

18 All proposals to offset the effect of development [in the floodway] by construction of  
19 [stream] FLOODWAY modifications [shall] MUST be documented by an engineering report  
20 THAT:

21 (1) IS prepared by a registered professional engineer;

22 (2) [which] fully evaluates the effects of [such] THAT construction; and

23 (3) [which shall be] IS submitted with the application for a building permit.

24 (b) *Basis.*

25 The report [shall] MUST use the 100-year flood and floodway data [as] prepared by the  
26 Federal Emergency Management Agency [and adopted herein] as the basis of analysis.

27 **§ 3-25. Compliance with Districtwide regulations.**

28 [Any] ALL development [shall meet] MUST COMPLY the requirements of Part 2 of this  
29 subtitle.

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**§ 3-26. Map revision.**

(a) *When required.*

(1) Any development [in the floodway which may] THAT MIGHT result in [any] AN increase in water surface elevations or IN A change to the floodway must be submitted to the Federal Emergency Management Agency for a conditional letter of map revision.

(2) Failure to [receive] OBTAIN this letter [shall be] IS grounds for denial of the permit.

(b) *Required submissions.*

[Hydrologic] THE APPLICANT MUST SUBMIT HYDROLOGIC and hydraulic analyses THAT ARE:

(1) based on existing floodway models; [and]

(2) performed in accordance with standard engineering practices; and

(3) certified by a registered professional engineer [must be submitted].

**§ 3-27. Alternative analysis.**

(a) *Required for permit.*

[An] BEFORE A PERMIT MAY BE ISSUED FOR ANY DEVELOPMENT IN THE FLOODWAY, THE APPLICANT MUST SUBMIT AN alternative analysis [must be prepared for any development in the floodway before a permit may be issued] TO THE DEPARTMENT OF PLANNING.

(b) *Scope of analysis.*

[Before a permit may be issued, the appropriate agency shall submit an] THE alternative analysis [to the Department of Planning which demonstrates] MUST DEMONSTRATE that:

(1) no reasonable alternative exists outside the floodway;

(2) encroachment in the floodway is the minimum necessary;

(3) the development will withstand the 100-year flood without significant damage; and

(4) the development will not increase downstream or upstream flooding or erosion[, or] NOR significantly contribute to debris.

**§ 3-28. Changes to existing structures.**

(a) *Substantial improvements.*

(1) Existing structures in the floodway [shall] MAY be substantially improved only:

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1 (i) by variance; and

2 (ii) if they can be brought into conformance with this Division I without  
3 increasing the footprint of the existing structure.

4 (2) Substantial improvement of a non-conforming structure [and/or] OR development,  
5 regardless of location, [shall] MAY be undertaken only in compliance with [the  
6 provisions of] this Division I and any other applicable law.

7 (b) *Substantial damage or replacement.*

8 (1) In the event of substantial damage or replacement, the [appropriate agency] OWNER  
9 OR DEVELOPER [shall] MUST submit an alternative analysis to determine if the  
10 structure can be relocated to a less hazardous site.

11 (2) [Where] IF replacement structures cannot be relocated, they [shall] MUST be limited to  
12 the footprint of the previous structure.

13 (c) *Minor additions.*

14 (1) Minor additions (less than substantial) must be elevated to the flood protection  
15 elevation on pilings or columns.

16 (2) Permits for incremental improvements and additions [shall] MUST be tracked by the  
17 local permitting official[.]. [and if] IF cumulative improvements constitute  
18 substantial improvement, no further permits may be issued unless the structure  
19 conforms to [the provisions of] this Division I.  
20

21 (d) *Elevation or floodproofing.*

22 The modification, alteration, repair, reconstruction, or improvement of any  
23 non-conforming structure [and/or] OR development amounting to less than 50% of its fair  
24 market value [shall] MUST be elevated [and/or] OR floodproofed to the greatest extent  
25 possible.

26 (e) *Nuisance to be eliminated.*

27 Uses or THEIR adjuncts [thereof which] THAT are[,] or become[,] nuisances [shall not be]  
28 ARE NOT permitted to continue.

29 **§ 3-29. Prohibited structures.**

30 (a) *Manufactured homes or buildings.*

31 The placement of any manufactured homes or buildings [shall be] IS prohibited.

32 (b) *Fences, enclosures, etc.*

33 The following [shall] MAY not be placed or caused to be placed in the floodway:

34 (1) fences, except 2-rail fences; and

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1 (2) any enclosures or materials (including fill):

2 (I) [WHICH may] THAT MIGHT impede, retard, or change the direction of the  
3 flow of water[.]; [or]

4 (II) that will catch or collect debris carried by [such] water[.]; or

5 (III) that is placed where the natural flow of stream or flood waters would  
6 carry [the same] IT downstream, to the damage or detriment of public or  
7 private property in or adjacent to the floodplain.

8 **§ 3-30. Use of data.**

9 [The] IN ENFORCING THIS DIVISION I, THE Department of Planning [shall] MAY obtain,  
10 review, and reasonably [utilize] APPLY any 100-year flood elevation and floodway data  
11 available from a federal, state, or other source, such as the U. S. Army Corps of Engineers,  
12 the Soil Conservation Service, the Maryland Water [Resources] MANAGEMENT  
13 Administration, or any regional planning organization[, in the enforcement of this Division  
14 I].

15 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance  
16 are not law and may not be considered to have been enacted as a part of this or any prior  
17 Ordinance.

18 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30<sup>th</sup> day  
19 after the date it is enacted.