


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR <i>Wolde/for T.J.S.</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR		
	SUBJECT	CITY COUNCIL BILL #11-0778 / NATURAL RESOURCES – FLOODPLAIN MANAGEMENT		

TO

DATE:

The Honorable President and
 Members of the City Council
 City Hall, Room 400
 100 North Holliday Street

October 7, 2011

At its regular meeting of October 6, 2011, the Planning Commission considered City Council Bill #11-0778, for the purpose modifying the statutes governing flood plain management to meet requirements for eligibility in the National Flood Insurance Program and to otherwise comply with the requirements of Federal and State law; defining and redefining certain terms; updating references to various agencies; repealing redundant provisions; correcting, clarifying, and conforming related language; providing for a special effective date; and generally relating to the protection, maintenance, and enhancement of the public health, safety, and welfare through floodplain management.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendment and approval of City Council Bill #11-0778 and adopted the following resolution; 9 members being present (9 in favor).

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #11-0778 be amended and passed by the City Council.

If you have any questions, please contact Mr. Wolde Ararsa, Division Chief, Land Use and Urban Design Division at 410-396-4488.

TJS/WA

Attachment

cc: Ms. Kaliopé Parthemos, Deputy Mayor
 Mr. Peter O'Malley, Chief of Staff
 Ms. Angela Gibson, Mayor's Office
 The Honorable Bill Henry, Council Rep. to Planning Commission
 Mr. David Tanner, BMZA
 Mr. Geoffrey Veale, Zoning Administration
 Ms. Nikol Nabors-Jackson, DHCD
 Mr. M. J. Brodie, BDC
 Ms. Elena DiPietro, Law Dept.
 Ms. Karen Randle, Council Services



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman



Thomas J. Stosur
Director

STAFF REPORT

October 6, 2011

REQUEST: City Council Bill #11-0778/ Natural Resources – Floodplain Management

For the purpose of modifying the statutes governing flood plain management to meet requirements for eligibility in the National Flood Insurance Program and to otherwise comply with the requirements of Federal and State law; defining and redefining certain terms; updating references to various agencies; repealing redundant provisions; correcting, clarifying, and conforming related language; providing for a special effective date; and generally relating to the protection, maintenance, and enhancement of the public health, safety, and welfare through floodplain management.

RECOMMENDATION: Amend and Approve

- **Amendment No. 1:** On page 1, in line 19, after "3-17(d)", strike "and (e)"; and, on the same page, in line 27, after the second comma, insert "3-17(e),"; and, on page 9, in line 26, after "furnaces," insert "TOILETS, SHOWERS, SINKS,"; and, on page 11, strike lines 11 through 19, in their entireties.
- **Amendment No. 2:** On page 2, strike beginning with "the 100-year" in line 24 through "Division I" in line 26 and substitute "A FLOOD THAT HAS A 1% CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR".
- **Amendment No. 3:** On page 13, in line 7, after the closing bracket, insert "A"; and, on the same page, in line 32, strike "the 100-year" and substitute "BASE FLOOD"; and, on the same page, in line 35, strike "100-year" and substitute "BASE".

STAFF: Kenneth Hranicky

PETITIONER: The Administration (Department of Planning)

OWNER: Citywide

GENERAL AREA: The areas addressed by this legislation are identified in the maps as areas subject to flooding during a 1% flood event.

HISTORY

- Ordinance Number 88-188, approved November 22, 1988, approved the Flood Insurance Rate Map/Flood Insurance Study and floodplain management regulations codified in the Natural Resource Code Article 7 and in the Zoning Code.

- Ordinance number 92-134, approved November 18, 1992, amending language in the Natural Resource Code and in the Zoning Code as pertaining to floodplain management.

CONFORMITY TO PLANS

This City Council Bill is consistent with the Baltimore City Master Plan Requirements ARTICLE VII, § 74(a), (b) of the Baltimore City Charter. The Charter's purpose statement is that the Master Plan shall be made for the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of Baltimore City to promote the health, order, security, safety, and morals of its inhabitants, and to preserve and enhance the aesthetic and natural environment of the City.

ANALYSIS

City Council Bill 11-0778/Natural Resources – Floodplain Management accomplishes three actions: 1) Adopts the Flood Insurance Rate Map; 2) Adopts the Flood Insurance Study; and 3) Modifies regulatory language governing floodplain development. Adoption of CCB #11-0778 will ensure the City of Baltimore continued eligibility within the National Flood Insurance Program (NFIP). The NFIP provides the maps and regulatory basis for local floodplain management. It is also the primary source of insurance protection for floodprone properties. When the City agreed to participate in the NFIP it adopted an ordinance with the minimum criteria, with some more restrictive language and agreed to enforce the ordinance provisions to reduce future flood damage. In return, flood insurance and other forms of Federal assistance were made available.

Consequences of nonparticipation in the NFIP are as follows:

- Federal flood insurance is not available.
- Federal agencies shall not make grants or loans for buildings in identified flood hazard areas, including such agencies such as Farmer's Home Administration (FHA), Housing and Urban Development (HUD), Environmental Protection Agency (EPA), Small Business Administration (SBA), and Health and Human Services. This rule applies to Federal grants and loans for any reconstruction, repair, construction, rehabilitation, or additions to structures in Special Flood Hazard Areas.
- Federal disaster assistance will not be provided in identified flood hazard areas for permanent restorative construction and grants. Therefore, public buildings damaged by flood are not eligible for Federal disaster assistance.
- Federal mortgages shall not be available for structures in identified flood hazard areas, including loans or grants guaranteed by FHA, Veterans' Administration, SBA, and Federal instrumentalities such as the Federal Deposit Insurance Corporation and the National Credit Union Administration.
- The National Flood Insurance Reform Act of 1994 places restrictions on conventional loans, and lenders must notify the buyer or lessee if a property is in a flood hazard area.
- The Flood Insurance Rate Map and appropriate actuarial rates go into effect regardless of whether the community participates. Structures in the SFHAs will be actuarially rated if the community later decides to join the NFIP, which could result in extremely expensive insurance.

- The local government body may be held liable for not participating in the NFIP because the action denies citizens the opportunity to purchase flood insurance, and does not take positive steps to reduce the exposure of life and property in the face of authoritative scientific and technical data.
- If the City withdraws from the program existing flood insurance policies will not be renewed.

BACKGROUND

In 2004 the City of Baltimore was awarded \$200,000 for Cooperative Technical Partners (CTP) Agreement to digitize and update the City's Flood Insurance Rate Maps – also known as Digital Flood Insurance Rate Map (DFIRM). The CTP is a national effort to take advantage of improvements in technology and have them integrated into the NFIP. The entire City of Baltimore has been re-delineated with new topography.

Part of this grant also included mapping areas that were developed but did not have a Base Flood Elevation. Those areas included:

- Jones Falls – From just south of North Avenue where the Jones Falls enters a triple box culvert to Pratt and Lombard street where this flow blends with the tidal floodplain;
- Gwynns Falls – Entire limits within the City of Baltimore;
- Maidens Choice Run – From western extent near the intersection of Frederick Avenue and Overbook Road moving east to just past the intersection of Beechfield Ave and Parkton Street;
- Unnamed Tributary to Herring Run – Near Quad Ave and North Point Road; and
- Lower Herring Run – From the crossing at Interstate 895 to the crossing at Interstate 95.

Out of this effort the City has new Flood Insurance Rate Maps and Flood Insurance Study. Both of these items are part of the legislation. The Flood Insurance Study is a narrative report of the City's flood hazards that contain prior flooding information, descriptions of the flooding sources, information on flood protection measures, and a description of the hydrologic and hydraulic methods used in the study. The Flood Insurance Rate Map illustrates the extent of the flood hazards in a community by depicting flood risk zones and the Special Flood Hazard Area, and is used with the Flood Insurance Study report to determine the floodplain development regulations that apply in each flood risk zone and who must buy flood insurance. Flood Insurance Rate Maps also depict other information including Base (1% annual chance) Flood Elevations (BFE) or flood depths, floodways, and common physical features such as roads. Development may take place within the Special Flood Hazard Area provided that it complies with the City's floodplain ordinances that meet NFIP criteria.

There are minimum local regulatory requirements within the National Flood Insurance Program. Those minimums can have a stricter standard but the minimums must be in place. Code amendments found in CCB#11-0778 were the result of an audit of the City's floodplain regulations to ensure that the minimum requirements are being met. The proposed changes to the regulations are not a stricter standard but the minimum required as required by all Participating Communities.

CCB# 11-0778 also has a special effective date of February 2, 2012. That is the latest date the City can observe and remain compliant with the NFIP. Although the City could adopt the maps on an earlier date it is the Department's intention to give all newly mapped residents the opportunity to get 'grandfathered' for insurance purposes. Insurance impacts are as follows:

Pre-FIRM (construction prior to the date of the Baltimore's initial FIRM)

1. If a policy was obtained prior to the effective date of a map change, the policyholder is eligible to maintain the prior zone and base flood elevation as long as continuous coverage is maintained. The policy can be assigned to a new owner at the option of the policyholder.
2. If a building is Pre-FIRM and a policy was not obtained prior to the effective date of a map change, the applicant is eligible to receive the Pre-FIRM (subsidized) rates based on the new zone rather than the actuarial (elevation based) rates.

Post-FIRM (Construction on or after the date of Baltimore's initial FIRM)

1. If a policy was obtained prior to the effective date of a map change, the policy holder is eligible to maintain the prior zone and base flood elevation as long as continuous coverage is maintained. The policy can be assigned to a new owner at the option of the policyholder.
2. If a building was constructed in compliance with a specific FIRM, the owner is always eligible to obtain a policy using the zone and base flood elevation from that FIRM, provided that proof is submitted to the insurance company. Continuous coverage is not required.

Preferred Risk Policies

1. Buildings written on Preferred Risk Policies are required to be located in Zone X on the FIRM in effect on the date of application and on the date of each subsequent renewal.
2. A building, which becomes ineligible for a Preferred Risk Policy due to a map change to a special flood hazard area, can be rewritten on a standard rated policy using Zone X.

Insurance is the 'cost' of living in a floodplain. Every building located in Baltimore may be covered by a flood insurance policy – even buildings not located in a mapped floodplain. Coverage is for damage by a 'flood'. A 'flood' is defined by NFIP regulations as a "general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters or 2) the unusual and rapid accumulation or runoff of surface waters from any source." The flood insurance premiums for post-FIRM buildings are based on the degree of flood protection they are provided. Therefore it is important for Baltimore to ensure new buildings in the floodplain are constructed properly. The flood insurance premium rates for pre-FIRM buildings (mainly historic districts but all pre-March 15, 1978 construction) are subsidized by the NFIP. Owners of these policies do not pay "actuarial" rates, i.e. rates based on the true risk the building is exposed to. Insurance provides relief for all floods, including those not large enough or severe enough to warrant federal disaster aid.

The National Flood Insurance Program has afforded the City 10's of millions of dollars since our participation in the Program. The insurance does make development possible in flood prone areas. The Planning Department understands the importance of this program and how the

regulations, maps and insurance form a triad of safety of that must be balanced with environmental considerations.

Baltimore City's participation in the Nation Flood Insurance program is a benefit that has no other equal. Timely adoption of CCB #11-0778 will go far in guiding and accomplishing a coordinated, adjusted and harmonious development of Baltimore City to promote the health, order, security, and safety of its inhabitants, and to preserve and enhance the aesthetic and natural environment of the City.

Staff has notified over 4,000 property owners within the City of this action.

A handwritten signature in black ink, appearing to read "Thomas J. Stosur". The signature is written in a cursive style with a large initial "T" and "S".

**Thomas J. Stosur,
Director**