

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2016 Legislative Session

Legislative Day No. 14

Bill No. 65 -2016

Introduced by: Jon Weinstein

AN ACT temporarily prohibiting issuance of certain permits for certain development within a specified area of Howard County; finding that development in the Tiber-Hudson Watershed may be a contributing factor to flooding in Historic Ellicott City and thus may be a threat to the public health, safety and welfare; requesting the Department of Planning Zoning and other County agencies to study and report certain matters and make recommendations regarding such matters; providing that the purposes of this Act are to provide the Department of Planning and Zoning and other County agencies with time to study whether development in the specified area needs to be further restricted or modified and to make recommendations for improvement, and to give the County Council time to act on the recommendations; defining certain terms; providing certain exemptions from the Act; establishing certain processes on the development review and permitting processes; providing that this Act shall be abrogated and of no further force and effect after a certain period; and generally relating to land use, permitting activities, storm water management, drainage and flood mitigation.

Introduced and read first time _____, 2016. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2016.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2016 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2016 at ____ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2016

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; Text in small capitals indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **WHEREAS**, Historic Ellicott City was subject to flooding in July 2016, causing loss of life and
2 significant damage to public and private property, resulting in the County Executive declaring a
3 State of Emergency that is currently continued by the County Council until September 7, 2016
4 and is subject to further continuation pending County Council action on Council Resolution No.
5 108-2016 to be introduced September 6, 2016, and the passage of emergency legislation to
6 address the devastating effects of flooding in Historic Ellicott City and other areas of the County;
7 and

8
9 **WHEREAS**, the Tiber and Hudson Branches, which are tributaries of the Patapsco River, pass
10 through Historic Ellicott City and are confined by the steep topography surrounding Main Street
11 and are lined along their banks by historic buildings, and are subject to severe flooding during
12 certain rainfall events; and

13
14 **WHEREAS**, the following events have occurred during the aftermath of the Main Street flood:

- 15 • On July 30, 2016, the County Executive issued an Executive Order to declare an
16 Emergency in Howard County;
- 17 • On July 31, 2016, the County Executive issued an Executive Order to exercise
18 Emergency Powers;
- 19 • On July 31, 2016, the Governor of Maryland declared an Emergency in Howard County;
- 20 • On August 1, 2016, the County Executive issued an Executive Order to continue the
21 declaration of Emergency in Howard County;
- 22 • On August 5, 2016, the County Council passed Council Bill No. 57-2016 to extend the
23 State of Emergency in Howard County;
- 24 • On August 17, 2016, the County Council passed Council Bill No. 58-2016 to waive
25 County fees that would be associated with the restoration of Historic Ellicott City due to
26 the flood; and

27
28 **WHEREAS**, in this period of State of Emergency, where much of Main Street was temporarily
29 closed to the general public to begin the assessment of the flood damage, the Howard County
30 community made up of residents, property owners, business owners, government workers, non-
31 profit groups, and volunteers has since galvanized under the direction of County Government

1 and the Historic Ellicott City Recovery Community Advisory Group to begin the tasks of clean-
2 up, repair, and restoration of Historic Ellicott City; and

3
4 **WHEREAS**, the Howard County Department of Public Works will be conducting a Hydraulic
5 and Hydrologic (H&H) analysis of the area in and around Historic Ellicott City, along with other
6 analyses of the July 2016 flood event in Historic Ellicott City and other areas of the County; and

7
8 **WHEREAS**, the County Council desires the Department of Public Works and the Department of
9 Planning and Zoning and other appropriate units of County Government to study the matter and
10 make recommendations to the Council about changes in laws and procedures designed to protect
11 Historic Ellicott City from the effects of future flood events.

12
13 **NOW THEREFORE**,

14
15 *Section 1. Be It Enacted by the County Council of Howard County, Maryland that for the*
16 *Effective Period , an Interim Moratorium on issuance of Permits by the Department of*
17 *Inspections, Licenses and Permits for property located within the Tiber-Hudson Watershed, as*
18 *outlined in red on the map attached to this Bill as Exhibit A, is hereby established, and the*
19 *Department of Inspections, Licenses and Permits shall not issue Permits for property located*
20 *within the Tiber-Hudson Watershed during the Effective Period of the Interim Moratorium.*

21
22 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that*
23 *the Department of Planning and Zoning, along with other appropriate units of County*
24 *Government, are requested to study the extent to which planned and potential future*
25 *development within the Tiber-Hudson Watershed may contribute to the severity of flooding in*
26 *Historic Ellicott City, and on or before February 1, 2017, to submit to the County Council a*
27 *report of such study or studies and any recommendations about changes in law and procedures*
28 *to protect Historic Ellicott City from the effects of future flood events.*

29
30
31

1 **Section 3. And Be It Further Enacted** by the County Council of Howard County, Maryland
2 that:

3 A. *Short Title.* This Act shall be known as the “Tiber-Hudson Watershed Interim
4 Moratorium Act.”

5 B. *Purpose.* The purpose of this Act is to protect the public health, safety, and
6 welfare. There are concerns that development in the Tiber-Hudson Watershed, which drains to
7 the Patapsco River, may have contributed to the severity of the 2016 flooding in Historic Ellicott
8 City. If development in this watershed increases the severity of flooding in Historic Ellicott City
9 and is allowed to continue, it poses a threat to public health, safety, and welfare. This Act is
10 necessary:

- 11 1. To provide the Department of Planning and Zoning, with help from other
12 appropriate units of County government, time to study the extent to which planned
13 and potential future development in the Tiber-Hudson Watershed may contribute
14 to the severity of future flooding in Historic Ellicott City, identify potential
15 solutions if such development will contribute to flooding, and make
16 recommendations for changes in law and procedures to the County Council to
17 protect Historic Ellicott City from the effects of future flood events; and
- 18 2. To provide the County Council time to study and act on those recommendations.

19 *This Act is not intended to interfere with the vested rights of any development in progress.*

20 C. *Restrictions; Watershed Area.* During the Effective Period of this Act, no Permits shall
21 be approved or issued by the Department of Inspections, Licensing and Permits for any property
22 located within the Tiber-Hudson Watershed as shown on the map attached to this Bill as Exhibit
23 A.

24 D. *Definitions.* For the purposes of this Act:

- 25 1. “Permit” means a building or grading permit issued by the Department of
26 Inspections, Licenses and Permits for property located within the Tiber-Hudson
27 Watershed.
- 28 2. “Development Review Process” means the process of review and decision of an
29 application submitted to the Department of Planning and Zoning or any other
30 applicable authorized County agency for a proposed subdivision or development
31 plan for property located within the Tiber-Hudson Watershed.

- 1
- 2 *E. Exemptions. The restrictions in this Act shall not apply to the following:*
- 3 *1. Any proposed construction on real property located within the Tiber-Hudson*
- 4 *Watershed involving the reconstruction or repair of improvements on real*
- 5 *property damaged by fire, flood or other natural calamity which results in no*
- 6 *more than a 25 percent increase of the square footage of impervious surfaces*
- 7 *over the square footage of impervious surfaces that existed on the property prior*
- 8 *to the calamity;*
- 9 *2. Any proposed construction that is exclusively devoted to improving storm water*
- 10 *management on existing developed sites;*
- 11 *3. Any permit for a dwelling that will be constructed in a residential subdivision*
- 12 *within the Tiber-Hudson Watershed and which subdivision plan was approved by*
- 13 *the County and recorded in the County's Land Records prior to September 6,*
- 14 *2016;*
- 15 *4. Any proposed development of a property which will drain outside the Tiber-*
- 16 *Hudson Watershed as demonstrated by site plans certified by a licensed*
- 17 *professional engineer and approved by the Department of Planning and Zoning;*
- 18 *5. Any proposed construction of an addition, garage, driveway or other accessory*
- 19 *use improvement of an existing structure on real property located within the*
- 20 *Tiber-Hudson Watershed that increases the square footage of the impervious*
- 21 *surfaces on the property by no more than 50 percent over the square footage of*
- 22 *impervious surfaces that existed on the property prior to the Effective Date of this*
- 23 *bill; or*
- 24 *6. Any application to the Department of Inspections, Licenses and Permits for a*
- 25 *Permit for property located within the Tiber-Hudson Watershed filed before the*
- 26 *introduction of this bill on September 6, 2016.*
- 27 *F. Development Review Process. The development review process specified in Title 16*
- 28 *of the Howard County Code may continue notwithstanding this Act becoming*
- 29 *effective. Applications made to the Department of Planning and Zoning under the*
- 30 *development review process, filed before, on or after the Effective Date of this Act*
- 31 *may proceed but shall not be considered for Permit approval by the Department of*

1 *Inspections Licenses and Permits until the expiration of the Interim Moratorium. The*
2 *Department of Planning and Zoning shall notify any current or future applicant in the*
3 *development review process of the interim moratorium and of the potential for*
4 *changes to County law that might become applicable to the plans under the*
5 *development review process before a Permit is issued. During the Effective Period,*
6 *the Department of Planning and Zoning shall grant an applicant’s written request for*
7 *an extension of a development review process deadline for development of property*
8 *located within the Tiber-Hudson Watershed. No fees shall be charged with regard to*
9 *requesting, processing, or granting such an extension.*

10 *G. Permitting deadlines suspended. During the Effective Period, any applicable review*
11 *deadline or timeframe for a Permit that is subject to the Interim Moratorium shall be*
12 *suspended until this Act is no longer in effect.*

13 *H. Severability. Should any part of this Act be declared to be unconstitutional or invalid*
14 *by a court of competent jurisdiction, such decision shall not affect the validity of the*
15 *remaining parts of this Act.*

16 *I. Conflict with Existing Law. In case of a conflict between this Act and existing law,*
17 *this Act shall prevail.*

18 *J. Effective Date & Effective Period. This Act is adopted as an interim measure and*
19 *shall be in effect for nine months (the Effective Period) from its Effective Date, and,*
20 *at the end of the day on the final day of the Effective Period, with no further action*
21 *required by the County Council, this Act shall be abrogated and of no further force*
22 *and effect unless the Interim Moratorium is modified, extended, replaced or*
23 *terminated through a subsequent act of the Council.*

24
25 ***Section 4. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
26 *this Act shall become effective 61 days after its enactment.*

