

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

County Council of Howard County, Maryland

2018 Legislative Session

Legislative Day No. 10

Bill No. 56-2018

Introduced by: Jon Weinstein

Cosponsored by: Calvin Ball, Jennifer Terrasa, Greg Fox and Mary Kay Sigaty

AN ACT temporarily prohibiting issuance of certain permits and certain approvals of development plans and zoning changes for property that drains in whole or in part to the Tiber Branch Watershed in Howard County to study flooding events that threaten public health, safety, and welfare; requesting the Department of Planning and Zoning, the Department of Public Works, and other County agencies to study past, present, and future land uses, drainage infrastructure, storm water management, and flood mitigation, and all other factors related to flooding in the Tiber Branch Watershed, and report and make recommendations on changes to land uses, drainage infrastructure, stormwater management, and flood mitigation; defining certain terms; providing certain exemptions from the Act; providing that this Act shall be abrogated and of no further force and effect after a certain period; and generally relating to land use, storm water management, drainage and flood mitigation; and declaring this to be an emergency Act.

Introduced and read first time _____, 2018. 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 _____, 2018.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2018 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 _____, 2018 at ____ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2018

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** the Tiber Branch and its tributaries constitute the natural drainage for the Tiber
2 Branch Watershed to the Patapsco River; and

3
4 **WHEREAS** the Tiber Branch Watershed contains various land uses including older and newer
5 commercial and residential development, public facilities and public schools, State and County
6 road networks, unimproved property, and Historic Ellicott City, which is located at a low-point
7 in the Tiber Branch Watershed and along the Patapsco River; and

8
9 **WHEREAS** the Tiber Branch and its tributaries drain through Historic Ellicott City, are
10 confined by steep topography surrounding Historic Ellicott City’s Main Street, and are lined
11 along their banks by historic buildings that are unique and pose challenges for meeting modern
12 construction practices; and

13
14 **WHEREAS** Historic Ellicott City is a national and local designated historic district and contains
15 architectural, historic, and cultural resources that cannot be replaced and which have been
16 severely damaged by repeated flooding; and

17
18 **WHEREAS**, on May 27, 2018, Historic Ellicott City and other areas of the County were
19 subjected to devastating flooding for the second time in twenty-two months, resulting in the loss
20 of human life, the catastrophic destruction of private and public property, and the interruption of
21 public road networks and public, commercial, and personal activities and necessitating the
22 County Executive to exercise Emergency Powers through Executive Order 2018-07, which
23 declared a State of Emergency that was subsequently extended through July 3, 2018, by the
24 County Council with the passage of Council Resolution No. 84-2018 on June 1, 2018, and is
25 subject to further extension to address the devastating effects of flooding in Historic Ellicott City
26 and other areas of the County; and

27
28 **WHEREAS**, extreme weather events have recently become more frequent and severe as
29 documented by the National Oceanic and Atmospheric Administration in the 2016 U.S. Climate
30 Extremes Index and by the United States Environmental Protection Agency, which noted in its
31 2016 report of Climate Change Indicators in the United States that:

1 “In recent years, a larger percentage of precipitation has come in the form of intense
2 single-day events. Nine of the top 10 years for extreme one-day precipitation events have
3 occurred since 1990” ([https://www.epa.gov/climate-indicators/climate-change-indicators-
4 heavy-precipitation](https://www.epa.gov/climate-indicators/climate-change-indicators-heavy-precipitation)); and
5

6 **WHEREAS**, after the catastrophic flooding in the Tiber Branch Watershed in July 2016, the
7 Howard County Department of Public Works (DPW) conducted a Hydraulic and Hydrologic
8 (H&H) analysis of the area in and around Historic Ellicott City, along with other analyses of the
9 July 2016 flood event in Historic Ellicott City and other areas of the County; and
10

11 **WHEREAS**, the H&H study, entitled, “2016 Ellicott City Hydrology/Hydraulic Study and
12 Concept Mitigation Analysis,” concluded the following:

13 “The results of this study demonstrate that construction of stormwater storage facilities
14 throughout the watershed, combined with stormwater conveyance infrastructure
15 improvements, can make an appreciable difference in the severity of flooding from a 100-
16 year or other similar storm event. However, the nature and scope of such improvements is
17 significant in scope, impact and cost. It will require a long-term planning and
18 implementation effort, supplemental to the Master Plan process, to prioritize, design and
19 construct improvements based on the concepts represented in this report.”; and
20

21 **WHEREAS**, in the current State of Emergency, where much of Main Street in Historic Ellicott
22 City is temporarily closed to the public to assess and repair flood damage, the Howard County
23 community made up of residents, property owners, business owners, government workers, non-
24 profit groups, and volunteers has again galvanized to begin the task of clean-up, repair, and
25 restoration of Historic Ellicott City; and
26

27 **WHEREAS**, the cost to County taxpayers for the repair of public facilities damaged by the 2018
28 flood is currently estimated at over \$20 million and the cost from the 2016 flood was \$10
29 million; and
30

31 **WHEREAS**, due to the potential that zoning changes may be necessary in the Tiber Branch

1 Watershed in response to the studies, reports, and recommendations requested by this Bill and
2 because the County Council is prohibited from taking any zoning action until January 2019, it is
3 imperative that the County have sufficient time to consider and act on any recommendation
4 concerning zoning changes in the Tiber Branch Watershed.

5

6 **NOW THEREFORE,**

7

8 *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the*
9 *Department of Inspections, Licenses and Permits shall not issue Permits for property that drains,*
10 *in whole or in part, to Tiber Branch Watershed, as highlighted in green on the map attached to*
11 *this Bill as Exhibit A, during the Effective Period.*

12

13 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland,*
14 *that, subject to the exception for emergency legislation as provided in the County Charter, the*
15 *County Council shall not pass any zoning regulation text amendment for property that drains, in*
16 *whole or in part, to the Tiber Branch Watershed during the Effective Period.*

17

18 *Section 3. And Be It Further Enacted by the County Council of Howard County, Maryland that*
19 *the Zoning Board shall not take final action on any petition for approval of a development plan*
20 *or for piecemeal map amendment for property that drains, in whole or in part, to the Tiber*
21 *Branch Watershed during the Effective Period.*

22

23 *Section 4. And Be It Further Enacted by the County Council of Howard County, Maryland that*
24 *the Department of Planning and Zoning and the Department of Public Works, along with other*
25 *appropriate units of County Government, are requested to study, as expeditiously as practicable*
26 *without compromising quality, the extent to which existing, planned, and future land use, storm*
27 *water management, drainage infrastructure, and flood mitigation for property that drains in*
28 *whole or in part to the Tiber Branch Watershed, and any other relevant factor, may contribute to*
29 *flooding in the Watershed, and on or before May 31, 2019, submit to the County Council a*
30 *report of such study or studies and any recommendations about changes in law and procedures*
31 *that may help protect the Watershed from the effects of future flood events. Areas of inquiry are*

1 to include, but not be limited to the following:

- 2
- 3 (1) An analysis of the May 27, 2018, flood based on the models and findings of the 2016
4 Ellicott City Hydrology/Hydraulic Study and Concept Mitigation Analysis; and
- 5 (2) Designs or plans for construction of stormwater storage facilities combined with
6 stormwater conveyance infrastructure improvements, and drainage infrastructure and
7 flood mitigation for property that drains in whole or in part to the Tiber Branch
8 Watershed; and
- 9 (3) An analysis of how any existing or proposed development or redevelopment of property
10 that drains in whole or in part to the Tiber Branch Watershed may impact flooding in
11 the Watershed; and
- 12 (4) Proposed changes to the County's Stormwater Management regulations as they apply to
13 property that drains in whole or in part to the Tiber Branch Watershed; and
- 14 (5) An analysis of public and private options for retrofitting existing public and private
15 property that drains in whole or in part to the Tiber Branch Watershed that was
16 developed with no or superseded stormwater management requirements; and
- 17 (6) An analysis of potential general plan and density and open space zoning regulations
18 changes with respect to future development and redevelopment of property that drains
19 in whole or in part to the Tiber Branch Watershed; and
- 20 (7) An analysis of creating a special benefits district for the Tiber Branch Watershed or
21 other funding mechanisms to finance stormwater and drainage infrastructure, and flood
22 mitigation, and retrofitting improvements for property that drains in whole or in part to
23 the Watershed; and
- 24 (8) Any other matter that may assist the County in identifying and clarifying the various
25 complex factors contributing to flooding in the Tiber Branch Watershed and in
26 establishing a comprehensive plan for managing and controlling such factors to the
27 maximum extent practicable to protect public safety, health, and welfare in the
28 Watershed.

29

30 **Section 5. And Be It Further Enacted** by the County Council of Howard County, Maryland
31 that:

1 A. *Short Title. This Act shall be known as the “Tiber Branch Watershed Safety Act.”*

2
3 B. *Purpose. The purpose of this Act is to protect the public health, safety, and*
4 *welfare in the Tiber Branch Watershed. Based on the 2016 Ellicott City Hydrology/Hydraulic*
5 *Study and Concept Mitigation Analysis, development in the Tiber Branch Watershed may have*
6 *contributed to flooding events in the Watershed, especially in Historic Ellicott City. Planned and*
7 *future development of property that drains in whole or in part to the Tiber Branch Watershed*
8 *may pose a threat to public health, safety, and welfare in the Watershed, including to Historic*
9 *Ellicott City. To combat this threat, this Act is necessary:*

10 1. *To provide the Department of Planning and Zoning and the Department of Public*
11 *Works, with help from other appropriate units of County government, time to*
12 *study the extent to which existing, planned and future development or*
13 *redevelopment of property that drains in whole or in part to the Tiber Branch*
14 *Watershed and any other relevant factor may contribute to future flooding in the*
15 *Watershed, identify potential public policy and private solutions, and make*
16 *recommendations for changes in law and procedures to the County Council to*
17 *protect public health, safety, and welfare in the Watershed, including in Historic*
18 *Ellicott City; and*

19 2. *To provide the County Council time to study and act on any recommendations.*

20 C. *Definitions. For the purposes of this Act:*

21 1. *“Permit” means a building or grading permit issued by the Department of*
22 *Inspections, Licenses and Permits for property that drains in whole or in part to*
23 *the Tiber Branch Watershed.*

24 2. *“Development Review Process” means the process of review and decision on an*
25 *application submitted to the Department of Planning and Zoning or any other*
26 *applicable authorized County agency for a proposed subdivision or development*
27 *or redevelopment plan for property that drains in whole or in part to the Tiber*
28 *Branch Watershed.*

29 D. *Exemptions. The restrictions in this Act shall not apply to the following:*

30 1. *Any proposed construction on real property that drains in whole or in part to the*
31 *Tiber-Hudson Watershed involving the reconstruction or repair of improvements*

1 *on real property damaged by fire, flood, or other natural disaster which results in*
2 *no change of the square footage of impervious surfaces that existed on the*
3 *property prior to the natural disaster; or*

- 4
- 5 2. *Any proposed construction on real property that drains in whole or in part to the*
6 *Tiber Branch Watershed that does not change the square footage of the*
7 *impervious surfaces on the property over the square footage of impervious*
8 *surfaces that existed on the property prior to the Effective Date of this Act; or*
9
- 10 3. *Any proposed construction that is exclusively devoted to improving storm water*
11 *management on existing developed property that drains in whole or in part to the*
12 *Tiber Branch Watershed.*

13

14 E. *Development Review Process. The development review process specified in Title 16*
15 *of the Howard County Code may continue notwithstanding this Act becoming*
16 *effective. Applications made to the Department of Planning and Zoning under the*
17 *development review process, filed before, on, or after the Effective Date of this Act*
18 *may proceed but shall not be considered for plan approval by the Department of*
19 *Planning and Zoning until the expiration of this Act. The Department of Planning and*
20 *Zoning shall notify any current or future applicant in the development review process*
21 *of this Act and of the potential for changes to County law that might become*
22 *applicable to the plans under the development review process before a Permit is*
23 *issued. During the Effective Period, the Department of Planning and Zoning shall*
24 *grant an applicant's written request for an extension of a development review process*
25 *deadline for development or redevelopment of property that drains in whole or in*
26 *part to the Tiber Branch Watershed. No fees shall be charged for requesting,*
27 *processing, or granting such an extension.*

28

29 F. *Permitting deadlines suspended. During the Effective Period, any applicable review*
30 *deadline or timeframe for a Permit that is subject to this Act shall be suspended until*
31 *this Act is no longer in effect.*

1 G. *Severability. Should any part of this Act be declared unconstitutional or invalid by a*
2 *court of competent jurisdiction, such decision shall not affect the validity of the*
3 *remaining parts of this Act.*

4
5 H. *Conflict with Existing Law. In case of a conflict between this Act and other applicable*
6 *law, this Act shall prevail.*

7
8 I. *Effective Date & Effective Period. This Act is adopted as an interim measure and*
9 *shall be in effect for twelve months (the Effective Period) from its Effective Date, and,*
10 *at the end of the day on the final day of the Effective Period, with no further action*
11 *required by the County Council, this Act shall be abrogated and of no further force*
12 *and effect unless this Act is modified, extended, replaced or terminated through a*
13 *subsequent legislative act of the Council.*

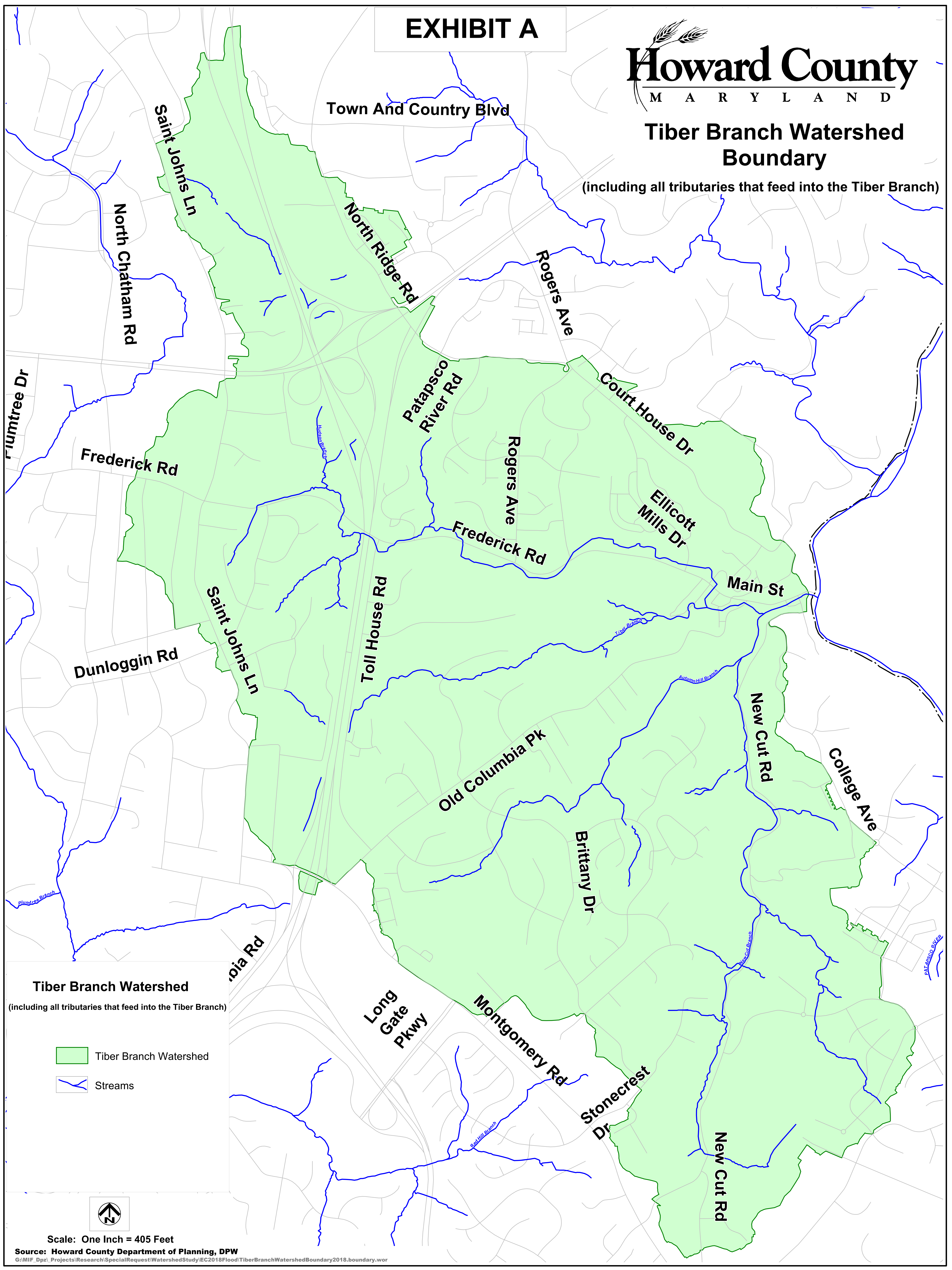
14
15 ***Section 6. And Be It Further Enacted*** *by the County Council of Howard County, Maryland that*
16 *that this Act is hereby declared an emergency bill and necessary to meet a public emergency*
17 *affecting life, health or property and is effective upon enactment.*

EXHIBIT A



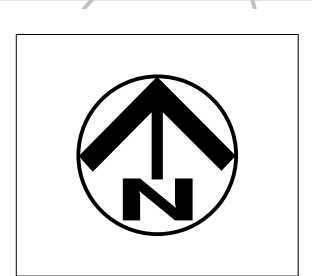
Tiber Branch Watershed Boundary

(including all tributaries that feed into the Tiber Branch)



Tiber Branch Watershed
(including all tributaries that feed into the Tiber Branch)

- Tiber Branch Watershed
- Streams



Scale: One Inch = 405 Feet

Source: Howard County Department of Planning, DPW

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