

Introduced 1/7/19
Public hearing 1/22/19
Council action 2/4/19
Executive action 2/7/19
Effective date 4/9/19

County Council of Howard County, Maryland

2019 Legislative Session

Legislative day # 1

BILL NO. 4 - 2019

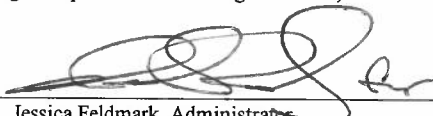
Introduced by:
Liz Walsh

AN ACT amending the Howard County Code by ~~removing~~ requiring the Department of Planning and Zoning to report on the necessary disturbance exemption for development near wetlands, streams, and steep slopes; and generally relating to the protection of wetlands, streams, and steep slopes.

Introduced and read first time January 7, 2019. 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 January 22, 2019.

By order 
Jessica Feldmark, Administrator


This Bill was read the third time on February 4 2019 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 6 day of February, 2019 at 1:00 a.m. (p.m.)

By order 
Jessica Feldmark, Administrator

Approved Vetoed by the County Executive February 7, 2019


Calvin Ball, 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 *Section 1. Be it enacted by the County Council of Howard County, Maryland, that the Howard County*
2 *Code is hereby amended as follows:*

3
4 *By Amending:*

5
6 *Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"*

7
8 *Subtitle 1. "Subdivision and Land Development Regulations."*

9 *Article II. "Design Standards and Requirements."*

10 *Section 16.116. "Protection of wetlands, streams, and steep slopes."*
11
12

13 **HOWARD COUNTY CODE**

14
15 **Title 16. PLANNING, ZONING AND SUBDIVISIONS AND LAND DEVELOPMENT**
16 **REGULATIONS**

17
18 **Subtitle 1. Subdivision and Land Development Regulations.**

19 **Article II. Design Standards and Requirements.**

20
21 **Section 16.116. Protection of wetlands, streams, and steep slopes.**

22 (a) *Streams and Wetlands:*

23 (1) Grading, removal of vegetative cover and trees, paving, and new structures shall not be
24 permitted within 25 feet of a wetland in any zoning district.

25 (2) Grading, removal of vegetative cover and trees, paving, and new structures shall not be
26 permitted within:

27 (i) Fifty feet of an intermittent stream bank;

28 (ii) Seventy-five feet of a perennial stream bank for Use I streams as classified by the
29 Maryland Department of the Environment in residential zoning districts and
30 residential and open space land uses in the NT, PGCC, and MXD districts;

31 (iii) One hundred feet of a perennial stream bank for Use III and IV streams; and

32 (iv) Fifty feet of a perennial stream bank in nonresidential zoning districts.

1 (3) In residential subdivisions, wetlands, streams, and their buffers shall be located in required
2 open space or a nonbuildable preservation parcel rather than on residential lots except as
3 permitted by section 16.120 of this subtitle.

4 (4) Wetlands and the required buffers for wetland and streams shall be delineated on final
5 plats and site development plans with a clear notation of use restrictions. Wetlands need
6 not be delineated for agricultural preservation subdivisions or rural cluster subdivisions
7 if a qualified professional certifies that wetlands and buffers will not be impacted by the
8 proposed lots or potential development.

9 (b) *Steep Slopes.* Steep slopes are slopes that average 25 percent or greater over ten vertical feet.

10 (1) Grading, removal of vegetative cover and trees, new structures, and paving shall not be
11 permitted on land with existing steep slopes, except when:

12 (i) The on-site and off-site contiguous area of steep slopes is less than 20,000 square feet;
13 and

14 (ii) There is sufficient area, a minimum ten feet, outside of stream and wetland buffers
15 for required sediment and erosion control measures.

16 (2) In residential subdivisions steep slopes existing at the time of subdivision shall be located
17 in required open space or a nonbuildable preservation parcel, except as permitted by
18 section 16.120 of this subtitle.

19 (c) *Necessary Disturbance:*

20 (1) Grading, removal of vegetative cover and trees, and paving are not permitted in wetlands,
21 streams, wetland buffers, stream buffers or steep slopes unless the Department of
22 Planning and Zoning determines based on a detailed justification provided by the
23 developer that:

24 (i) It is necessary for construction of public or private roads, driveways, utilities, trails,
25 pathways, or stormwater management facilities which are essential for reasonable
26 development of the property;

27 (ii) The design minimizes disturbance;

28 (iii) There is no other reasonable alternative; and

1 (iv) The cost of an alternative improvement shall not be a factor in deciding whether the
2 criteria in subject subsection (i) above can be met.

3 (2) Reasonable development, for the purpose of this subsection, does not guarantee maximum
4 possible development under the zoning regulations for density receiving subdivisions in
5 the RC and RR zoning districts. In any zoning district, achieving the maximum possible
6 density is not sufficient justification alone to allow disturbance.

7 (3) If permitted, the grading, removal of vegetative cover and trees, or construction shall only
8 be to the extent required to accommodate the necessary improvements. In these cases, the
9 Department of Planning and Zoning may SHALL require the least damaging designs, such
10 as bridges, bottomless culverts or retaining walls, as well as ENVIRONMENTAL
11 REMEDICATION, INCLUDING THE planting of the areas where grading or removal of
12 vegetative cover OR TREES has taken place UTILIZING BEST PRACTICES FOR ECOLOGICAL
13 RESTORATION AND WATER QUALITY ENHANCEMENT PROJECTS.}}

14 “(4) AN APPLICANT SHALL REQUEST PERMISSION FROM THE DEPARTMENT OF PLANNING
15 AND ZONING FOR A NECESSARY DISTURBANCE EXCEPTION IN WRITING FOR THE
16 GRADING, REMOVAL OF VEGETATIVE COVER AND TREES, OR PAVING AS DESCRIBED
17 IN SUBSECTION (C) OF THIS SECTION.

18
19 (5) THE DEPARTMENT OF PLANNING AND ZONING SHALL MAKE AVAILABLE TO THE
20 COUNTY COUNCIL AND THE PUBLIC ON THE DEPARTMENT’S WEBPAGE A
21 QUARTERLY MONTHLY REPORT THAT INCLUDES THE FOLLOWING INFORMATION FOR
22 EACH APPLICATION FOR A NECESSARY DISTURBANCE EXCEPTION:

- 23
24 I. THE NAME OF THE APPLICANT;
25 II. THE DATE OF THE APPLICATION;
26 III. PROJECT NAME;
27 IV. PROJECT TYPE;
28 V. A DESCRIPTION OF THE PROJECT; AND
29 VI. THE ACTION OF THE DEPARTMENT TO DENY THE APPLICATION, APPROVE THE
30 APPLICATION, OR ADVISE THE APPLICANT TO SEEK ALTERNATIVE
31 COMPLIANCE.²² COMPLIANCE; AND

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VII. IF APPROVED, INCLUDE IN THE REPORT THE APPLICANT’S MITIGATION
REQUIREMENT.”

*Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act shall
become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on February 7, 2019.



Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2019.

Jessica Feldmark, Administrator to the County Council