

Introduced 7/1/19
 Public Hearing 9/16/19
 Council Action 10/7/19
 Executive Action _____
 Effective Date _____

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 9

Bill No. 38 -2019

The Patapsco Lower North Branch Bill

Introduced by: Liz Walsh

AN ACT to prohibit certain waivers in the Patapsco Lower North Branch Watershed; to prohibit certain disturbance of land in the Ellicott City Floodplain; to prohibit specified activities in certain buffers; to provide certain open space requirements in the Patapsco Lower North Branch Watershed; to eliminate certain fees-in-lieu; to prohibit residential infill under specified circumstances; to prohibit the issuance of certain variances in the Patapsco Lower North Branch Watershed; adding certain requirements related to forest conservation plans; to limit forest cover clearing in the Patapsco Lower North Branch Watershed; to specify the afforestation level in certain cases; to alter requirements and procedures to control the adverse impacts associated with stormwater; and generally relating to subdivision and land development regulations.

Introduced and read first time July 1, 2019. Ordered posted and hearing scheduled.
Life extended 7/29/19 By order Jessica Feldmark
 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 September 16, 2019.

By order Diane A. Jones
 Jessica Feldmark, Administrator

This Bill was read the third time on October 7, 2019 and Passed _____, Passed with amendments _____, Failed X.

By order Diane A. Jones
 Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2019 at _____ a.m./p.m.

By order Diane A. Jones
 Jessica Feldmark, Administrator

Approved by the County Executive _____, 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
2 Howard County Code is amended as follows:

3 *By adding:*

4 *Title 16. Planning, zoning and subdivisions and land development regulations.*

5 *Subtitle 1. Subdivision and land development regulations.*

6 *Article II. - Design standards and requirements*

7 *Section 16.115(e).*

8 *By amending:*

9 *Title 16. Planning, zoning and subdivisions and land development regulations.*

10 *Subtitle 1. Subdivision and land development regulations.*

11 *Article I. General*

12 *Section 16.104(d).*

13 *Article II. - Design standards and requirements*

14 *Section 16.116(c) and (d).*

15 *Section 16.121(a) and (b).*

16 *Section 16.125(b).*

17 *By adding:*

18 *Title 16. Planning, zoning and subdivisions and land development regulations.*

19 *Subtitle 1. Subdivision and land development regulations.*

20 *Section 16.127(d).*

21 *By amending:*

22 *Title 16. Planning, zoning and subdivisions and land development regulations.*

23 *Subtitle 7. Floodplain*

24 *Section 16.711(c)(2).*

25 *Subtitle 12. - Forest Conservation*

26 *Section 16.1204(b) and (d).*

27 *Section 16.1206(c).*

28 *Section 16.1207(c).*

29 *Section 16.1210(a).*

30 *Section 16.1215.*

1 [[(1) Was requested on or before November 7, 2016;
2 (2) Is necessary for the reconstruction of existing structures or
3 infrastructure damaged by flood, fire, or other disaster
4 (3) Is necessary for the construction of a stormwater management or flood
5 control facility as part of a redevelopment project
6 (4) Is necessary for the retrofit of existing facilities or installation of new
7 facilities intended solely to improve stormwater management or flood control for
8 existing development
9 (5) Is requested as part of a development proposal and the Director of the
10 Department of Public Works, or his designee serving as Floodplain Administrator,
11 finds that upon completion of construction of the development, which may
12 include off-site improvements within the Tiber Branch Watershed, there will be
13 improvement to flood control in the Tiber Branch Watershed at least ten percent
14 more than what would otherwise be required by law; or
15 (6) Is necessary for the construction of an addition, garage, driveway or
16 other accessory use improvement of an existing residential structure on property
17 located within the Tiber Branch Watershed that increases the square footage of t
18 he impervious surfaces on the property by no more than 25 percent over the
19 square footage of impervious surfaces that existed on the property prior to the
20 effective date of this bill]]

21 (1) TO RETROFIT EXISTING FACILITIES OR TO INSTALL NEW INFRASTRUCTURE
22 SOLELY INTENDED TO IMPROVE STORMWATER MANAGEMENT OR FLOOD CONTROL
23 FOR EXISTING DEVELOPMENT; OR

24 (2) TO CONSTRUCT, ENHANCE, OR REPAIR PUBLIC STORMWATER
25 MANAGEMENT INFRASTRUCTURE OR FLOOD CONTROL FACILITIES.

26

27 **Sec. 16.108. - Rules of construction; definitions.**

28 (b) *Definitions.* As used in these regulations, the following terms shall be defined as
29 follows:

1 (36.1) *PATAPSCO LOWER NORTH BRANCH WATERSHED* MEANS THE WATERSHED THAT THE
2 MARYLAND DEPARTMENT OF THE ENVIRONMENT REFERS TO AS WATERSHED BASIN CODE
3 02130906 AND THAT IS SHOWN AS EXHIBIT A ATTACHED TO COUNCIL BILL 38-2019.
4

5 **Article II. - Design standards and requirements**
6

7 **Section 16.115. Floodplain preservation.**

8 (E) *DISTURBANCE WITHIN ELLICOTT CITY FLOODPLAIN*. DISTURBANCE OF LAND IS NOT
9 ALLOWED WITHIN THE 2016 ELLICOTT CITY FLOODPLAIN OR WITHIN 100' OF THE
10 FLOODPLAIN UNLESS NECESSARY:

11 (1) TO RETROFIT EXISTING FACILITIES OR TO INSTALL NEW INFRASTRUCTURE
12 SOLELY INTENDED TO IMPROVE STORMWATER MANAGEMENT OR FLOOD CONTROL
13 FOR EXISTING DEVELOPMENT; OR

14 (2) TO CONSTRUCT, ENHANCE, OR REPAIR PUBLIC STORMWATER
15 MANAGEMENT INFRASTRUCTURE OR FLOOD CONTROL FACILITIES.
16

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

18 (C) *PATAPSCO LOWER NORTH BRANCH WATERSHED*.

19 GRADING, REMOVING VEGETATIVE COVER INCLUDING TREES, PAVING, OR BUILDING
20 ANY NEW STRUCTURES IN THE PATAPSCO LOWER NORTH BRANCH WATERSHED IS NOT
21 ALLOWED:

22 (1) WITHIN 100' OF ANY WETLANDS OR WATERWAYS; OR

23 (2) WITHIN 50' OF STEEP SLOPES.

24 ~~[[c]]~~ (D) *Necessary Disturbance*:

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

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

4 (ii) The design minimizes disturbance;

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

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

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

13 (3) IN THE PATAPSCO LOWER NORTH BRANCH WATERSHED, GRADING, REMOVING
14 VEGETATIVE COVER INCLUDING TREES, PAVING, OR BUILDING ANY NEW STRUCTURES IS NOT
15 ALLOWED WITHIN 100' OF ANY WETLANDS OR WATERWAYS OR WITHIN 50' OF STEEP
16 SLOPES UNLESS NECESSARY:

17 (1) TO RETROFIT EXISTING FACILITIES OR TO INSTALL NEW INFRASTRUCTURE
18 SOLELY INTENDED TO IMPROVE STORMWATER MANAGEMENT OR FLOOD CONTROL
19 FOR EXISTING DEVELOPMENT; OR

20 (2) TO CONSTRUCT, ENHANCE, OR REPAIR PUBLIC STORMWATER
21 MANAGEMENT INFRASTRUCTURE OR FLOOD CONTROL FACILITIES.

22 (4) If permitted, the grading, removal of vegetative cover and trees, or
23 construction shall only be to the extent required to accommodate the necessary
24 improvements. In these cases, the Department of Planning and Zoning shall require the
25 least damaging designs, such as bridges, bottomless culverts or retaining walls, as well as
26 environmental remediation, including the planting of the areas where grading or removal
27 of vegetative cover or trees has taken place utilizing best practices for ecological
28 restoration and water quality enhancement projects.

1 [[(4)]] (5) An applicant shall request permission from the Department of Planning
2 and Zoning for a necessary disturbance exception in writing for the grading, removal of
3 vegetative cover and trees, or paving as described in subsection (c) of this section.

4 [[(5)]] (6) The Department of Planning and Zoning shall make available to the
5 County Council and the public on the Department's webpage a monthly report that
6 includes the following information for each application for a necessary disturbance
7 exception:

8 (i) The name of the applicant;

9 (ii) The date of the application;

10 (iii) Project name;

11 (iv) Project type;

12 (v) A description of the project;

13 (vi) The action of the Department to deny the application, approve the
14 application, or advise the applicant to seek alternative compliance; and

15 (vii) If approved, include in the report the applicant's mitigation
16 requirement.

17
18 **Section 16.121. Public sites and open space.**

19 (a) *Open Space Requirements:*

20 (1) *Purpose.* The [[purpose]] PURPOSES of open space requirements are:

21 (i) To properly locate and preserve open space which protects
22 environmental resources and provides for recreation or public use; and

23 (ii) To equitably apportion costs of providing the sites necessary to serve
24 the additional families brought into the community by subdivisions or
25 developments on the basis of the additional need created.

26 (2) [[*Calculated as percentage of gross area of proposed subdivision or site*
27 *development*]] *Method to calculate.*

28 (i) EXCEPT AS PROVIDED IN PARAGRAPH (2)(II) OF THIS SUBSECTION, REQUIRED
29 [[Required]] open space shall be calculated as the following percentage of the gross area
30 of the proposed subdivision or development. The area of any overhead utility

1 transmission line easements shall be deducted from gross area before calculating the open
2 space requirement.

3 (II) FOR A PROPERTY IN THE PATAPSCO LOWER NORTH BRANCH WATERSHED, THE
4 MINIMUM OPEN SPACE REQUIRED IS 75% OF THE NET TRACT AREA OF THE SUBDIVISION OR
5 DEVELOPMENT, AND THE MAXIMUM PERMITTED LIMIT OF DISTURBANCE IS 25% OF THE NET
6 TRACT AREA.

7 (b) Dedication of Required Open Space; [[In-Lien]] IN-LIEU Fee Payments:

8 (1) At the discretion of the County, all or a portion of the open space area shall be
9 dedicated and deeded without charge to Howard County or to the State of Maryland if
10 adjacent to an existing State park. For condominium or rental unit site development
11 plans, the open space may be transferred to the County by deed rather than a subdivided
12 lot.

13 (2) The Department of Planning and Zoning may at the Department's discretion
14 require the developer to pay a fee-in-lieu of actual establishment of open space if:

15 (i) The subdivision does not use the optional lot size provision in the R-20
16 or R-12 zoning district and the Department of Recreation and Parks has
17 determined that creation of open space is not necessary or desirable;

18 (ii) The size of the area required for dedication is small (generally under
19 one-half acre) and has no potential for expansion via the subdivision of an
20 adjacent parcel; [[and]]

21 (iii) The open space would have little environmental or recreational
22 purpose [[.]] ; AND

23 (IV) THE PROPERTY IS NOT LOCATED IN THE PATAPSCO LOWER NORTH
24 BRANCH WATERSHED.

25 (3) In-lieu fee payments shall be:

26 (i) As established in the fee schedule adopted by the County Council; and

27 (ii) Held in escrow and used by the County for the purpose of acquiring
28 open space land in the general area of the subdivision or development and shall be
29 used for this and no other purpose.

30

1 **Section 16.125. Protection of scenic roads.**

2 (b) *Guidelines for Development of Land Abutting a Scenic Road.*

3 Because scenic landscapes vary greatly, design solutions for development will
4 vary. The following guidelines provide direction for the development of land abutting a
5 scenic road. They are to be applied as appropriate, given the constraints of the particular
6 site and the relative priority of other County policies and requirements such as public
7 safety, farmland preservation, forest conservation, protection of sensitive environmental
8 features and the need to construct public facilities.

9 (1) *General.*

10 (i) Use the cluster subdivision provisions of the zoning regulations
11 to site buildings and roads in locations that minimize the impact of the
12 subdivision on views from the scenic road. Generally structures and uses
13 should be located away from the right-of-way for scenic roads unless
14 screened by topography or vegetation.

15 (ii) Minimize tree and vegetation removal. In addition to
16 requirements for protection of forests, steep slopes, streams and wetlands,
17 emphasize the protection of vegetation adjacent to the scenic road, as well
18 as mature trees and hedgerows visible from the road.

19 (iii) Minimize grading; retain existing slopes along the scenic road
20 frontage.

21 (iv) Orient lots so that houses do not back up to a scenic road. If
22 this cannot be avoided, houses should be sited as far as possible from the
23 road and well screened.

24 (v) Locate and design utilities, stormwater management facilities,
25 drainage structures, bridges, lighting, fences and walls to be unobtrusive
26 and to harmonize with the surroundings to maintain existing view
27 corridors. Subdivision entrance features should be low, open, and in
28 keeping with the scenic character of the area in accordance with section
29 128 of the zoning regulations.

1 (vi) Locate parking lots, loading areas and storage areas so that
2 these uses are screened from the scenic road.

3 (vii) Use vegetation commonly found on the site or in the area for
4 landscaping.

5 (viii) For density receiving subdivisions in the RC and RR zoning
6 districts, achieving the maximum possible density is not sufficient
7 justification to allow impacts on scenic roads.

8 (2) *Forested or wooded areas.* Any new developments located along scenic roads
9 must maintain at least a 35-foot buffer of existing forest or wooded area between the road
10 and the new development. The buffer shall be wide enough to maintain the road's visual
11 character with a minimum width of at least 35 feet from the road right-of-way.

12 (3) *Areas with open views.*

13 (i) Cluster development to retain as much as possible of the open character
14 of the site and to minimize interference with panoramic views from the road.

15 (ii) Where possible, site new buildings behind natural screening or cluster
16 development in or along the edges of forests, at the edges of fields and
17 hedgerows, or near existing buildings.

18 (iii) Preserve the foreground meadow, pasture or cropland and place
19 development in the background as viewed from the road.

20 (iv) Avoid placing structures on the tops of prominent ridges.

21 (v) If new construction cannot be made unobtrusive through siting or the
22 use of natural screening, use landscaping, including berms, to buffer development
23 from the scenic road.

24 (4) *Administrative waivers.*

25 (i) SUBJECT TO PARAGRAPH (4)(III) OF THIS SUBSECTION, A [[A]] developer
26 seeking an administrative waiver from the scenic road requirements shall give
27 written notice within one week of the filing date of the waiver petition, via first-
28 class mail to:

29 a. All adjoining property owners identified in the records of the
30 State Department of Assessments and Taxation; and

1 b. All attendees of record of the presubmission community
2 meeting; and

3 c. All interested parties on file with the Department of Planning
4 and Zoning.

5 (ii) The Department shall not approve any petition for a scenic road
6 requirement waiver within 30 days of meeting the written notice requirement to
7 allow for public comment.

8 (III) A WAIVER OF A SCENIC ROAD REQUIREMENT APPLICABLE TO ANY
9 SUBDIVISION OR DEVELOPMENT IN THE PATAPSCO LOWER NORTH BRANCH
10 WATERSHED IS NOT ALLOWED.

11
12 **Section 16.127. Residential infill development.**

13 (D) *RESTRICTIONS.*

14 RESIDENTIAL INFILL DEVELOPMENT IS NOT ALLOWED IN:

15 (1) THE PATAPSCO LOWER NORTH BRANCH WATERSHED; OR

16 (2) ANY EXISTING COMMUNITY THAT LACKS ADEQUATE INFRASTRUCTURE TO
17 MANAGE STORMWATER UNDER CURRENTLY APPLICABLE REQUIREMENTS.

18
19 **Subtitle 7. Floodplain**

20
21 **Section 16.711. Variances.**

22 (c) *Variance Prohibited.*

23 (2) [[A variance may not be issued for any property located in the Tiber Branch
24 Watershed unless the variance:

25 (i) Was requested on or before November 7, 2016;

26 (ii) Is necessary for the reconstruction of existing structures or
27 infrastructure damaged by flood, fire, or other disaster;

28 (iii) Is necessary for the construction of a stormwater management or
29 flood control facility as part of a redevelopment project;

1 (iv) Is necessary for the retrofit of existing facilities or installation of new
2 facilities intended solely to improve stormwater management or flood control for
3 existing development;

4 (v) Is requested as part of a development proposal and the Director of the
5 Department of Public Works, or his designee serving as Floodplain Administrator,
6 finds that upon completion of construction of the development, which may
7 include off-site improvements within the Tiber Branch Watershed, there will be
8 improvement to flood control in the Tiber Branch Watershed at least ten percent
9 more than what would otherwise be required by law; or

10 (vi) Is necessary for the construction of an addition, garage, driveway or
11 other accessory use improvement of an existing residential structure on property
12 located within the Tiber Branch Watershed that increases the square footage of
13 the impervious surfaces on the property by no more than 25 percent over the
14 square footage of impervious surfaces that existed on the property prior to the
15 effective date of this bill.]]

16 A VARIANCE SHALL NOT BE ISSUED FOR ANY PROPERTY LOCATED IN THE PATAPSCO
17 LOWER NORTH BRANCH WATERSHED UNLESS THE VARIANCE IS NECESSARY:

18 (1) TO RETROFIT EXISTING FACILITIES OR TO INSTALL NEW INFRASTRUCTURE
19 SOLELY INTENDED TO IMPROVE STORMWATER MANAGEMENT OR FLOOD CONTROL
20 FOR EXISTING DEVELOPMENT; OR

21 (2) TO CONSTRUCT, ENHANCE, OR REPAIR PUBLIC STORMWATER
22 MANAGEMENT INFRASTRUCTURE OR FLOOD CONTROL FACILITIES.

23 24 **Subtitle 12. - Forest Conservation**

25 26 **Section 16.1204. - Forest conservation plan.**

27 (b) *Professionally Prepared.* The forest conservation plan shall be prepared by a licensed
28 [[forester,]] FORESTER OR landscape architect [[or other qualified professional as defined
29 in the Forest Conservation Manual]].

- 1 (d) *Forest Conservation Plan*. A forest conservation plan shall:
- 2 (1) State the net tract area, area of forest conservation required and the area of
- 3 forest conservation proposed on-site and/or off-site;
- 4 (2) Show the proposed limits of disturbance;
- 5 (3) Show locations for proposed retention of existing forest and/or proposed
- 6 reforestation or afforestation;
- 7 (4) DEPICT TO SCALE THE CRITICAL ROOT ZONE OF SPECIMEN TREES THAT ARE ON
- 8 OR THAT ADJOIN THE PROPERTY;
- 9 (5) DELINEATE ANY HUBS AND CORRIDORS COMPRISING PART OF THE COUNTY'S
- 10 GREEN INFRASTRUCTURE NETWORK THAT ARE ON OR ADJOIN THE PROPERTY;
- 11 (6) DELINEATE ANY TARGETED ECOLOGICAL AREAS AS DESIGNATED BY THE STATE
- 12 OF MARYLAND THAT ARE ON OR ADJOIN THE PROPERTY;
- 13 (7) Justify the following, if existing forest cannot be retained:
- 14 (i) How techniques for forest retention have been exhausted;
- 15 (ii) Why the priority forests specified in section 16.1205 cannot be left in
- 16 an undisturbed condition;
- 17 (iii) If priority forests and priority areas cannot be left undisturbed, where
- 18 on the site in priority areas reforestation or afforestation will occur in compliance
- 19 with subsection 16.1208(a);
- 20 (iv) How the sequence for preferred reforestation or afforestation methods
- 21 will be followed in compliance with subsection 16.1208(b); and
- 22 (v) Why reforestation or afforestation requirements cannot reasonably be
- 23 accomplished on or off-site, if the applicant proposes payments of an in-lieu fee to
- 24 the forest conservation fund;
- 25 [[(5)]] (8) Show proposed locations and types of protective devices to be used
- 26 during construction to protect trees and forests designated for conservation;
- 27 [[(6)]] (9) In the case of reforestation or afforestation, include a reforestation or
- 28 afforestation plan, with a timetable, description of needed site and soil preparation, and
- 29 the species, size, and spacing of plantings;

1 [[(7)]] (10) Include a binding two-year maintenance agreement as specified in the
2 Manual that details how the areas designated for retention, reforestation or afforestation
3 will be maintained to ensure protection and satisfactory establishment, including a
4 reinforcement planting provision if survival rates fall below required standards. Financial
5 security shall be provided for the maintenance agreement as provided in section 16.1209
6 and the Manual. Minor subdivisions which meet forest conservation requirements
7 entirely by forest retention are not required to have a two-year maintenance agreement;

8 [[(8)]] (11) Include a long-term, binding forest conservation and management
9 agreement with a plat of the forest conservation easement area, as specified in the Manual
10 that:

11 (i) Provides protection for areas of forest retention, reforestation and
12 afforestation; and

13 (ii) Limits uses in areas of forest conservation to those uses that are
14 designated and consistent with forest conservation, including recreational
15 activities and forest management practices that are used to preserve forest;

16 [[(9)]] (12) Include other information the Department determines is necessary to
17 implement this subtitle; and

18 [[(10)]] (13) Be amended or a new plan prepared, as provided in the Manual, if
19 required as a result of changes in the development or in the condition of the site.

20

21 **Section 16.1206. Reforestation.**

22 (c) *Calculating the Amount of Reforestation Required.* SUBJECT TO SUBSECTION (D) OF
23 THIS SECTION, THE [[The]] amount of reforestation required depends upon the amount of
24 forest cover existing and removed from the net tract area and the land use being
25 developed.

26 (D) *PATAPSCO LOWER NORTH BRANCH WATERSHED.* DIVISION OR DEVELOPMENT OF LAND IN
27 THE PATAPSCO LOWER NORTH BRANCH WATERSHED SHALL NOT CLEAR MORE THAN 25%
28 OF THE EXISTING FOREST COVER ON THE NET TRACT AREA.

29

30 **Section 16.1207. Afforestation.**

1 (c) *Calculating the Amount of Afforestation Required.* SUBJECT TO SUBSECTION (D) OF
2 THIS SECTION, THE ~~[[The]]~~ amount of afforestation required depends upon the amount of
3 forest cover existing and removed from the net tract area and the land use being
4 developed.

5 (D) DIVISION OR DEVELOPMENT OF LAND IN THE PATAPSCO LOWER NORTH BRANCH
6 WATERSHED SHALL PROVIDE FOR ON-SITE AFFORESTATION COVERING AT LEAST 50% OF
7 THE NET TRACT AREA.

8

9 **Section 16.1210. - Fee-in-lieu of afforestation or reforestation.**

10 (a) Fee-In-Lieu Authorized:

11 (1) The Department may approve the payment of a fee-in-lieu of afforestation
12 or reforestation:

13 (i) 1. When afforestation or reforestation requirements cannot be
14 reasonably accomplished on-site or off-site based on criteria in the Manual; or

15 ~~[[ii]]~~ 2. When a landowner requests a modification of a recorded forest
16 conservation easement ~~[[.]]~~; AND

17 (ii) IF THE PROPERTY IS NOT LOCATED IN THE PATAPSCO LOWER NORTH
18 BRANCH WATERSHED.

19 (2) The fee-in-lieu of shall be calculated on a square-foot basis at a rate established in
20 the fee scheduled adopted by resolution of the County Council, but in no event shall it be
21 less than the minimum set by State law.

22

23 **Section 16.1215. - Waivers.**

24 (a) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE ~~[[The]]~~ Department may grant
25 waivers to the requirements of this subtitle in accordance with the standards and
26 procedures of subsection 16.103(c) of the subdivision regulations, provided that the
27 Department must find that granting of the waiver will not adversely affect water quality.

28 (b) A WAIVER OF A REQUIREMENT OF THIS SUBTITLE IS NOT ALLOWED ON ANY
29 SUBDIVISION OR DEVELOPMENT IN THE PATAPSCO LOWER NORTH BRANCH WATERSHED
30 UNLESS THE WAIVER IS NECESSARY:

1 (1) TO RETROFIT EXISTING FACILITIES OR TO INSTALL NEW INFRASTRUCTURE
2 SOLELY INTENDED TO IMPROVE STORMWATER MANAGEMENT OR FLOOD CONTROL
3 FOR EXISTING DEVELOPMENT; OR

4 (2) TO CONSTRUCT, ENHANCE, OR REPAIR PUBLIC STORMWATER
5 MANAGEMENT INFRASTRUCTURE OR FLOOD CONTROL FACILITIES.

6 (C) Notice of a request for a waiver shall be given by the Department of Planning and
7 Zoning to the Maryland Department of Natural Resources within 15 days of receipt of a
8 request for a waiver.

9 **Title 18. Public Works**

10 **Subtitle 9. Stormwater Management.**

11 **Section 18.902A. - Requirement to provide stormwater management measures,**
12 **exemptions.**

13 (b) Exemptions. EXCEPTING SITES LOCATED IN THE PATAPSCO LOWER NORTH BRANCH
14 WATERSHED, STORMWATER [[Stormwater]] management is not required for:

15 (1) Additions or modifications to existing single-family detached residential
16 structures that do not disturb over 5,000 square feet of land area;

17 (2) Developments that disturb less than 5,000 square feet of land area;

18 (3) Land development activities which are regulated under specific State laws
19 regarding the management of stormwater; or

20 (4) Agricultural land management practices.

21 (C) *PATAPSCO LOWER NORTH BRANCH WATERSHED.*

22 IN NO EVENT SHALL THE RUNOFF VOLUME AND CHARACTERISTICS FROM ANY SITE
23 IN THE PATAPSCO LOWER NORTH BRANCH WATERSHED EXCEED PREDEVELOPMENT
24 RUNOFF UNDER 2016 PEAK FLOOD CONDITIONS.

25
26 **Section 18.903. - Design criteria; minimum control requirements; alternatives.**

27 (a) The minimum control requirements established in this section and the design
28 manual are as follows:

29 (1) The County shall require that the planning techniques, nonstructural
30 practices, and design methods specified in the design manual be used to implement ESD

1 to the MEP. The use of ESD planning techniques and treatment practices must be
2 exhausted before any structural BMP is implemented. Stormwater management for
3 development projects subject to this subtitle shall be designed using ESD sizing criteria,
4 recharge volume, water quality volume, and channel protection storage volume criteria
5 according to the design manual. The MEP standard is met when channel stability is
6 maintained, predevelopment groundwater recharge is replicated, nonpoint source
7 pollution is minimized, and structural stormwater management practices are used only if
8 determined to be absolutely necessary.

9 (2) Control of the two-year and ten-year frequency storm event is required
10 according to the design manual and all subsequent revisions if the County determines that
11 additional stormwater management is necessary because historical flooding problems
12 exist and downstream floodplain development and conveyance system design cannot be
13 controlled.

14 (3) One-hundred-year peak management control is required according to the
15 design manual. For purposes of calculating the 100-year 24-hour storm event, 8.51 inches
16 of rainfall depth shall be the minimum depth used.

17 (4) The County may require more than the minimum control requirements if:

18 (i) Hydrologic or topographic conditions warrant; or

19 (ii) Flooding, stream channel erosion, or water quality problems exist

20 downstream from a proposed project.

21 (5) SITES IN THE PATAPSCO LOWER NORTH BRANCH WATERSHED MUST CONTROL
22 NO LESS THAN 2016 PEAK FLOOD CONDITIONS.

23
24 **Section 18.908. - Waivers; watershed management plans.**

25 (a) *Waiver Requests.* A request for a waiver under this section shall:

26 (1) Be in writing;

27 (2) Contain sufficient descriptions, drawings, and any other information that is
28 necessary to demonstrate that ESD has been implemented to the MEP; and

29 (3) [[Be prohibited for any property located in the Tiber Branch Watershed
30 unless the waiver:

- 1 (i) Was requested on or before November 7, 2016;
- 2 (ii) Is necessary for the reconstruction of existing structures or
3 infrastructure damaged by flood, fire, or other disaster;
- 4 (iii) Is necessary for the construction of a stormwater management or
5 flood control facility as part of a redevelopment project;
- 6 (iv) Is necessary for the retrofit of existing facilities or installation of
7 new facilities intended solely to improve stormwater management or flood control
8 for existing development;
- 9 (v) Is requested as part of a development proposal and the Director of
10 the Department of Public Works, or his designee serving as Floodplain
11 Administrator, finds that upon completion of construction of the development,
12 which may include off-site improvements within the Tiber Branch Watershed,
13 there will be improvement to flood control in the Tiber Branch Watershed at least
14 ten percent more than what would otherwise be required by law; or
- 15 (vi) Is necessary for the construction of an addition, garage, driveway or
16 other accessory use improvement of an existing residential structure on property
17 located within the Tiber Branch Watershed that increases the square footage of
18 the impervious surfaces on the property by no more than 25 percent over the
19 square footage of impervious surfaces that existed on the property prior to the
20 effective date of this bill [Dec. 9, 2016].]

21 BE PROHIBITED FOR ANY PROPERTY LOCATED IN THE PATAPSCO LOWER NORTH BRANCH
22 WATERSHED UNLESS THE WAIVER IS NECESSARY:

23 (1) TO RETROFIT EXISTING FACILITIES OR TO INSTALL NEW INFRASTRUCTURE
24 SOLELY INTENDED TO IMPROVE STORMWATER MANAGEMENT OR FLOOD CONTROL
25 FOR EXISTING DEVELOPMENT; OR

26 (2) TO CONSTRUCT, ENHANCE, OR REPAIR PUBLIC STORMWATER
27 MANAGEMENT INFRASTRUCTURE OR FLOOD CONTROL FACILITIES.

28

29 **Section 18.909. - Fee in lieu of implementing best management practices.**

1 (F) SITES IN THE PATAPSCO LOWER NORTH BRANCH WATERSHED ARE NOT ELIGIBLE TO
2 PAY FEES IN LIEU OF IMPLEMENTING REQUIRED STORMWATER MANAGEMENT.

3
4 **SECTION 18.910. - REDEVELOPMENT.**

5 (b) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, ALL [[All]] redevelopment
6 projects shall reduce existing impervious area within the limit of disturbance by at least
7 50 percent. Where site conditions prevent the reduction of impervious area, then ESD
8 practices shall be implemented to provide qualitative control for at least 50 percent of the
9 site's impervious area. When a combination of impervious area reduction and stormwater
10 management practice implementation is used, the combined reduction shall equal or
11 exceed 50 percent of the existing impervious area within the limit of disturbance.

12 (E) ALL REDEVELOPMENT PROJECTS IN THE PATAPSCO LOWER NORTH BRANCH
13 WATERSHED SHALL REDUCE EXISTING IMPERVIOUS AREA ON THE SITE BY AT LEAST 25
14 PERCENT. NO MORE THAN 25 PERCENT OF THE SITE'S UNDEVELOPED LAND SHALL BE
15 PERMITTED WITHIN THE LIMIT OF DISTURBANCE. 100 PERCENT OF THE SITE SHALL BE
16 REQUIRED TO CONTROL NO LESS THAN 2016 PEAK FLOOD CONDITIONS.

17
18 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County,
19 *Maryland that this Act shall apply to all projects that have been not been issued building*
20 *permits on the effective date of this Act and to all projects that are on hold due to the*
21 *2018 Watershed Safety Act (CB56-2018) and Extension of 2018 Watershed Safety Act*
22 *(CB20-2019).*

23
24 ***Section 3. And Be It Further Enacted*** by the County Council of Howard County,
25 *Maryland that this Act shall become effective 61 days after its enactment.*

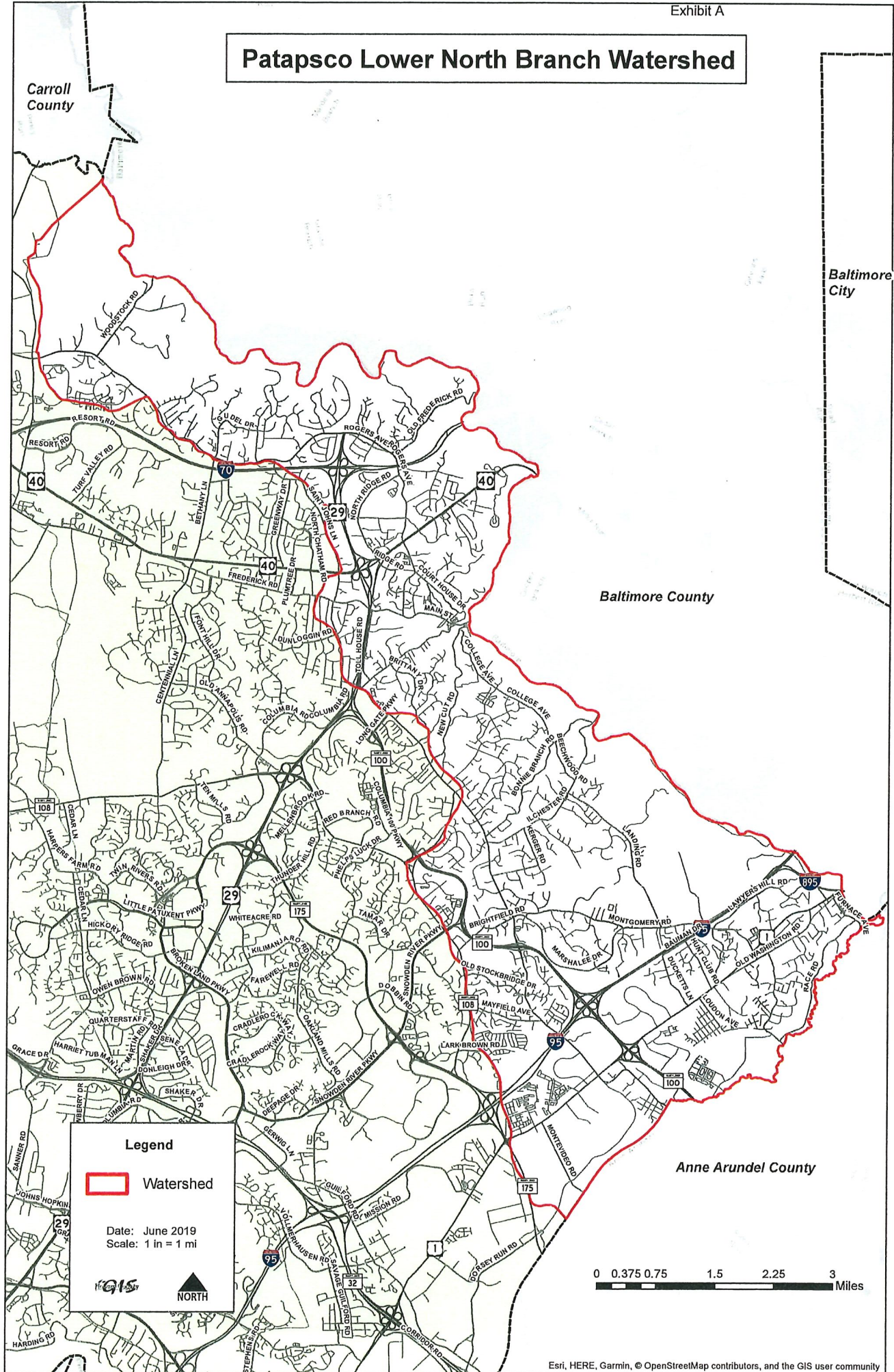
Patapsco Lower North Branch Watershed

Carroll County

Baltimore City

Baltimore County

Anne Arundel County



Legend

Watershed

Date: June 2019
Scale: 1 in = 1 mi

