

CHAPTER SIX

FLOODPLAIN

RECITAL

The Town of Keedysville, a Municipal Corporation, existing under and by virtue of the Laws of the State of Maryland, is required pursuant to the provisions of §44CFR 60.3 of the National Flood Insurance Program Regulations and the general laws of the State of Maryland, to adopt certain floodplain management regulations.

The Town of Keedysville, by its duly constituted legislative body, in accordance with said regulations and laws did adopt certain floodplain regulations. The Town of Keedysville authorized and requested, pursuant to Article 23A §2(b) of the Annotated Code of Maryland, that the Board of County Commissioners of Washington County, Maryland, enforce said regulations.

Subsequent thereto, on May 27, 1992, the Board of County Commissioners of Washington County, Maryland, a body politic, passed a certain Ordinance entitled "Washington County Floodplain Management Ordinance of 1992." Same was recorded on June 30, 1992 among the Acts, Ordinances and Resolutions for Washington County, Maryland in the Office of the Clerk of the Circuit Court for Washington County. Same is recorded at Liber 6 folio 30.

The Mayor and Council as the duly constituted legislative body have determined that in order to facilitate and expedite a more orderly enforcement and regulation of the floodplain management regulations that the Town of Keedysville adopt the County regulations.

NOW, THEREFORE, BE IT RESOLVED, ENACTED and ORDAINED that:

1. The Mayor and Council of Keedysville do hereby adopt the Ordinance entitled "Washington County Floodplain Management Ordinance of 1992, dated May 27, 1992 and effective July 1, 1992, as it was passed and as it has been or may subsequently be amended in the future.

Article IV Establishment of Floodplain Zones, Section 4.1, Identification of Flood Zones of the County Ordinance is revised to read as follows:

Article IV Establishment of Floodplain Zones

Section 4.1 Identification of Flood Zones

The regulatory floodplain shall be those areas of the Town of Keedysville and/or Washington County which are subject to the 100-year flood,

delineated on the most recent revision of the community's Floodway Maps and Flood Insurance Rate Maps (FIRM) and described in the Flood Insurance Study (FIS) prepared by the Federal Emergency Management Agency (FEMA). Floodway maps and the FIS, if available for the community, must be used.

Said Ordinance is attached and incorporated herein by reference and made a part hereof.

2. The Mayor and Council of the Town of Keedysville pursuant to the provisions of the Annotated Code of Maryland, do hereby declare, request and authorize the Board of Commissioners (Washington County) to continue to implement, enforce, and regulate said Ordinance and any amendments thereto within the corporate limits of the Town of Keedysville in accordance with the provisions set forth therein.

Be it further RESOLVED, ENACTED and ORDAINED that:

1. The Mayor is hereby authorized and directed to execute any documents and/or instruments necessary to effectuate the purposes and implementation of this Ordinance, Resolution and Agreement.

NOTE: The Board of County Commissioners have administered from date of initial passage (re-enacted June, 2003).

WASHINGTON COUNTY

FLOODPLAIN MANAGEMENT

ORDINANCE OF 1992

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Article I Purpose and General Provisions

Section 1.1 Purpose and Authority

The purposes of this Ordinance are to minimize property damage, encourage appropriate construction practices to minimize future damage, protect water supply, sanitary sewage disposal, and natural drainage. The prevention of unwise development in areas subject to flooding will reduce financial burdens to the community and the State, and will prevent future displacement and suffering of its residents. This protection is achieved through the review of all activities proposed within identified floodplains and by the issuance of permits for those activities that comply with the objectives of this Ordinance.

Floodplains are an important asset to the community. They perform vital natural functions such as temporary storage of floodwaters, moderation of peak flood flows, maintenance of water quality, groundwater recharge, prevention of erosion, habitat for diverse natural wildlife populations, recreational opportunities, and aesthetic quality and should be kept in their natural state.

This Ordinance provides a unified, comprehensive approach to floodplain management which addresses these natural floodplain functions and the Federal and State programs concerned with floodplain management. These programs are: the National Flood Insurance Program (44 CRF 59-79) and the State's Waterway Construction Permit Program for nontidal floodplains. Decisions to alter floodplains, especially floodways and stream channels, should be the result of careful planning processes which evaluate resource conditions and human needs.

Section 1.2 Abrogation

The Washington County Floodplain Management Ordinance adopted on November 15, 1988 is repealed.

Section 1.3 Applicability

Any person or entity proposing to do any development within the floodplain zone regulated by this Ordinance must first obtain a building permit for that development from the local permitting agency, and must comply with all provisions of this Ordinance.

Section 1.4 Partial Invalidity and Severability

If any part of this Ordinance is declared invalid, the remainder of the Ordinance shall not be affected and shall remain in force.

Section 1.5 Disclaimer of Liability

The degree of flood mitigation provided by this Ordinance is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Floods of greater magnitude may occur or flood heights may be increased by man-made or natural causes. This Ordinance does not imply that flooding will not occur outside of the delineated floodplain zone, nor that permitted development and land uses within the floodplain will be free of flooding and associated flood damage. This Ordinance does not create liability on the part of the Community, any officer, or employee thereof for any damage which may result from reliance on this Ordinance.

Article II Definitions

- 2.1 **Accessory Structure** - a detached structure on the same parcel of property as the principal structure, the use of which is incidental to the principal structure, eg. a shed or detached garage.
- 2.2 **Appeals Board** - the Board of Appeals of Washington County.
- 2.3 **Base Flood** - the 100-year frequency flood event as indicated in the Flood Insurance Study, as amended, the elevation of which is used for regulatory purposes in this Ordinance.
- 2.4 **Basement** - an enclosed area which is below grade on all four sides.
- 2.5 **Certificate of Occupancy and Use** - a permit to legally occupy or use a building for the intended purpose.
- 2.6 **Development** - any man-made change to improved or unimproved real estate, including, but not limited to buildings and other structures, dredging, fill, grading, paving, clearing, excavation, dumping, extraction, or storage of equipment or materials. Development includes subdivision of land.

- 2.7 **Elevation Certificate** - form supplied by the Federal Emergency Management Agency (FEMA) to certify as-built elevations of structures above mean sea level (NGVD).
- 2.8 **Essential Utilities** - for purposes of this Ordinance, shall comprises underground or overhead electrical, gas, communications, water or sewerage systems, including mains, drains, sewers, pumping stations, conduits, hydrants, regulating and measuring devices, and the structures in which they are housed, and other similar equipment and accessories in connection therewith. It does not include buildings, yards, stations used for storage, repair or processing of equipment or material, and does not include buildings, yards, stations, or substations for transforming, boosting, or switching purposes, where such facilities are constructed on the ground.
- 2.9 **Engineering Analysis** - includes, but is not limited to, hydraulic, hydrologic, or any other type of analytical evaluation presented in report form; complete with assumptions, calculations, and the necessary plans required by the Permitting Official to support any conclusions, and bearing the original signature and seal of a Maryland registered professional engineer.
- 2.10 **Flood** - general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or rapid unusual accumulation of runoff from any source.
- 2.11 **Flood Insurance Rate Map (FIRM)** - map which depicts the minimum special flood hazard area to be regulated by this Ordinance (unless a Floodway Map is available).
- 2.12 **Floodplain** - that land typically adjacent to a body of water with ground surface elevations that are inundated by the base flood.
- 2.13 **Floodproofing** - any combination of structural or nonstructural changes which reduce or eliminate flood damage to improved property.
- 2.14 **Floodproofing Certificate** - form supplied by FEMA to certify that a building has been designed and constructed to be structurally dry floodproofed to the Flood Protection Elevation.
- 2.15 **Flood Protection Elevation (FPE)** - the elevation of the base flood plus one foot freeboard.

- 2.16 **Floodway** - the channel and adjacent land area required to discharge the waters of the 100-year flood of a watercourse without increasing the water surface elevations more than a specified height.
- 2.17 **Floodway Map** - map which depicts floodways and special flood hazard areas to be regulated by this Ordinance.
- 2.18 **Floodway Fringe** - that portion of the floodplain outside the floodway.
- 2.19 **Freeboard** - an increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, wave actions, subsidence, or other unpredictable effects.
- 2.20 **Historic Structure** - a structure listed individually on the National Register of Historic Places, the Maryland Inventory of Historic Properties, a local inventory of historic places certified by the Maryland Historic Trust or the Secretary of the Interior, or preliminarily determined as meeting the requirements for such listing by the Maryland Historic Trust or the Secretary of the Interior, or determined as contributing to the historic significance of a historic district registered with Secretary of the Interior.
- 2.21 **Local Permitting Agency** - the Washington County Department of Permits and Inspections.
- 2.22 **Local Permitting Official** - the Director of the Washington County Department of Permits & Inspections.
- 2.23 **Lot of Record** - for purposes of this Ordinance, a lot of record shall mean a lot existing at the time this Ordinance was enacted.
- 2.24 **Lowest Floor** - the lowest floor of the lowest enclosed area, including basement. An unfinished enclosure constructed of flood resistant materials used solely for parking of vehicles, storage, or building access in an area other than a basement is not the lowest floor, as long as it is supplied with water equalizing vents.
- 2.25 **Manufactured Home** - a transportable structure which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

- 2.26 **NGVD - National Geodetic Vertical Datum of 1929** elevation reference points set by the National Geodetic Survey based on mean sea level.
- 2.27 **New Construction** - a structure for which the start of construction commenced on or after the effective date of the adoption of a Floodplain Management Ordinance, and includes any subsequent improvements.
- 2.28 **One Hundred (100) Year Frequency Flood** - the Base Flood, having a one chance in a hundred (one percent chance) of being equalled or exceeded in any year.
- 2.29 **Permanent Construction** - any structure occupying a site for more than 180 days per year.
- 2.30 **Recreational Vehicle** - a vehicle built on a single chassis which is 400 square feet or less at the longest horizontal projection, self propelled or towable, and designed primarily for temporary living while traveling or camping.
- 2.31 **Site Plan** - for purposes of this Ordinance, a site plan shall mean a scaled drawing containing the information set forth in Section 3.2 of this document.
- 2.32 **Start of Construction** - the date of issue of the building permit for any development, including new construction and substantial improvements to existing structures, provided that the actual start of the construction or improvement was within 180 days of permit issuance.
- 2.33 **Structure** - for purposes of this ordinance shall be a walled and roofed building, including, but not limited to, manufactured homes, gas and liquid storage tanks, garages, barns, and sheds.
- 2.34 **Substantial Damage** - damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.
- 2.35 **Substantial Improvement** - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure (less land value) either: (a) before the improvement or repair is started; or (b) if the structure has incurred substantial damage and been restored, before the damage occurred. Substantial improvement occurs when the

first alteration of any wall, ceiling, floor, or other structural part of the building commences. The minimum repairs needed to correct previously identified violations of local health, safety, or sanitary codes, and alterations to historic structures which do not preclude their continued designation as historic structures are not considered substantial improvements.

2.36 Temporary Structure - any structure completely removed within 180 days from issuance of the permit.

2.37 Variance - the grant of relief from a term or terms of this Ordinance.

Article III Permit Procedures

Section 3.1 General

A permit is required for all development in a 100 year Floodplain. A permit issued by the local permitting official under this Ordinance does not authorize any construction until all other required permits are obtained from the appropriate federal or State agencies.

Section 3.2 Information for a Permit

Applications for a Building Permit shall contain, at a minimum, the following information:

- a. name, address, and phone number of applicant (owner or agent of owner);
- b. name, address, and phone number of owner, if different;
- c. name, address, and phone number of contractor;
- d. proposed uses for the site;
- e. type, dimensions, and estimated cost of development proposed;
- f. site topography and improvements; and
- g. other information deemed appropriate by the local permitting official.

All permit applications must have a site plan drawn to scale which shows:

- a. dimensions of site;
- b. size and location of existing and proposed structures or alterations;
- c. setbacks;
- d. elevation contours in mean sea level (NGVD);
- e. delineation of the 100-year flood elevation and boundary; and
- f. proposed elevation of the lowest floor and method of elevation, if applicable.

All applicants shall agree in writing to provide an Elevation Certificate completed by a registered professional engineer or surveyor to certify the as-built lowest floor of a structure which must be elevated to or above the Flood Protection Elevation. An Elevation Certificate must be submitted before a Certificate of Use and Occupancy may be issued. Work undertaken prior to submission of the certification is at the applicant's risk. For enclosed areas below the Flood Protection Elevation, a requirement to install water equalizing vents as specified in Section 6.2 of this Ordinance may be required.

If an improvement to an existing structure is proposed, adequate information on the cost of the improvement and the market value of structure before the improvement must be supplied to the local permitting official to allow a determination of the value of the substantial improvement. The local permitting official may use tax assessment records to determine the value of the substantial improvement. Within the 100 year floodplain, permits shall be tracked by property location to determine if the cumulative value of improvements constitutes substantial improvement of a structure.

Section 3.3 Subdivision Proposals

In addition to the information required in Sect. 3.2, an applicant for subdivision in the nontidal floodplain shall submit a plan to demonstrate that a building site for each lot is outside of the 100-year floodplain. The plan for

utility ingress, stormwater drainage structures, road access, and other rights of way shall be evaluated in light of the site characteristics.

Section 3.4 Issuance of Permit

Considerations

Prior to issuance of a permit, the local permitting official shall confirm the location of the project relative to floodways and floodplains based on information required under Section 3.2 of this Ordinance and FEMA maps, and shall note on the permit the proper elevation to which the lowest floor of proposed structures must be elevated. In approximate floodplains where a 100 year flood elevation is not available, the applicant shall be required to obtain such elevation. The applicant must agree to secure all other required permits, an Elevation Certificate, Floodproofing Certificate, engineering analysis, or other required verifications deemed appropriate by the local permitting official.

Permits shall be granted by the local permitting official only after determining that the proposed development will be in complete conformance with the requirements of this Ordinance.

Dam Safety

The applicant is urged to exercise caution when proposed improvements are to be located downstream of existing or proposed dams, stormwater management or other water retention systems. Downstream development within the dam break flood wave of dams known to the local permitting official shall be denied unless the dam meets the design standards for a high hazard dam as determined by the appropriate state and federal agencies.

After Issuance and During Construction

After issuance of a permit, no changes shall be made to the application, permit, or any of the plans, specifications, or other documents submitted with the application without the written approval of the local permitting official. A copy of the permit or other verification must be displayed at the construction site during construction activity.

Work on the permitted activity shall begin within 180 days of the issuance of the permit, or the permit shall expire, unless a written extension is granted by the local permitting official. Work shall be completed within one year of the date of the permit unless a

greater time is specified in the permit or a written extension is granted.

During construction, the local permitting official or an authorized representative shall inspect the site to determine that the work is in compliance with the permit. Any work found to be noncompliant must be corrected before any additional work is undertaken.

Record of Permits

A record of all floodplain permits shall be maintained and be available upon request by the Federal Emergency Management Agency or its authorized agent (Water Resources Administration) during periodic assessments of this community's participation in the National Flood Insurance Program. All documents needed to support any permit action, such as Elevation Certificates, map amendments or revisions, variance actions, shall be available for review during these assessments.

Section 3.5 Fees

An application fee of twenty-five dollars (\$25.00) shall accompany each application.

Section 3.6 Violations, Penalties, Continuing Offenses

A violation of this Ordinance is declared to be a misdemeanor and any person, firm or corporation who fails to obtain a permit and/or fails to comply with the provisions of the Ordinance shall be fined not more than one thousand dollars (\$1,000.00). Each and every day during which such illegal, erection, construction, reconstruction, enlargement, change, maintenance or use continues shall be deemed a separate offence. All violations shall be corrected prior to any further work progressing on the project.

If the local permitting official shall find any of the provisions of this Ordinance being violated, he shall:

- a. notify the Federal Insurance Administrator and the Water Resources Administration within 30 days after the issuance of any violation which requires a fine or court appearance;
- b. notify in writing by certified mail, the owner or person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it;

- c. order discontinuance of illegal use of buildings or structures, removal of illegal buildings or structures or of alterations or structural changes thereto; discontinuance of any illegal work being done; and
- d. unless compliance is met within a reasonable time, take any other action authorized by this Ordinance to insure compliance with or prevent violations of its provisions.

Section 3.7 Conditioned Permits for Accessory Structures and Garages

A conditioned permit may be issued at the discretion of the local permitting official when the 300 square foot exemption is exceeded for accessory structures up to a total size of 600 square feet. In order to qualify, the structure's use must be incidental to the primary structure, and it can be used only for limited storage and parking of vehicles. The provisions of Sect. 6.6 must be met.

A conditioned permit is subject to the applicant's completion of a Nonconversion Agreement stating that the use of the accessory structure may not change from that permitted. A statement of the greater flood risk and possibly higher flood insurance premiums must be included. In addition, a recordation on the deed or Memorandum of Land Restriction must be made as described in Sect. 7.2, stating that the permitted structure may not be used for human habitation without first complying with the construction requirements of this Ordinance and must be equipped with the proper water equalizing vents.

Article IV Establishment of Floodplain Zones

Section 4.1 Identification of Flood Zones

The regulatory floodplain shall be those areas of Washington County which are subject to the 100-year flood, delineated on the most recent revision of the community's Floodway Maps and Flood Insurance Rate Maps (FIRM) and described in the Flood Insurance Study (FIS) prepared by the Federal Emergency Management Agency (FEMA). Floodway Maps and the FIS, if available for the community, must be used.

Section 4.2 Floodplain Zones

A community may have the nontidal floodplain zones:

- a. Floodway Fringe - that part of the floodplain outside of the floodway.
- b. Floodway - reserved to carry the waters of the 100-year flood.

Nontidal floodplains may have detailed engineering study data, profiles, and water surface elevations, or may have approximate delineations only.

Section 4.3 Floodplain Boundaries

Floodplain Zone Determination

The local permitting official will determine the floodplain zone in which the development activity is proposed using the Floodway Maps and FIS if available, or, if not, by using the FIRM. Without prior approval from FEMA, the community shall use no other data to enforce floodplain management regulations. Where map boundaries and elevations disagree, elevations prevail, with no approval from FEMA required.

Approximate Floodplain Determination

For development proposed in the approximate floodplain (no water surface elevations or floodway data provided), the applicant must use the best available information to determine the elevation of the 100-year flood and the extent of the floodway, and must delineate these on the site plan submitted for approval.

For existing lot of record or new subdivisions with up to five (5) lots, if no data are available, the point-on-the-boundary method may be used. In this method, the distance is scaled from a reference point at the site to the edge of the 100-year floodplain boundary indicated on the FIRM. An elevation of the 100-year flood is determined at that point by survey.

For new subdivisions, the applicant must have the 100-year flood elevations certified by a registered professional engineer based on hydrologic and hydraulic analyses which include a floodplain analysis.

Unmapped Streams

In cases in which development is proposed in the vicinity of unmapped streams, State permits may be

required and applicants are advised to seek a determination from the State.

Article V Development Regulations in Floodplain Zones

In order to minimize excessive flood damage and to allow for the protection of the natural and beneficial floodplain functions, the following provisions shall apply to all development, new construction, and substantial improvements to existing structures in all floodplain zones. If a structure is in more than one zone, the more stringent provisions shall apply to the entire structure. The specific requirements contained in Article VI also apply to development in this Article. Any approved development shall comply with all other zoning, environmental, water quality, and sanitary regulations, as well as applicable State and federal requirements.

Watercourses

In all floodplain zones, any development which proposes to alter a watercourse must obtain a variance prior to the issuance of any permits. All permit conditions for encroachment in the floodway must be met and adverse impacts to aquatic resources must be minimized. Adjacent communities and property owners, FEMA, and the Maryland Water Resources Administration must be notified by the applicant before any modification may occur to watercourses. Any activity falling within the 100-year nontidal floodplain may require a waterway construction permit from the Water Resources Administration.

Wetlands

Encroachment by development into wetlands is not allowed without State and federal permits.

Sediment, Erosion Control and Stormwater Management

Any land disturbance permitted in the floodplain may be required to have a stormwater management and sediment and erosion control plan in accordance with State and local regulations. The plan must include design of land contours that will not increase surface water runoff onto neighboring properties.

Part A. Floodway Fringe

Section 5.1 General

Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the floodway fringe and that encroachments onto the

floodway fringe are minimized where alternatives exist for the parcel of land in question.

Section 5.2 Elevation Requirements - New and Substantially Improved Structures

All new or substantially improved residential and nonresidential structures, including manufactured homes, shall have the lowest floor elevated to or above the Flood Protection Elevation. Basements are not permitted. Horizontal expansions which increase the footprint and that are less than substantial shall also have the lowest floor elevated to or above the Flood Protection Elevation. The elevation of the lowest floor shall be certified by a registered surveyor or professional engineer on the Elevation Certificate, after the lowest floor is in place. Enclosures below the Flood Protection Elevation must be constructed with water equalizing vents to meet the specifications of Sect. 6.2.

Section 5.3 Fill

The placement of more than 600 cubic yards of fill per parcel/lot in the floodplain is prohibited except by variance. Elevating buildings by other methods must be considered unless 600 cubic yards or less of fill are required. An applicant shall demonstrate that fill is the only alternative to raising the building to at least the Flood Protection Elevation, and that the amount of fill used will not affect the flood storage capacity or increase flooding onto neighboring properties.

In the event buildings on adjacent properties are known or determined to be subject to flooding under current conditions, the local permitting official may require submission of hydrologic and hydraulic analyses to adequately demonstrate the effects of the proposed fill. The conditions described in Sect. 6.8 must be met whenever fill is used.

Part B. Floodways

Section 5.4 General

Floodways shall be preserved to carry the discharge of the 100-year flood. With the exception of necessary public facilities such as roads, bridges and essential utilities as defined in this ordinance, New development shall not be permitted in the floodway.

Any development in the floodway which may result in any increase in water surface elevations or change to the floodway must be submitted to FEMA for a Conditional Letter of Map Revision. Hydrologic and hydraulic analyses based on existing floodway models and performed in accordance with standard engineering practices and certified by a registered professional engineer, licensed by the State of Maryland, must be submitted. Failure to receive this Letter shall be grounds for denial of the permit.

An alternative analysis must be prepared for any development in the floodway before a permit may be issued. The provisions of Part A above, as well as Part B, apply to floodways.

Section 5.5 Alternative Analysis Requirement

Before a permit may be issued, an applicant shall submit an alternative analysis which demonstrates that:

- a. no reasonable alternatives exist outside the floodway;
- b. encroachment in the floodway is the minimum necessary;
- c. the development will withstand the 100-year flood without significant damage; and
- d. the development will not increase downstream or upstream flooding or erosion.

Section 5.6 Existing Structures

Existing structures in the floodway shall be substantially improved only by variance and if they can be brought into conformance with this Ordinance without increasing the footprint. Minor additions (less than substantial) must be elevated to the Flood Protection Elevation on pilings or columns. In the event of substantial damage, the applicant shall submit an alternative analysis to determine if the structure can be relocated out of the floodplain where alternatives exist for the parcel of land in question. Where replacement structures cannot be relocated, they shall be limited to the footprint of the previous structure and must comply with the elevation requirements of Sect. 5.2 of this Ordinance.

Permits for incremental improvements shall be tracked by the local permitting official, and if cumulative improvements constitute substantial improvement, no further permits may be issued unless the structure conforms to the provisions of this Ordinance.

Section 5.7 Obstructions

Structures or fill which may impede, retard, or change the direction of the flow of flood waters, or any materials that may be carried downstream to cause damage shall not be placed in the floodway. Fences, except four (4) single wire fences, shall not be placed in the floodway.

Article VI Specific Requirements

Section 6.1 Placement of Buildings and Materials

All structures permitted in the floodplain shall be oriented so as to offer the least resistance to the flow of flood waters.

Materials which are buoyant, flammable, explosive, hazardous to health, or which at times of flooding may be injurious to human, animal, or plant life, shall not be stored below the Flood Protection Elevation.

Section 6.2 Enclosures Below Lowest Floor

Buildings which have been elevated and have fully enclosed areas below the Flood Protection Elevation (other than basements), as well as garages and accessory structures which are not elevated (Sect. 6.6), shall be constructed with water equalizing vents which meet or exceed the following standards:

- a. a minimum of two openings on different walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- b. the bottom of all openings shall be no higher than one foot above grade; and
- c. openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters to equalize hydrostatic forces on the walls.

Fully enclosed areas below the Flood Protection Elevation shall be used solely for parking of vehicles, access to the building, or storage. If such areas are enclosed, a Nonconversion Agreement, as described in Section 3.7, must be signed by the applicants, bearing a legal description of the site location and stating that the use of the accessory structure may not change from that permitted. A statement of the greater flood risk and possibly higher flood insurance premiums must be included. In addition, a recordation on the deed or Memorandum of Land Restriction must be made as described in Sect. 7.2, stating that the permitted structure may not be used for human habitation without first complying with the construction requirements of this Ordinance and must be equipped with the proper water equalizing vents.

Section 6.3 Manufactured Homes and Manufactured Home Parks

New manufactured homes and manufactured home parks are prohibited in the floodplain. In the floodway fringe, replacement, or substantially improved manufactured homes, whether in a manufactured home park or not, shall comply with Sect. 5.2 of this Ordinance.

Methods of anchoring shall include use of over-the-top and frame ties to ground anchors. Pilings or columns designed and properly reinforced in accordance with local building codes shall be used to maintain storage capacity of the floodplain.

Manufactured homes repaired or replaced because of substantial damage due to flooding or other causes must fully comply with Sect 5.2.

Owners of manufactured home parks or subdivisions that are partially or fully within the floodplain must file an evacuation plan with the local emergency management agency.

Section 6.4 Anchoring

All structures shall be firmly anchored in accordance with acceptable engineering practices to prevent flotation, collapse, and lateral movement during flooding. All air ducts, large pipes, and storage tanks located below the Flood Protection Elevation shall be firmly anchored to resist flotation.

Section 6.5 Utilities

Electric

All electric utilities to the building side of the meter, both interior and exterior to the building, are regulated by this Ordinance. Distribution panel boxes must be at least 2 feet above the Flood Protection Elevation. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators, distribution systems, must be installed at or above the Flood Protection Elevation.

Plumbing

Toilets, sinks, showers, water heaters, pressure tanks, furnaces, and other permanent plumbing installations must be installed at or above the Flood Protection Elevation.

Gas

Gas meters and gas appliances must be installed at or above the Flood Protection Elevation.

Water Supply and Sanitary Facilities

Water supply distribution and sanitary disposal collection systems must be designed to minimize or eliminate the infiltration of flood waters into the systems or discharges from the systems into flood waters and shall be located and constructed so as to minimize or eliminate flood damage. On-site sewage disposal systems shall comply with State Health Department requirements.

Essential utilities as defined herein are exempt from the terms of this Ordinance.

Section 6.6 Accessory Structures and Garages

Accessory structures and garages should be located out of the floodplain or elevated to or above the Flood Protection Elevation. When these measures are not feasible the following apply:

- a. the floor of the structure must be at or above grade;
- b. the structure must be located, oriented, and constructed so as to minimize flood damage; and
- c. the structure must be firmly anchored to prevent flotation.

Attached Garages

A garage attached to the main structure shall be elevated to the greatest extent possible, but may be permitted as an exemption to the strict elevation requirement if it is used solely for parking of vehicles, storage, or building access and is no more than 600 square feet in area. Attached garages must meet the venting requirements of Section 6.2, have all interior walls, ceilings, and floors below the Flood Protection Elevation unfinished, and have no machinery or electric devices or appliances located below the Flood Protection Elevation. A Nonconversion Agreement as described in Sect. 3.7 must be signed by the property owner stating that the garage may never be used for human habitation without first becoming fully compliant with this Ordinance.

Detached Garages and Accessory Structures

An accessory structure or detached garage may be permitted as an exemption to the elevation requirement if it is less than 300 square feet, used solely for parking of vehicles and limited storage, meets the venting requirements of Sect. 6.2, has all interior wall, ceiling, and floor elements below the Flood Protection Elevation unfinished, and has no machinery, electric devices, or appliances located below the Flood Protection Elevation. A Nonconversion Agreement must be signed by the property owner.

An accessory structure or a detached garage between 300 square feet and 600 square feet may be permitted below the Flood Protection Elevation only by a conditioned permit described in Sect. 3.7.

A Nonconversion Agreement must be signed by the applicant bearing a legal description of the site location and stating that the use of the accessory structure may not change from that permitted. A statement of the greater flood risk and possibly higher flood insurance premiums must be included. The agreement shall include restriction that the permitted structure may not be used for human habitation without first complying with the construction requirements of this Ordinance and must be equipped with the proper water equalizing vents.

An accessory structure or garage larger than 600 square feet in area must be elevated properly or be able to meet all applicable requirements under the variance procedure in Sect. 7.1 of this Ordinance.

Section 6.7 Recreational Vehicles

Recreational vehicles located within the floodplain may be exempted from the elevation and anchoring requirements provided they are:

- a. located on the site less than 30 consecutive days per year;
- b. fully licensed and ready for highway use; and
- c. properly permitted.

A recreational vehicle is ready for highway use if it is on its wheels and jacking system, is attached to the site only by quick disconnect type utilities and securing devices, and has no permanently attached additions.

Section 6.8 Fill

Fill is discouraged because storage capacity is removed from floodplains. Other methods of elevating structures should be considered first, and fill used only if other methods are not feasible. Fill may not be placed in the floodway. Fill may not be placed in nontidal wetlands without the required State and federal permits.

Fill must consist of soil and rock materials only. Dredged material may be used as fill only upon certification of suitability by a Maryland registered professional geotechnical engineer. Landfills, rubble fills, dumps and sanitary fills are not permitted in the floodplain.

Fill used to support structures must be compacted to 95% of the maximum density obtainable by the Standard Proctor Test (ASTM Standard D-698), and its suitability to support structures certified by a Maryland registered professional engineer. Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion.

The use of fill shall not increase flooding or cause drainage problems on neighboring properties.

Article VII Variances**Section 7.1 Reasons for Granting**

The Appeal Boards shall hear and decide appeals and requests for variances from the requirements of this Ordinance. Conditions may be attached to the Appeals Board decision, and their decisions must be consistent with sound floodplain management. Variances may not be issued except as specified below, nor shall variances be issued for any encroachment in floodways if any increase in the 100-year flood levels will result.

Variances shall only be issued upon:

- a. a showing of good and sufficient cause;
- b. a determination that failure to grant a variance would result in exceptional hardship (other than economic) to the applicant; and
- c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local and State laws or ordinances.

The Appeals Board decision shall be the minimum necessary, considering the flood hazard, to afford relief. In considering the granting of a variance, the Appeals Board must consider the comments from the State Coordinating Office of the Water Resources Administration.

Section 7.2 Conditions

Variances may not be granted for the following:

- a. placement of fill or any development in the floodway if any increase in flood levels would result; or
- b. new structures in the floodway.

For any variance issued, a letter shall be sent to the applicant indicating the terms and conditions of the variance, the increased risk to life and property in granting the variance, and the increased premium rates for National Flood Insurance coverage. The applicant

shall be notified in writing of the need to secure all necessary permits as conditions for granting a variance.

The local permitting official shall maintain a record of all variance actions and the justification for their issuance, as well as all correspondence. This record must be submitted as a part of the Biennial Report to FEMA, and be available for periodic review.

Section 7.3 Functionally Dependent Uses

Variances may be issued for new construction and substantial improvements for the conduct of a functionally dependent use. A functionally dependent use cannot perform its intended purpose unless it is located or carried out in close proximity to water. It includes only docking facilities and boat repair facilities, but does not include long-term storage or related manufacturing facilities. The variance may be issued only upon sufficient proof of the functional dependence. The provisions of Sect. 7.1 and 7.2 must be met and the structure must be protected by methods that minimize flood damage up to the Flood Protection

Elevation and must create no additional threats to public safety. This may require methods of "wet floodproofing" which allow the structure to flood without significant damage. Methods of floodproofing must not dependant upon human intervention such as manual sealing of doors and windows.

Article VIII Effective Date and Subsequent Amendments

This ordinance is effective as of July 1, 1992. This Ordinance shall be amended as required by the Federal Emergency Management Agency, 44 Code of Federal Regulations. All subsequent amendments to this Ordinance are subject to approval of the Federal Emergency Management Agency and the Maryland Department of Natural Resources.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Washington County, Maryland, that the Washington County Floodplain Management Ordinance adopted November 15, 1988 is repealed effective July 1, 1992, AND BE IT FURTHER ORDAINED that the above Ordinance entitled "Washington County Floodplain

Management Ordinance of 1992" is enacted effective the 1st day of July, 1992.

Adopted this 27th day of May, 1992.

ATTEST:

Joni L. Bittner
Joni L. Bittner, Clerk

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

Richard E. Roulette
Richard E. Roulette, President

Ronald L. Bowers
Ronald L. Bowers,
Vice President

Linda C. Irvin-Craig
Linda C. Irvin-Craig

John S. Shank
John S. Shank

Gregory I. Snook
Gregory I. Snook

Approved as to form and
legal sufficiency:

Ralph H. France, II
Ralph H. France, II
County Attorney

Mail to:

Ralph H. France, II
County Attorney
100 W. Washington Street
Hagerstown, MD 21740

CHAPTER 14

RESOLUTION AND DESIGNATION OF FORFEITING AUTHORITY
PURSUANT TO ARTICLE 27, SECTION 297 (SENATE BILL 419)

RECITAL

The General Assembly of the State of Maryland enacted Senate Bill 419 (Article 27, Section 297 of the Annotated Code). Same became effective July 1, 1989.

The referred to provision of the Annotated Code requires that a "Forfeiting Authority" be designated by the Mayor and Council of various municipalities.

The State's Attorney for Washington County, Maryland presently handles all forfeitures of motor vehicles, tangible personal property, and real estate.

The City/Town attorney for the municipality presently handles forfeitures of currency outside the corporate limits and within the geographical confines of the County.

The purpose of this Resolution and Agreement is to designate a forfeiting authority, to-wit: the State's Attorney for Washington County, Maryland and/or his or her designee as indicated herein.

NOW THEREFORE, BE IT RESOLVED, pursuant to the provisions of Article 27, §297 of the Annotated Code of Maryland, that the State's Attorney for Washington County, his or her agents, servants, employees or designees, be and are hereby designated and constituted as "Forfeiting Authority" pursuant to the provisions of the aforementioned section of the Annotated Code.

BE IT FURTHER RESOLVED that the said forfeiting authority shall only be applicable to the forfeitures of motor vehicles, tangible personal property of whatsoever nature or kind, and forfeitures of real estate.

BE IT FURTHER RESOLVED that the Town/City attorney shall continue to act as the "Forfeiting Authority" of the Town/City for the purposes of forfeiting monies, currency, or any evidences of same.

BE IT FURTHER RESOLVED that all acts of said individuals, up to and including this date, pertaining to forfeitures are hereby ratified and confirmed.

EFFECTIVE DATE: 2/11/91. Recorded among the Acts, Ordinances, Resolutions of Washington County in Liber 3 folio 680.