

TOWN OF KEEDYSVILLE, MARYLAND

RESOLUTION NO. 2017-

AGREEMENT BETWEEN THE

BOARD OF COUNTY COMMISSIONERS OF
WASHINGTON COUNTY, MARYLAND

AND

THE MAYOR AND COUNCIL OF
THE TOWN OF KEEDYSVILLE

TO ENFORCE THE TOWN OF KEEDYSVILLE'S
FLOODPLAIN MANAGEMENT ORDINANCE

RECITALS

The provisions of Section 44 CFR Part 60.3 of the National Flood Insurance Program requires participating communities to adopt adequate Flood Management Regulations.

The Town of Keedysville has duly adopted an ordinance that meets the requirements of Section 44 CFR 60.3 of the National Flood Insurance Program and requests that enforcement of said ordinance be administered by Washington County, Maryland.

The Board of County Commissioners of Washington County, Maryland, agrees to administer and enforce the provisions of the ordinance within the corporate limits of the Town of Keedysville.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Keedysville that the Town of Keedysville has duly adopted the Washington County Floodplain Management Ordinance, ORD-2017-06, adopted on May 16, 2017, effective August 15, 2017, consistent with the National Flood Insurance Program and the enforcement of which shall be conducted by Washington County officials within the corporate limits of the Town of Keedysville.

Liber 12 Folio 0551
Acts, Ordinances, Resolutions- Town
Clerk of the Circuit Clerk
Washington County

IN WITNESS WHEREOF, the Board of County Commissioners of Washington County, Maryland, and the Mayor and Council of the Town of Keedysville, have hereunto subscribed their names and have caused the Town of Keedysville Seal and the Washington County Seal to be hereunto affixed this 7 day of AUGUST ~~2017~~, 2017.

ATTEST:



Richard L. Bishop, Town
Administrator

MAYOR AND COUNCIL OF THE
TOWN OF KEEDYSVILLE

BY: 

Ken Lord, Mayor

[SEAL]

AGREED TO:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

ATTEST:



Vicki C. Lumm, Clerk

BY: 

Terry L. Baker, President

[SEAL]

Approved as to form
and legal sufficiency:



Kirk C. Downey
Deputy County Attorney

Record & Return to: **AUG 15 2017**
Rick Bishop
Town Admin.
Town of Keedysville
P.O. Box 359
Keedysville MD 21756

Liber 12 Folio 0552
Acts, Ordinances, Resolutions- Town
Clerk of the Circuit Clerk
Washington County

LR - Government
Instrument 0.00
Agency Name: town of
keedysville
Instrument List: Other
Describe Other:
resolution
Ref:
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Total:	0.00
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08/15/2017 10:57
CC21-TR
#8907318 CC0403 -
Washington
County/CC04.03.04 -
Register 04

This page not to be counted in calculating Recording Fee

**Clerk of Circuit Court
Washington County, Maryland**

Dennis J. Weaver, Clerk
24 Summit Avenue
Hagerstown, MD 21740
301-790-7991

For Clerks Use Only

Improvement Fee _____
Recording Fee _____
County Transfer Tax _____
Recordation Tax _____
State Transfer Tax _____
Non-Resident Tax _____
TOTAL _____

CHAPTER SIX

FLOODPLAIN 2017

An Ordinance of the Mayor and Council of the Town of Keedysville, Washington County, Maryland, pertaining to the National Flood Insurance Program, adopting by reference Revised Flood Insurance Study and Flood Insurance Rates Maps, and Floodplain Management Regulations; providing for Repeal of Conflicting Ordinances; Providing for Severability; and Providing Penalties.

RECITAL

WHEREAS, the Town of Keedysville, Maryland joined the National Flood Insurance Program (NFIP) as a separate community on January 2, 1980; and,

WHEREAS, the Town of Keedysville, under the National Flood Insurance Program is the entity responsible for floodplain administration within the Town of Keedysville corporate limits, and,

WEHREAS, the continued participation in the National Flood Insurance Program is in the best interest of the citizens of the Town of Keedysville; and,

WHEREAS, the Federal Emergency Management Agency published a Flood Insurance Study dated August 15, 2017, and Flood Insurance Rate Maps of said date, for the Town of Keedysville; and,

WHEREAS, each community that participates in the National Flood Insurance Program is required to adopt floodplain management regulation consistent with Federal criteria; and,

WHEREAS, the Town of Keedysville has delegated the responsibility of floodplain management to Washington County as provided for in a signed and executed Resolution; and,

WHEREAS, Washington County has adopted Floodplain Regulations known as "Washington County Floodplain Management Ordinance" that meets the requirements of the National Flood Insurance Program; and

WHEREAS, those certain documents entitled "Flood Insurance Study for Washington County, Maryland and Incorporated Areas" dated August 15, 2017 and Flood Insurance Rate Maps dated August 15, 2017, and "Washington County Floodplain Management Ordinance" dated the 16th day of May, 2017 and all subsequent amendments and/or revisions are hereby designated as public records.

NOW THEREFORE, be it **ORDAINED** be it **RESOLVED**, **ENACTED** and **ORDAINED**

by the Mayor and council of the Town of Keedysville, Maryland, as follows;

Section 1. Those public records entitled "Flood Insurance Study for Washington County, Maryland and Incorporated Areas" dated August 15, 2017 with accompanying Flood Insurance Maps dated August 15, 2017 and all subsequent amendments and/or revisions, copies of which shall be kept on file in Town Hall of the Town of Keedysville, are hereby adopted by reference, as the basis for establishing the special flood hazard areas for floodplain management in the Town of Keedysville. The special flood hazard areas documented by the Flood Insurance Study and Flood Insurance Rate Maps are the minimum areas of applicability of the floodplain management regulations and may be supplemented by studies for other areas as allowed in the regulations.

Section 2. That public record designated as the "Washington County Floodplain Management Ordinance, dated the 16th day of May, 2017 and all subsequent amendments and/or revisions, copies of which shall be kept on file in Town Hall of the Town of Keedysville is hereby adopted as the legal basis for implementing floodplain management in the Town of Keedysville.

Section 3. The Town of Keedysville delegates the responsibility of floodplain management to Washington County as provided in an executed Resolution dated July 3, 2017. The Administrator for the Town of Keedysville is designated as the National Flood Insurance Program Floodplain Administrator for the Town of Keedysville and is responsible for coordinating with Washington County and will serve as the community point of contact on National Flood Insurance Program issues for County, State and Federal officials.

Section 4. Washington County shall have the right and authority to fully enforce the provisions of the Ordinance within the corporate limits of the Town of Keedysville.

Section 5. Repeal of conflicting Ordinances. All Ordinances and part of Ordinances in conflict with this Ordinance are hereby repealed.


Section 6. Severability. If any portion of this Ordinance is determined by a Court of competent jurisdiction to be invalid, all remaining portions of this Ordinance shall remain in full force and effect.

Section 7. Providing for penalties. Any person who fails to comply with any or all of the requirements or provisions of the Floodplain Management Ordinance shall be subject to the penalties as outlined within the Washington County Floodplain Management Ordinance.

Liber 12 Folio 0555
Acts, Ordinances, Resolutions- Town
Clerk of the Circuit Clerk
Washington County

WITNESS AND ATTEST

TOWN OF KEEDYSVILLE, MARYLAND

By: 
Rick Bishop, Town Admins.

By: 
Ken Lord, Mayor

Introduced: 06/05/17
Enacted: 08/07/17
Effective: 08/15/17

Record and Return to: AUG 15 2017

Mr. Rick Bishop
Town Administrator
Town of Keedysville
P. O. Box 359
Keedysville, MD 21756

Floodplain.Ordinance.06.02.17

Liber 12 Folio 0556

Acts, Ordinances, Resolutions- Town
Clerk of the Circuit Clerk
Washington County

LR - Government
Instrument 0.00
Agency Name: flood
plan keedysville
Instrument List: Other
Describe Other:
ordinance
Ref:

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Total: 0.00
08/15/2017 10:58
CC21-TR
#8907331 CC0403 -
Washington
County/CC04.03.04 -
Register 04

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Clerk of Circuit Court Washington County, Maryland

Dennis J. Weaver, Clerk
24 Summit Avenue
Hagerstown, MD 21740
301-790-7991

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County Transfer Tax _____

Recordation Tax _____

State Transfer Tax _____

Non-Resident Tax _____

TOTAL _____

ORDINANCE NO. ORD-2017-06

AN ORDINANCE TO REPEAL AN ORDINANCE ENTITLED "WASHINGTON COUNTY FLOODPLAIN MANAGEMENT ORDINANCE" AND TO REENACT SAID ORDINANCE WITH AMENDMENTS

On May 27, 1992, the Board of County Commissioners of Washington County, Maryland (the "Board") adopted the Washington County Floodplain Management Ordinance (the "Ordinance"), and the Ordinance was amended on October 19, 2004, effective November 1, 2004.

It has been recommended that certain amendments be made to the Ordinance in order for Washington County to be eligible for continued access to flood insurance and disaster benefits from the Federal Emergency Management Agency (FEMA).

A public hearing was held on May 16, 2017, following due notice and advertisement of the Board's intention to amend the Ordinance.

Any public comment was reviewed and carefully considered.

The Board believes it to be in the best interests of the citizens and residents of Washington County, Maryland, that the attached Washington County Floodplain Management Ordinance be adopted.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Washington County, Maryland, that the attached Washington County Floodplain Management Ordinance is hereby adopted.

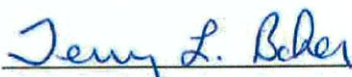
BE IT FURTHER ORDAINED that the Washington County Floodplain Management Ordinance, adopted on May 27, 1992 and amended on October 19, 2004, effective November 1, 2004, is hereby repealed.

Adopted this 16th day of May, 2017.
Effective the 15th day of August, 2017.

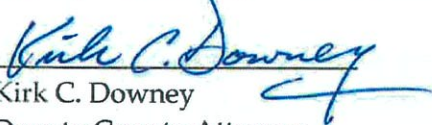
ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND


Vicki C. Lumm
County Clerk


Terry L. Baker, President

Approved as to form
and legal sufficiency:


Kirk C. Downey
Deputy County Attorney

After recording mail to:
Office of the County Attorney
100 W. Washington Street, Suite 1101
Hagerstown, MD 21740

WASHINGTON COUNTY FLOODPLAIN MANAGEMENT ORDINANCE

**Adopted May 16, 2017
Effective August 15, 2017**

Washington County Floodplain Management Ordinance

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Washington County Floodplain Management Ordinance

SECTION 1.0 GENERAL PROVISIONS

1.1 Findings

The Federal Emergency Management Agency has identified *special flood hazard areas* within the boundaries of Washington County, Maryland (Washington County). *Special flood hazard areas* are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. *Structures* that are inadequately elevated, improperly *floodproofed*, or otherwise unprotected from flood damage also contribute to flood losses.

Washington County, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on May 1, 1978. As of that date the initial effective date of the Washington County *Flood Insurance Rate Map*, all *development* and *new construction* as defined herein, are to be compliant with these regulations.

1.2 Statutory Authorization

The Maryland General Assembly, in Md. Code Ann., Land Use Article, Title 4, has established as policy of the State that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that planning and zoning controls shall be implemented by local government in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources. Therefore, the Board of County Commissioners of Washington County, Maryland, does hereby adopt the following floodplain management regulations.

1.3 Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (A) Protect human life, health and welfare;
- (B) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (C) Minimize *flooding* of water supply and sanitary sewage disposal systems;
- (D) Maintain natural drainage;
- (E) Reduce financial burdens imposed on the *community*, its governmental units and its residents, by discouraging unwise design and construction of *development* in areas subject to *flooding*;

- (F) Minimize the need for rescue and relief efforts associated with *flooding* and generally undertaken at the expense of the general public;
- (G) Minimize prolonged business interruptions;
- (H) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (I) Reinforce that those who build in and occupy *special flood hazard areas* should assume responsibility for their actions;
- (J) Minimize the impact of *development* on adjacent properties within and near *flood-prone areas*;
- (K) Provide that the *flood* storage and conveyance functions of *floodplains* are maintained;
- (L) Minimize the impact of *development* on the natural and beneficial functions of *floodplains*;
- (M) Prevent *floodplain* uses that are either hazardous or environmentally incompatible; and
- (N) Meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.

1.4 Areas to Which These Regulations Apply

These regulations shall apply to all *special flood hazard areas* within the jurisdiction of Washington County, and identified in Section 1.5.

1.5 Basis for Establishing Special Flood Hazard Areas and BFEs

- (A) For the purposes of these regulations, the minimum basis for establishing *special flood hazard areas* and *base flood elevations* is the *Flood Insurance Study* for Washington County, Maryland and Incorporated Areas dated August 15, 2017, or the most recent revision thereof, and the accompanying *Flood Insurance Rate Map(s)* and all subsequent amendments and revisions to the *FIRMs*. The *FIS* and *FIRMs* are retained on file and available to the public at the Washington County Division of Engineering and Construction Management.
- (B) Where field surveyed topography or digital topography indicates that ground elevations are below the closest applicable *base flood elevation*, even in areas not delineated as a special flood hazard on the *FIRM*, the area shall be considered as *special flood hazard area*.
- (C) To establish *base flood elevations* in *special flood hazard areas* that do not have such elevations shown on the *FIRM*, the Floodplain Administrator may provide the best available data for *base flood elevations*, may require the applicant to obtain available information from Federal, State or other sources, or may require the applicant to establish *special flood hazard areas* and *base flood elevations* as set forth in Section 3.3, Section 3.4, and Section 3.5 of these regulations.

1.6 Abrogation and Greater Restrictions

These regulations are not intended to repeal or abrogate any existing regulations and ordinances, including subdivision regulations, zoning ordinances, *building codes*, or any existing easements, covenants, or deed restrictions. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

1.7 Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and,
- (C) Deemed neither to limit nor repeal any other powers granted under State statutes.

Notes referencing publications of the Federal Emergency Management Agency refer to the most recent edition of those publications, are intended only as guidance, and do not bind or alter the authority of the Floodplain Administrator to interpret and apply these regulations.

1.8 Warning and Disclaimer of Liability

The degree of *flood* protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and *flood* heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the *special flood hazard areas* or uses that are permitted within such areas will be free from *flooding* or *flood* damage.

These regulations shall not create liability on the part of Washington County, any officer or employee thereof, the Maryland Department of the Environment (MDE) or the Federal Emergency Management Agency (FEMA), for any *flood* damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.

1.9 Severability

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted to have the meaning they have in common usage and to give these regulations the most reasonable application.

Accessory Structure: A building or *structure* on the same lot with, and of a nature customarily incidental and subordinate to, the principal *structure*. For the purposes of these regulations, an accessory structure shall be used solely for parking of vehicles and limited storage.

Agreement to Submit an Elevation Certificate: A form on which the applicant for a permit to construct a building or *structure*, to construct certain horizontal additions, to place or replace a *manufactured home*, to substantially improve a building, *structure*, or *manufactured home*, agrees to have an *Elevation Certificate* prepared by a *licensed* professional engineer or *licensed* professional surveyor, as specified by the Floodplain Administrator, and to submit the certificate:

- (1) Upon placement of the *lowest floor* and prior to further vertical construction; and
- (2) Prior to the final inspection and issuance of the Certificate of Occupancy.

Alteration of a Watercourse: For the purpose of these regulations, alteration of a watercourse includes, but is not limited to widening, deepening or relocating the channel, including excavation or filling of the channel. Alteration of a watercourse does not include construction of a road, bridge, culvert, dam, or in-stream pond unless the channel is proposed to be realigned or relocated as part of such construction.

Appeals Board: The Board of Appeals of Washington County.

Area of Shallow Flooding: A designated Zone AO or AH on the *Flood Insurance Rate Map* with a 1-percent annual chance or greater of *flooding* to an average depth of one to three feet where a clearly defined channel does not exist, where the path of *flooding* is unpredictable, and where velocity flow may be evident; such *flooding* is characterized by ponding or sheet flow.

Base Building: The building to which an addition is being added. This term is used in provisions relating to additions.

Base Flood: The *flood* having a one-percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the 1-percent annual chance (100-year) *flood*.

Base Flood Elevation or BFE: The water surface elevation of the *base flood* in relation to the datum specified on the *community's Flood Insurance Rate Map*. In *areas of shallow flooding*, the base flood elevation is the highest adjacent natural grade elevation plus the depth number specified in feet on the *Flood Insurance Rate Map*, or at least four (4) feet if the depth number is not specified.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Building Code(s): The effective Maryland Building Performance Standards (COMAR 05.02.07), including the building code, residential code, and existing building code.

Community: A political subdivision of the State of Maryland (county, city or town) that has authority to adopt and enforce floodplain management regulations within its jurisdictional boundaries.

Critical and Essential Facilities: Buildings and other *structures* that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or

earthquakes. [Note: See Maryland Building Performance Standards, Sec. 1602 and Table 1604.5.] Critical and essential facilities typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.

Declaration of Land Restriction (Nonconversion Agreement): A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain *enclosures below the lowest floor* of elevated buildings and certain *accessory structures*. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other *structures*, placement of *manufactured homes*, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevation Certificate: FEMA form on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a *licensed* professional land surveyor or a *licensed* professional engineer, as specified by the Floodplain Administrator. When used to document the height above grade of buildings in *special flood hazard areas* for which *base flood elevation* data are not available, the Elevation Certificate shall be completed in accordance with the instructions issued by FEMA. [Note: See FEMA Form 086-0-33 "Elevation Certificate."]

Enclosure Below the Lowest Floor: An unfinished or *flood-resistant* enclosure that is located below an elevated building, is surrounded by walls on all sides, and is usable solely for parking of vehicles, building access or storage, in an area other than a *basement* area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations. Also see "Lowest Floor."

Federal Emergency Management Agency (FEMA): The Federal agency with the overall responsibility for administering the National Flood Insurance Program.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage-Resistant Materials: Any construction material that is capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Note: See NFIP Technical Bulletin #2, "Flood Damage-Resistant Materials Requirements."]

Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency has delineated *special flood hazard areas* to indicate the magnitude and nature of *flood hazards*, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMs that have been prepared in digital format or converted to digital format are referred to as Digital FIRMs (DFIRM).

Flood Insurance Study (FIS): The official report in which the Federal Emergency Management Agency has provided *flood profiles*, *floodway* information, and the water surface elevations.

Flood Opening: A flood opening (non-engineered) is an opening that is used to meet the prescriptive requirement of 1 square inch of net open area for every square foot of enclosed area. An engineered flood opening is an opening that is designed and certified by a *licensed* professional engineer or *licensed* architect as meeting certain performance characteristics, including providing automatic entry and exit of floodwaters; this certification requirement may be satisfied by an individual certification for a specific structure or issuance of an Evaluation Report by the ICC Evaluation Service, Inc. [Note: See NFIP Technical Bulletin #1, "Openings in Foundation Walls and Walls of Enclosures."]

Flood Protection Elevation or FPE: The *base flood elevation* plus one (1) foot of freeboard. Freeboard is a factor of safety that compensates for uncertainty in factors that could contribute to *flood heights* greater than the height calculated for a selected size *flood* and *floodway* conditions, such as wave action, obstructed bridge openings, debris and ice jams, climate change, and the hydrologic effect of urbanization in a watershed.

Flood Zone: A designation for areas that are shown on *Flood Insurance Rate Maps*:

- (1) **Zone A:** *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) *flood*; *base flood elevations* are not determined.
- (2) **Zone AE and Zone A1-30:** *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) *flood*; *base flood elevations* are determined; *floodways* may or may not be determined.
- (3) **Zone AH and Zone AO:** *Areas of shallow flooding*, with *flood depths* of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or designated *flood depths*.
- (4) **Zone B and Zone X (shaded):** Areas subject to inundation by the 0.2-percent annual chance (500-year) *flood*; areas subject to the 1-percent annual chance (100-year) *flood* with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected from the *base flood* by levees.
- (5) **Zone C and Zone X (unshaded):** Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, B, and X (shaded).

- (6) **Zone VE and Zone V1-30:** *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) *flood* and subject to high velocity wave action.

Floodplain: Any land area susceptible to being inundated by water from any source (see definition of “Flood” or “Flooding”).

Floodproofing or Floodproofed: Any combination of structural and nonstructural additions, changes, or adjustments to buildings or *structures* which reduce or eliminate *flood* damage to real estate or improved real property, water and sanitary facilities, *structures* and their contents, such that the buildings or *structures* are watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. [Note: Federal regulations do not allow residential buildings to be floodproofed and State regulations do not allow new nonresidential buildings to be floodproofed.]

Floodproofing Certificate: FEMA form that is to be completed, signed and sealed by a *licensed* professional engineer or *licensed* architect to certify that the design of *floodproofing* and proposed methods of construction are in accordance with the applicable requirements of Section 5.4(B) of these regulations. [Note: See FEMA Form 086-0-34 “Floodproofing Certification for Non-Residential Structures.”]

Floodway: The channel of a river or other *watercourse* and the adjacent land areas that must be reserved in order to pass the *base flood* discharge such that the cumulative increase in the water surface elevation of the *base flood* discharge is no more than a designated height. When shown on a *FIRM*, the floodway is referred to as the “designated floodway.”

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a *structure*.

Historic Structure: Any *structure* that is:

- (1) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on the Maryland Register of Historic Places; or

- (4) Individually listed on the inventory of historic places maintained by Washington County whose historic preservation program has been certified by the Maryland Historical Trust or the Secretary of the Interior.

Hydrologic and Hydraulic Engineering Analyses: Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by the Maryland Department of the Environment (Nontidal Wetlands & Waterways) and FEMA, used to determine the *base flood*, other frequency floods, *flood* elevations, *floodway* information and boundaries, and *flood* profiles.

Letter of Map Change (LOMC): A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated *special flood hazard area*. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a specific property or *structure* is not located in a *special flood hazard area*.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to *flood zones*, *flood* elevations, *floodplain* and *floodway* delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a *structure* or parcel of land has been elevated by fill above the *base flood elevation* and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the *community's* floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A Conditional Letter of Map Revision Based on Fill (CLOMR-F) is a determination that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood Insurance Study*; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA, to revise the effective *FIRM*.

Licensed: As used in these regulations, licensed refers to professionals who are authorized to practice in the State of Maryland by issuance of licenses by the Maryland Board of Architects, Maryland Board of Professional Engineers, Maryland Board of Professional Land Surveyors, and the Maryland Real Estate Appraisers and Home Inspectors Commission.

Lowest Floor: The lowest floor of the lowest enclosed area (including *basement*) of a building or *structure*; the floor of an *enclosure below the lowest floor* is not the lowest floor provided the

enclosure is constructed in accordance with these regulations. The lowest floor of a *manufactured home* is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).

Manufactured Home: A *structure*, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a *recreational vehicle*.

Market Value: The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. For the purposes of these regulations, the market value of a building is determined by a *licensed* real estate appraiser or the most recent, full phased-in assessment value of the building (improvement) determined by the Maryland Department of Assessments and Taxation.

Maryland Department of the Environment (MDE): A principal department of the State of Maryland that is charged with, among other responsibilities, the coordination of the National Flood Insurance Program in Maryland (NFIP State Coordinator) and the administration of regulatory programs for *development* and construction that occur within the *waters of the State*, including nontidal wetlands, nontidal waters and floodplains, and State and private tidal wetlands (Tidal Wetlands). Unless otherwise specified, "MDE" refers to the Department's Wetlands and Waterways Program.

Mixed-use Structure: Any *structure* that is used or intended for use for a mixture of nonresidential and residential uses in the same structure.

National Flood Insurance Program (NFIP): The program authorized by the U.S. Congress in 42 U.S.C. §§4001 - 4129. The NFIP makes flood insurance coverage available in communities that agree to adopt and enforce minimum regulatory requirements for *development* in areas prone to *flooding* (see definition of "Special Flood Hazard Area").

New Construction: *Structures*, including additions and improvements, and the placement of *manufactured homes*, for which the *start of construction* commenced on or after May 1, 1978, the initial effective date of the Washington County *Flood Insurance Rate Map*, including any subsequent improvements, alterations, modifications, and additions to such *structures*.

NFIP State Coordinator: See *Maryland Department of the Environment (MDE)*.

Nontidal Waters of the State: See "Waters of the State." As used in these regulations, "nontidal waters of the State" refers to any stream or body of water within the State that is subject to State regulation, including the "100-year frequency *floodplain* of free-flowing waters." COMAR 26.17.04.01 states that "the landward boundaries of any tidal waters shall be deemed coterminous with the wetlands boundary maps adopted pursuant to Environment Article, §16-

301, Annotated Code of Maryland.” Therefore, the boundary between the tidal and nontidal waters of the State is the tidal wetlands boundary.

Person: An individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

Recreational Vehicle: A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area (SFHA): The land in the *floodplain* subject to a one-percent or greater chance of *flooding* in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in *Flood Insurance Studies* and on *Flood Insurance Rate Maps* as Zones A, AE, AH, AO, A1-30, and A99, and Zones VE and V1-30. The term includes areas shown on other flood maps that are identified in Section 1.5.

Start of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a *structure* on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a *manufactured home* on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a *basement*, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of *accessory structures*, such as garages or sheds not occupied as dwelling units or not part of the main *structure*. For *substantial improvements*, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: That which is built or constructed; specifically, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a *manufactured home*.

Substantial Damage: Damage of any origin sustained by a building or *structure* whereby the cost of restoring the building or *structure* to its before damaged condition would equal or exceed 50 percent of the *market value* of the building or *structure* before the damage occurred. Also used as “substantially damaged” structures. [Note: See “Substantial Improvement/Substantial Damage Desk Reference” (FEMA P-758).]

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a building or *structure*, over a five year period, the cumulative cost of which equals or exceeds 50 percent of the *market value* of the building or *structure* before the *start of construction* of the

improvement. The term includes *structures* which have incurred *substantial damage*, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a building or *structure* to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official prior to submission of an application for a permit and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a *historic structure*, provided that the alteration will not preclude the *structure's* continued designation as a *historic structure*.

[Note: See "Substantial Improvement/Substantial Damage Desk Reference" (FEMA P-758).]

Temporary Structure: A *structure* installed, used, or erected for a period of less than 180 days.

Variance: A grant of relief from the strict application of one or more requirements of these regulations.

Violation: Any construction or *development* in a *special flood hazard area* that is being performed without an issued permit. The failure of a building, *structure*, or other *development* for which a permit is issued to be fully compliant with these regulations and the conditions of the issued permit. A building, *structure*, or other *development* without the required design certifications, the *Elevation Certificate*, or other evidence of compliance required is presumed to be a *violation* until such time as the required documentation is provided.

Watercourse: The channel, including channel banks and bed, of *nontidal waters of the State*.

Waters of the State: [See Environment Article, Title 5, Subtitle 1, Annotated Code of Maryland.] Waters of the State include:

- (1) Both surface and underground waters within the boundaries of the State subject to its jurisdiction;
- (2) That portion of the Atlantic Ocean within the boundaries of the State;
- (3) The Chesapeake Bay and its tributaries;
- (4) All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
- (5) The *floodplain* of free-flowing waters determined by MDE on the basis of the 100-year *flood* frequency.

SECTION 3.0 ADMINISTRATION

3.1 Designation of the Floodplain Administrator

The Director of Plan Review and Permitting for Washington County, Maryland, is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, and provide the same for any municipality that may enter into an agreement with Washington County to administer these regulations.

3.2 Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (A) Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
- (B) Interpret *floodplain* boundaries and provide available *base flood elevation* and *flood hazard* information.
- (C) Review applications to determine whether proposed activities will be reasonably safe from *flooding* and require *new construction* and *substantial improvements* to meet the requirements of these regulations.
- (D) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from MDE for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, *structures*), any *alteration of a watercourse*, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency *floodplain* of free-flowing *nontidal waters of the State*.
- (E) Verify that applicants proposing an *alteration of a watercourse* have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
- (F) Approve applications and issue permits to develop in *flood hazard* areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (G) Inspect or cause to be inspected, buildings, *structures*, and other *development* for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or *violations* have been committed.

- (H) Review *Elevation Certificates* and require incomplete or deficient certificates to be corrected.
- (I) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain *FIRMs*, including *hydrologic and hydraulic engineering analyses* prepared by or for Washington County, within six months after such data and information becomes available if the analyses indicate changes in *base flood elevations* or boundaries.
- (J) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (1) *Flood Insurance Studies, Flood Insurance Rate Maps* (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - (2) Documentation supporting issuance and denial of permits, *Elevation Certificates*, documentation of the elevation (in relation to the datum on the *FIRM*) to which *structures* have been *floodproofed*, other required design certifications, *variances*, and records of enforcement actions taken to correct *violations* of these regulations.
- (K) Enforce the provisions of these regulations, investigate *violations*, issue notices of *violations* or stop work orders, and require permit holders to take corrective action.
- (L) Advise the Appeals Board regarding the intent of these regulations and, for each application for a *variance*, prepare a staff report and recommendation.
- (M) Administer the requirements related to proposed work on existing buildings:
 - (1) Make determinations as to whether buildings and *structures* that are located in *flood hazard areas* and that are damaged by any cause have been *substantially damaged*.
 - (2) Make reasonable efforts to notify owners of *substantially damaged structures* of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of *substantially damaged* buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or *structure* to prevent additional damage.
- (N) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged *structures*; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing

owners of damaged *structures* information related to the proper repair of damaged *structures* in *special flood hazard areas*; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance (ICC) coverage under NFIP flood insurance policies.

- (O) Notify the Federal Emergency Management Agency when the corporate boundaries of Washington County have been modified and:
 - (1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - (2) If the *FIRM* for any annexed area includes *special flood hazard areas* that have *flood zones* that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the *FIRM* and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place within six months of the date of annexation and a copy of the amended regulations shall be provided to MDE (NFIP State Coordinator) and FEMA.
- (P) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for *development* in the SFHA, and number of *variances* issued for *development* in the SFHA.

3.3 Use and Interpretation of FIRMs

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of *special flood hazard areas*, *floodplain* boundaries, and *floodway* boundaries. The following shall apply to the use and interpretation of *FIRMs* and data:

- (A) Where field surveyed topography indicates that ground elevations:
 - (1) Are below the *base flood elevation*, even in areas not delineated as a *special flood hazard area* on a *FIRM*, the area shall be considered as *special flood hazard area* and subject to the requirements of these regulations;
 - (2) Are above the *base flood elevation*, the area shall be regulated as *special flood hazard area* unless the applicant obtains a *Letter of Map Change* that removes the area from the *special flood hazard area*.
- (B) In FEMA-identified *special flood hazard areas* where *base flood elevation* and *floodway* data have not been identified and in areas where FEMA has not identified *special flood hazard areas*, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

- (C) *Base flood elevations* and designated *floodway* boundaries on *FIRMs* and in *FISs* shall take precedence over *base flood elevations* and *floodway* boundaries by any other sources if such sources show reduced *floodway* widths and/or lower *base flood elevations*.
- (D) Other sources of data shall be reasonably used if such sources show increased *base flood elevations* and/or larger *floodway* areas than are shown on *FIRMs* and in *FISs*.
- (E) If a Preliminary *Flood Insurance Rate Map* and/or a Preliminary *Flood Insurance Study* has been provided by FEMA:
 - (1) Upon the issuance of a Letter of Final Determination by FEMA, if the preliminary flood hazard data is more restrictive than the effective data, it shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - (2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 1.5(C) and used where no *base flood elevations* and/or *floodway* areas are provided on the effective *FIRM*.
 - (3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary *base flood elevations*, *floodplain* or *floodway* boundaries exceed the *base flood elevations* and/or designated *floodway* widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

3.4 Permits Required and Expiration

- (A) It shall be unlawful for any *person* to begin any *development* or construction which is wholly within, partially within, or in contact with any flood hazard area established in Section 1.5, including but not limited to: filling; grading; construction of new *structures*; the *substantial improvement* of buildings or *structures*, including repair of *substantial damage*; replacement of *manufactured homes*, including *substantial improvement* or repair of *substantial damage* of *manufactured homes*; erecting or installing a *temporary structure*, or *alteration of a watercourse*, until a permit is obtained from Washington County. No such permit shall be issued until the requirements of these regulations have been met.
- (B) In addition to the permits required in paragraph (A), applicants for permits in *nontidal waters of the State* are advised to contact MDE. Unless waived by MDE, pursuant to Code of Maryland Regulations 26.17.04, Construction on Nontidal Waters and Floodplains, MDE regulates the "100-year frequency floodplain of free-flowing waters," also referred to as *nontidal waters of the State*. To determine the 100-year

frequency floodplain, hydrologic calculations are based on the ultimate *development* of the watershed, assuming existing zoning. The resulting flood hazard areas delineated using the results of such calculations may be different than the *special flood hazard areas* established in Section 1.5 of these regulations. A permit from Washington County is still required in addition to any State requirements.

- (C) A permit is valid for one year provided the actual start of work is within 180 days of the date of permit issuance. Requests for extensions shall be submitted in writing and justifiable cause demonstrated. The Floodplain Administrator may grant, in writing, one or more extensions of time, for additional periods not exceeding 90 days each and provided there has been no amendment or revision to the basis for establishing *special flood hazard areas* and BFEs set forth in Section 1.5.

3.5 Application Required

Application for a permit shall be made by the owner of the property or the owner's authorized agent (herein referred to as the applicant) prior to the start of any work. The application shall be on a form furnished for that purpose.

(A) Application Contents

At a minimum, applications shall include:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and existing and proposed topography of the area in question, and the location of existing and proposed *structures*, excavation, filling, storage of materials, drainage facilities, and other proposed activities.
- (2) Elevation of the existing natural ground where buildings or *structures* are proposed, referenced to the datum on the *FIRM*.
- (3) Delineation of flood hazard areas, designated *floodway* boundaries, *flood zones*, *base flood elevations*, and *flood protection setbacks*. *Base flood elevations* shall be used to delineate the boundary of flood hazard areas and such delineations shall prevail over the boundary of SFHAs shown on *FIRMs*.
- (4) Where floodways are not delineated or *base flood elevations* are not shown on the *FIRMs*, the Floodplain Administrator has the authority to require the applicant to use information provided by the Floodplain Administrator, information that is available from Federal, State, or other sources, or to determine such information using accepted engineering practices or methods approved by the Floodplain Administrator. [Note: See "Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base (100-Year) Flood Elevations" (FEMA 265).]

- (5) Determination of the *base flood elevations*, for *development* proposals and subdivision proposals, each with at least 5 lots or at least 5 acres, whichever is the lesser, in *special flood hazard areas* where *base flood elevations* are not shown on the *FIRM*; if *hydrologic and hydraulic engineering analyses* are submitted, such analyses shall be performed in accordance with the requirements and specifications of MDE and FEMA.
- (6) *Hydrologic and hydraulic engineering analyses* for proposals in *special flood hazard areas* where FEMA has provided *base flood elevations* but has not delineated a *floodway*; such analyses shall demonstrate that the cumulative effect of proposed *development*, when combined with all other existing and anticipated development will not increase the water surface elevation of the *base flood* by more than one foot, or a lower increase if required by MDE.
- (7) For encroachments in *floodways*, an evaluation of alternatives to such encroachments, including different uses of the site or portion of the site within the *floodway*, and minimization of such encroachment.
- (8) If fill is proposed to be placed for a purpose other than to elevate *structures*, the applicant shall indicate the intended purpose for the fill.
- (9) For proposed buildings and *structures*, including *substantial improvement* and repair of *substantial damage*, and placement and replacement of manufactured homes, including *substantial improvement* and repair of *substantial damage*:
 - (a) The proposed elevation of the *lowest floor*, including *basement*, referenced to the datum on the *FIRM* and a signed *Agreement to Submit an Elevation Certificate*.
 - (b) The signed *Declaration of Land Restriction (Nonconversion Agreement)* that shall be recorded on the property deed prior to issuance of the Certificate of Occupancy, if the application includes an *enclosure below the lowest floor* or a crawl/underfloor space that is more than four (4) feet in height.
 - (c) A written evaluation of alternative methods considered to elevate *structures* and *manufactured homes*, if the location is in *nontidal waters of the State* and fill is proposed to achieve the elevation required in Section 5.3(A) or Section 5.4(A).
- (10) For *accessory structures* that are 300 square feet or larger in area (footprint) but no larger than 600 square feet in area (footprint) and that are below the *base flood elevation*, a signed *Declaration of Land Restriction (Nonconversion Agreement)* shall be recorded among the land records maintained by the Clerk of

the Circuit Court for Washington County prior to issuance of the Certificate of Occupancy.

- (11) For *temporary structures* and temporary storage, specification of the duration of the temporary use.
- (12) For proposed work on existing buildings, *structure*, and *manufactured homes*, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes *substantial improvement* or repair of *substantial damage*, including but not limited to:
 - (a) If the existing building or *structure* was constructed after May 1, 1978, evidence that the work will not alter any aspect of the building or *structure* that was required for compliance with the floodplain management requirements in effect at the time the building or *structure* was permitted.
 - (b) If the proposed work is a horizontal addition, a description of the addition and whether it will be independently supported or structurally connected to the *base building* and the nature of all other modifications to the *base building*, if any.
 - (c) Documentation of the *market value* of the building or *structure* before the improvement or, if the work is repair of damage, before the damage occurred.
 - (d) Documentation of the actual cash value of all proposed work, including the actual cash value of all work necessary to repair and restore damage to the before-damaged condition, regardless of the amount of work that will be performed. The value of work performed by the owner or volunteers shall be valued at market labor rates; the value of donated or discounted materials shall be valued at market rates.
- (13) Certifications and/or technical analyses prepared or conducted by a *licensed* professional engineer or *licensed* architect, as appropriate, including:
 - (a) The determination of the *base flood elevations* or *hydrologic and hydraulic engineering analyses* prepared by a *licensed* professional engineer that are required by the Floodplain Administrator or are required by these regulations in: Section 4.2 for certain subdivisions and *development*; Section 5.2(A) for *development* in designated *floodways*; Section 5.2(C) for *development* in flood hazard areas with *base flood elevations* but no designated *floodways*; and Section 5.2(E) for deliberate alteration or relocation of *watercourses*.

- (b) The *Floodproofing Certificate* for nonresidential *structures* that are *floodproofed* as required in Section 5.4(B).
- (c) Certification that engineered *flood openings* are designed to meet the minimum requirements of Section 5.3(C)(3) to automatically equalize hydrostatic flood forces.
- (14) For nonresidential *structures* that are proposed with *floodproofing*, an operations and maintenance plan as specified in Section 5.4(B)(3).
- (15) Such other material and information as may be requested by the Floodplain Administrator and necessary to determine conformance with these regulations.

(B) New Technical Data

- (1) The applicant may seek a *Letter of Map Change* by submitting new technical data to FEMA, such as base maps, topography, and engineering analyses to support revision of *floodplain* and *floodway* boundaries and/or *base flood elevations*. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant. A copy of the submittal shall be attached to the application for a permit.
- (2) If the applicant submits new technical data to support any change in *floodplain* and designated *floodway* boundaries and/or *base flood elevations* but has not sought a *Letter of Map Change* from FEMA, the applicant shall submit such data to FEMA as soon as practicable, but not later than six months after the date such information becomes available. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant.

3.6 Review of Application

The Floodplain Administrator shall:

- (A) Review applications for *development* in *special flood hazard areas* to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information that is required to support the application.
- (B) Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and other State and Federal authorities may be required.
- (C) Review all permit applications to assure that all necessary permits have been received from the Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including permits issued by:

- (1) The U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act;
 - (2) MDE pursuant to COMAR 26.23 (Nontidal Wetlands) and Section 401 of the Clean Water Act;
 - (3) MDE for construction on *nontidal waters of the State* pursuant to COMAR 26.17.04.
- (D) Review applications for compliance with these regulations after all information required in Section 3.5 of these regulations or identified and required by the Floodplain Administrator has been received.

3.7 Inspections

The Floodplain Administrator shall make periodic inspections of *development* permitted in *special flood hazard areas*, at appropriate times throughout the period of construction in order to monitor compliance. Such inspections may include:

- (A) Stake-out inspection, to determine location on the site relative to the flood hazard area and designated *floodway*.
- (B) Foundation inspection, upon placement of the *lowest floor* and prior to further vertical construction, to collect information or certification of the elevation of the *lowest floor*.
- (C) Inspection of *enclosures below the lowest floor*, including crawl/underfloor spaces, to determine compliance with applicable provisions.
- (D) Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the *base flood elevation*.
- (E) Final inspection prior to issuance of the Certificate of Occupancy.

3.8 Submissions Required Prior to Final Inspection

Pursuant to the *Agreement to Submit an Elevation Certificate* submitted with the application as required in Section 3.5(A)(9), the permittee shall have an *Elevation Certificate* prepared and submitted prior to final inspection and issuance of a Certificate of Occupancy for elevated *structures* and *manufactured homes*, including new *structures* and *manufactured homes*, substantially-improved *structures* and *manufactured homes*, and additions to *structures* and *manufactured homes*.

SECTION 4.0 REQUIREMENTS IN ALL FLOOD HAZARD AREAS

4.1 Application of Requirements

The general requirements of this section apply to all *development* proposed within all *special flood hazard areas* identified in Section 1.5.

4.2 Subdivision Proposals and Development Proposals

(A) In all *flood zones*:

- (1) Subdivision proposals and *development* proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- (2) Subdivision proposals and *development* proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) Subdivision proposals and *development* proposals shall have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed *structures*.
- (4) Subdivision proposals and *development* proposals containing at least 5 lots or at least 5 acres, whichever is the lesser, that are wholly or partially in flood hazard areas where *base flood elevation* data are not provided by the Floodplain Administrator or available from other sources, shall be supported by determinations of *base flood elevations* as required in Section 3.5 of these regulations.
- (5) Subdivision access roads shall have the driving surface at or above the *base flood elevation*.

(B) In *special flood hazard areas of nontidal waters of the State*:

- (1) Subdivision proposals shall be laid out such that proposed building pads are located outside of the *special flood hazard area* and any portion of platted lots that include land areas that are below the *base flood elevation* shall be used for other purposes, deed restricted, or otherwise protected to preserve it as open space.
- (2) Subdivision access roads shall have the driving surface at or above the *base flood elevation*.

4.3 Protection of Water Supply and Sanitary Sewage Systems

- (A) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- (B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
- (C) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of *flooding*.

4.4 Buildings and Structures

New buildings and *structures* (including the placement and replacement of *manufactured homes*) and *substantial improvement* of existing *structures* (including *manufactured homes*) that are located, in whole or in part, in any *special flood hazard area* shall:

- (A) Be designed (or modified) and constructed to safely support flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. *Structures* shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses, including hydrodynamic and hydrostatic loads and the effects of buoyancy, from *flooding* equal to the *flood protection elevation* or the elevation required by these regulations or the *building code*, whichever is higher.
- (B) Be constructed by methods and practices that minimize flood damage.
- (C) Use *flood damage-resistant materials* below the elevation of the *lowest floor* required in Section 5.3(A) or Section 5.4(A).
- (D) Have electrical systems, equipment and components, and mechanical, heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the *lowest floor* required in Section 5.3(A) or Section 5.4(A). Electrical wiring systems are permitted to be located below elevation of the *lowest floor* provided they conform to the provisions of the electrical part of the *building code* for wet locations. If replaced as part of a *substantial improvement*, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this section.
- (E) As an alternative to paragraph (D), electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the *lowest floor* provided they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to that elevation.
- (F) Have the electric panelboard elevated at least three (3) feet above the BFE.
- (G) Comply with the specific requirements of Section 5.0.
- (H) Comply with the requirements of the most restrictive designation if located on a site that has more than one *flood zone* designation (A Zone, designated *floodway*).

4.5 Placement of Fill

- (A) Disposal of fill, including but not limited to earthen soils, rock, rubble, construction debris, woody debris, and trash, shall not be permitted in *special flood hazard areas*.
- (B) Fill proposed to be placed to elevate *structures* in flood hazard areas shall comply with the *floodways* requirements in Section 5.2(A), and Section 5.2(B) and the limitations of Section 5.3(B).

4.6 Historic Structures

Repair, alteration, addition, rehabilitation, or other improvement of *historic structures* shall be subject to the requirements of these regulations if the proposed work is determined to be a *substantial improvement*, unless a determination is made that the proposed work will not preclude the *structure's* continued designation as a *historic structure*. The Floodplain Administrator may require documentation of a *structure's* continued eligibility and designation as a *historic structure*.

4.7 Manufactured Homes

- (A) New *manufactured homes* shall not be placed or installed in any flood hazard area.
- (B) For the purpose of these regulations, the *lowest floor* of a *manufactured home* is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).
- (C) Replacement *manufactured homes* in any flood hazard areas, and *substantial improvement* (including repair of *substantial damage*) of existing *manufactured homes* in all flood hazard areas, shall:
 - (1) Be placed in order to minimize encroachment into the floodplain and oriented to minimize flood damage and resistance to flow, to the extent practicable;
 - (2) Be elevated on a permanent, reinforced foundation in accordance with Section 5.0;
 - (3) Be installed in accordance with the anchor and tie-down requirements of the *building code* or the manufacturer's written installation instructions and specifications; and
 - (4) Have *enclosures below the lowest floor* of the elevated *manufactured home*, if any, including enclosures that are surrounded by rigid skirting or other material that is attached to the frame or foundation, that comply with the requirements of Section 5.0.
- (D) Replacement *manufactured homes* shall not be permitted in any designated *floodway*.

[Note: See "Protecting Manufactured Homes from Floods and Other Hazards: A Multi-Hazard Foundation and Installation Guide" (FEMA P-85).]

4.8 Recreational Vehicles

Recreational vehicles shall:

- (A) Meet the requirements for *manufactured homes* in Section 4.7; or
- (B) Be fully licensed and ready for highway use; or
- (C) Be on a site for less than 180 consecutive days.

4.9 Critical and Essential Facilities

Critical and essential facilities shall:

- (A) Not be located in *floodways*; or
- (B) If located in flood hazard areas other than *floodways*, be elevated to the higher of elevation required by these regulations plus one (1) foot, the elevation required by the *building code*, or the elevation of the 0.2 percent chance (500-year) flood.

4.10 Temporary Structures and Temporary Storage

In addition to the application requirements of Section 3.5, applications for the placement or erection of *temporary structures* and the temporary storage of any goods, materials, and equipment, shall specify the duration of the temporary use. *Temporary structures* and temporary storage in *floodways* shall meet the limitations of Section 5.2(A) of these regulations. In addition:

- (A) *Temporary structures* shall:
 - (1) Be designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic loads and hydrostatic loads during conditions of the *base flood*;
 - (2) Have electric service installed in compliance with the electric code; and
 - (3) Comply with all other requirements of the applicable State and local permit authorities.
- (B) Temporary storage shall not include hazardous materials.

4.11 Gas or Liquid Storage Tanks

- (A) Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.
- (B) Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and elevated to or above the *base flood elevation*, or shall be anchored or otherwise designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.
- (C) In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
 - (1) At or above the *base flood elevation* or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the *base flood*; and
 - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.

4.12 Functionally Dependent Uses

Applications for *functionally dependent uses* that do not conform to the requirements of these regulations shall be approved only by *variances* issued pursuant to Section 7.0. If approved, *functionally dependent uses* shall be protected by methods that minimize flood damage during the *base flood*, including measures to allow floodwaters to enter and exit, use of *flood damage-resistant materials*, and elevation of electric service and equipment to the extent practical given the use of the building.

SECTION 5.0 REQUIREMENTS IN FLOOD HAZARD AREAS

5.1 General Requirements

In addition to the general requirements of Section 4.0, the requirements of this section shall:

- (A) Apply in flood hazard areas, including *special flood hazard areas* along *nontidal waters of the State*.
- (B) Apply to all *development, new construction, substantial improvements* (including repair of *substantial damage*), and placement, replacement, and *substantial improvement* (including repair of *substantial damage*) of *manufactured homes*.

5.2 Development that Affects Flood-Carrying Capacity of Nontidal Waters of the State

- (A) **Development in Designated Floodways**

For proposed *development* that will encroach into a designated *floodway*, Section 3.5(A)(7) requires the applicant to submit an evaluation of alternatives to such encroachment, including different uses of the site or the portion of the site within the *floodway*, and minimization of such encroachment. This requirement does not apply to fences that do not block the flow of floodwaters or trap debris.

Proposed *development* in a designated *floodway* may be permitted only if:

- (1) The applicant has been issued a permit by MDE; and
- (2) The applicant has developed *hydrologic and hydraulic engineering analyses* and technical data prepared by a *licensed* professional engineer reflecting such changes, and the analyses, which shall be submitted to the Floodplain Administrator, demonstrate that the proposed activity will not result in any increase in the *base flood elevation*; or
- (3) If the analyses demonstrate that the proposed activities will result in an increase in the *base flood elevation*, the applicant has obtained a Conditional Letter of Map Revision and a Letter of Map Revision from FEMA upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.

(B) Development in Areas with Base Flood Elevations but No Designated Floodways

For *development* in *special flood hazard areas* of *nontidal waters of the State* with *base flood elevations* but no designated *floodways*:

- (1) The applicant shall develop *hydrologic and hydraulic engineering analyses* and technical data reflecting the proposed activity and shall submit such technical data to the Floodplain Administrator as required in Section 3.5(A)(6). The analyses shall be prepared by a *licensed* professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and a Letter of Map Revision upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.
- (2) The proposed *development* may be permitted if the applicant has received a permit by MDE and if the analyses demonstrate that the cumulative effect of the proposed *development*, when combined with all other existing and potential flood hazard area encroachments will not increase the *base flood elevation* more than 1.0 foot at any point.

(C) Construction of Roads, Bridges, Culverts, Dams and In-Stream Ponds

Construction of roads, bridges, culverts, dams, and in-stream ponds in *nontidal waters of the State* shall not be approved unless they comply with this section and the applicant has received a permit from MDE.

(D) Alteration of a Watercourse

For any proposed *development* that involves *alteration of a watercourse* not subject to paragraph (B), unless waived by MDE, the applicant shall develop *hydrologic and hydraulic engineering analyses* and technical data reflecting such changes, including the *floodway* analysis required in Section 3.5(A), and submit such technical data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a *licensed* professional engineer in a format required by MDE and by FEMA for a Conditional Letter of Map Revision and a Letter of Map Revision upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.

Alteration of a watercourse may be permitted only upon submission, by the applicant, of the following:

- (1) A description of the extent to which the *watercourse* will be altered or relocated;
- (2) A certification by a *licensed* professional engineer that the flood-carrying capacity of the *watercourse* will not be diminished;
- (3) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and MDE have been notified of the proposal, and evidence that such notifications have been submitted to FEMA; and
- (4) Evidence that the applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the *watercourse* so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the applicant to enter into an agreement with Washington County specifying the maintenance responsibilities; if an agreement is required, the permit shall be conditioned to require that the agreement be recorded on the deed of the property which shall be binding on future owners.

5.3 Residential Structures and Residential Portions of Mixed Use Structures

New residential *structures* and residential portions of mixed use *structures*, and *substantial improvement* (including repair of *substantial damage*) of existing residential *structures* and residential portions of mixed use *structures* shall comply with the applicable requirements of Section 4.0 and this section. See Section 5.5 for requirements for horizontal additions.

(A) Elevation Requirements

- (1) *Lowest floors* shall be elevated to or above the *flood protection elevation*.
- (2) In *areas of shallow flooding* (Zone AO), the *lowest floor* (including *basement*) shall be elevated at least as high above the *highest adjacent grade* as the depth number specified in feet on the *FIRM* plus one (1) foot, or at least three (3) feet if a depth number is not specified.
- (3) *Enclosures below the lowest floor* shall meet the requirements of paragraph (C).

(B) Limitations on Use of Fill to Elevate Structures

Unless otherwise restricted by these regulations, especially by the limitations in Section 5.2(A) and Section 5.2(B), fill placed for the purpose of raising the ground level to support a building or *structure* shall:

- (1) Consist of earthen soil or rock materials only.
- (2) Extend laterally from the building footprint to provide for adequate access as a function of use; the Floodplain Administrator may seek advice from the State Fire Marshal's Office and/or the local fire services agency;
- (3) Comply with the requirements of the *building code* and be placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling;
- (4) Be sloped no steeper than one (1) vertical to two (2) horizontal, unless approved by the Floodplain Administrator;
- (5) Be protected from erosion associated with expected velocities during the occurrence of the *base flood*; unless approved by the Floodplain Administrator, fill slopes shall be protected by vegetation if the expected velocity is less than five feet per second, and by other means if the expected velocity is five feet per second or more; and
- (6) Be designed with provisions for adequate drainage and no adverse effect on adjacent properties.

(C) Enclosures Below the Lowest Floor

- (1) *Enclosures below the lowest floor* shall be used solely for parking of vehicles, building access, crawl/underfloor spaces, or limited storage.
- (2) *Enclosures below the lowest floor* shall be constructed using *flood damage-resistant materials*.

- (3) *Enclosures below the lowest floor* shall be provided with *flood openings* which shall meet the following criteria: [Note: See NFIP Technical Bulletin #1, "Openings in Foundation Walls and Walls of Enclosures."]
- (a) There shall be a minimum of two *flood openings* on different sides of each enclosed area; if a building has more than one *enclosure below the lowest floor*, each such enclosure shall have *flood openings* on exterior walls.
 - (b) The total net area of all *flood openings* shall be at least 1 square inch for each square foot of enclosed area (non-engineered *flood openings*), or the *flood openings* shall be engineered *flood openings* that are designed and certified by a *licensed* professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
 - (c) The bottom of each *flood opening* shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
 - (d) Any louvers, screens or other covers for the *flood openings* shall allow the automatic flow of floodwaters into and out of the enclosed area.
 - (e) If installed in doors, *flood openings* that meet requirements of paragraphs (a) through (d), are acceptable; however, doors without installed *flood openings* do not meet the requirements of this section.

5.4 Nonresidential Structures and Nonresidential Portions of Mixed Use Structures

New nonresidential *structures* and nonresidential portions of mixed use *structures*, and *substantial improvement* (including repair of *substantial damage*) of existing nonresidential *structures* and nonresidential portions of mixed use *structures* shall comply with the applicable requirements of Section 4.0 and the requirements of this section. See Section 5.5 for requirements for horizontal additions.

(A) Elevation Requirements

Elevated *structures* shall:

- (1) Have the *lowest floor* (including *basement*) elevated to or above the *flood protection elevation*; or
- (2) In *areas of shallow flooding* (Zone AO or AH), have the *lowest floor* (including *basement*) elevated at least as high above the *highest adjacent grade* as the

depth number specified in feet on the *FIRM* plus one (1) foot, or at least three (3) feet if a depth number is not specified; and

- (3) Have *enclosures below the lowest floor*, if any, that comply with the requirements of Section 5.3(C); or
- (4) If proposed to be elevated on fill, meet the limitations on fill in Section 5.3(B).

(B) Floodproofing Requirements

- (1) *Floodproofing* of new nonresidential buildings is not allowed in *nontidal waters of the State* (COMAR 26.17.04.11(B)(7)).
- (2) *Floodproofing* for *substantial improvement* of nonresidential buildings is allowed in *nontidal waters of the State*.
- (3) If *floodproofing* is proposed, *structures* shall:
 - (a) Be designed to be dry *floodproofed* such that the building or *structure* is watertight with walls and floors substantially impermeable to the passage of water to the level of the *flood protection elevation* plus 1.0 foot, or
 - (b) If located in an *area of shallow flooding* (Zone AO or AH), be dry *floodproofed* at least as high above the *highest adjacent grade* as the depth number specified on the *FIRM* plus two (2) feet, or at least four (4) feet if a depth number is not specified; and
 - (c) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - (d) Have *floodproofing* measures that are designed taking into consideration the nature of flood-related hazards; frequency, depth and duration of *flooding*; rate of rise and fall of floodwater; soil characteristics; flood-borne debris; at least 12 hours of flood warning time from a credible source; and time necessary to implement any measures that require human intervention;
 - (e) Have at least one door above the applicable flood elevation that allows human ingress and egress during conditions of *flooding*;
 - (f) Have an operations and maintenance plan that is filed with local emergency management officials and that specifies the owner/occupant's responsibilities to monitor flood potential; the location of any shields, doors, closures, tools, or other goods that are required for implementation;

maintenance of such goods; methods of installation; and periodic inspection; and

- (g) Be certified by a *licensed* professional engineer or *licensed* architect, through execution of a *Floodproofing Certificate* that states that the design and methods of construction meet the requirements of this section. The *Floodproofing Certificate* shall be submitted with the construction drawings as required in Section 3.5(A)(13).

5.5 Horizontal Additions

- (A) A horizontal addition proposed for a building or *structure* that was constructed after the date specified in Section 1.1 shall comply with the applicable requirements of Section 4.0 and this section.
- (B) In *nontidal waters of the State* that are subject to the regulatory authority of MDE, all horizontal additions shall comply with the applicable requirements of Section 4.0 and this section and:
 - (1) If the addition is structurally connected to the *base building*, the requirements of paragraph (C) apply.
 - (2) If the addition has an independent foundation and is not structurally connected to the *base building* and the common wall with the *base building* is modified by no more than a doorway, the *base building* is not required to be brought into compliance.
- (C) For horizontal additions that are structurally connected to the *base building*:
 - (1) If the addition combined with other proposed repairs, alterations, or modifications of the *base building* constitutes *substantial improvement*, the *base building* and the addition shall comply with the applicable requirements of Section 4.0 and this section.
 - (2) If the addition constitutes *substantial improvement*, the *base building* and the addition shall comply with all of the applicable requirements of Section 4.0 and this section.
- (D) For horizontal additions with independent foundations that are not structurally connected to the *base building* and the common wall with the *base building* is modified by no more than a doorway, the *base building* is not required to be brought into compliance.

- (E) A horizontal addition to a building or *structure* that is not *substantial improvement*, and is not located in *nontidal waters of the State*, is not required to comply with this section.

[Note: See "Substantial Improvement/Substantial Damage Desk Reference" (FEMA P-758).]

5.6 Accessory Structures

- (A) *Accessory structures* shall be limited to not more than 600 square feet in total floor area unless the lowest floor is elevated to or above the Flood Protection Elevation.
- (B) *Accessory structures* shall comply with the elevation requirements and other requirements of Section 5.3, the *floodproofing* requirements of Section 5.4(B), or shall:
- (1) Be useable only for parking of vehicles or limited storage;
 - (2) Be constructed with *flood damage-resistant materials* below the *base flood elevation*;
 - (3) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
 - (4) Be anchored to prevent flotation;
 - (5) Have electrical service and mechanical equipment elevated to or above the *base flood elevation*; and
 - (6) Have *flood openings* that meet the requirements of Section 5.3(C).

SECTION 6.0 RESERVED

SECTION 7.0 VARIANCES

7.1 General

The Appeals Board shall have the power to consider and authorize or deny *variances* from the strict application of the requirements of these regulations. A *variance* shall be approved only if it is determined to not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations, an unnecessary hardship would result.

Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Appeals Board may attach such conditions to *variances* as it deems necessary to further the purposes of these regulations.

No variance shall be granted for an *accessory structure* exceeding 600 square feet below the flood protection elevation.

The Appeals Board shall notify, in writing, any applicant to whom a *variance* is granted to construct or substantially improve a building or *structure* with its *lowest floor* below the elevation required by these regulations that the *variance* is to the floodplain management requirements of these regulations only, and that the cost of Federal flood insurance will be commensurate with the increased risk, with rates up to \$25 per \$100 of insurance coverage.

A record of all *variance* actions, including justification for issuance shall be maintained pursuant to Section 3.2(J) of these regulations.

7.2 Application for a Variance

- (A) The owner of property, or the owner's authorized agent, for which a *variance* is sought shall submit an application for a *variance* to the Floodplain Administrator.
- (B) At a minimum, the application shall contain the following information: name, address, and telephone number of the applicant and property owner; legal description of the property; parcel map; description of the existing use; description of the proposed use; site map showing the location of flood hazard areas, designated *floodway* boundaries, *flood zones*, *base flood elevations*, and *flood protection setbacks*; description of the *variance* sought; and reason for the *variance* request. *Variance* applications shall specifically address each of the considerations in Section 7.3.
- (C) If the application is for a *variance* to allow the *lowest floor* of a building or *structure* below the applicable minimum elevation required by these regulations, the application shall include a statement signed by the owner that, if granted, the conditions of the *variance* shall be recorded among the land records maintained by the Clerk of the Circuit Court for Washington County.

7.3 Considerations for Variances

The Floodplain Administrator shall request comments on *variance* applications from MDE (NFIP State Coordinator) and shall provide such comments to the Appeals Board.

In considering *variance* applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

- (A) The danger that materials may be swept onto other lands to the injury of others.
- (B) The danger to life and property due to *flooding* or erosion damage.
- (C) The susceptibility of the proposed *development* and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.

- (D) The importance of the services to the *community* provided by the proposed *development*.
- (E) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, *flooding* or erosion damage.
- (F) The necessity to the facility of a waterfront location, where applicable, or if the facility is a *functionally dependent use*.
- (G) The compatibility of the proposed use with existing and anticipated *development*.
- (H) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
- (I) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (K) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (L) The comments provided by MDE (NFIP State Coordinator).

7.4 Limitations for Granting Variances

The Appeals Board shall make an affirmative decision on a *variance* request only upon:

- (A) A showing of good and sufficient cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
- (B) A determination that failure to grant the *variance* would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- (C) A determination that the granting of a *variance* for *development* within any designated *floodway*, or flood hazard area with *base flood elevations* but no designated *floodway*, will not result in increased flood heights beyond that which is allowed in these regulations.

- (D) A determination that the granting of a *variance* will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.
- (E) A determination that the building, *structure* or other *development* is protected by methods to minimize flood damages.
- (F) A determination that the *variance* is the minimum necessary to afford relief, considering the flood hazard.

SECTION 8.0 ENFORCEMENT

8.1 Compliance Required

- (A) No building, *structure* or *development* shall hereafter be located, erected, constructed, reconstructed, improved, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations.
- (B) Failure to obtain a permit shall be a *violation* of these regulations and shall be subject to penalties in accordance with Section 8.3.
- (C) Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a *violation* of these regulations.

8.2 Notice of Violation and Stop Work Order

If the Floodplain Administrator determines that there has been a *violation* of any provision of these regulations, the Floodplain Administrator shall give notice of such *violation* to the owner, the owner's authorized agent, and the *person* responsible for such *violation*, and may issue a stop work order. The notice of *violation* or stop work order shall be in writing and shall:

- (A) Include a list of *violations*, referring to the section or sections of these regulations that have been violated;
- (B) Order remedial action which, if taken, will effect compliance with the provisions of these regulations;
- (C) Specify a reasonable period of time to correct the *violation*;
- (D) Advise the recipients of the right to appeal; and
- (E) Be served in person; or

- (F) Be posted in a conspicuous place in or on the property and sent by registered or certified mail to the last known mailing address, residence, or place of business of the recipients.

8.3 Violations and Penalties

Violations of these regulations or failure to comply with the requirements of these regulations or any conditions attached to a permit or *variance* shall constitute a misdemeanor. Any *person* responsible for a *violation* shall comply with the notice of *violation* or stop work order. Any *person* convicted of violating these regulations, failing to comply with these regulations or any conditions attached to a permit or *variance*, or failing to comply with a notice of *violation* or stop work order shall be fined not more than of One Thousand Dollars (\$1,000.00). Each day a *violation* continues shall be considered a separate offense. Nothing herein contained shall prevent Washington County from taking any other lawful action as is necessary to prevent or remedy any *violation*.

SECTION 9.0 SUBSEQUENT AMENDMENTS AND EFFECTIVE DATE

9.1 Subsequent Amendments

All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency. This ordinance shall be amended as required by the Federal Emergency Management Agency, Title 44, Code of Federal Regulations. All subsequent amendments to this ordinance are subject to the approval of the Federal Emergency Management Agency and the Maryland Department of the Environment.

9.2 Effective Date

ADOPTED this 16th day of May, 2017 and to be effective on the 15th day of August, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

Vicki C. Lumm, Clerk

BY: _____
Terry L. Baker, President

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.