

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

County Council of Howard County, Maryland

2013 Legislative Session

Legislative Day No. 9

Bill No. 41 -2013

Introduced by: The Chairperson at the request of the County Executive

AN ACT, required by the Federal Emergency Management Agency, amending floodplain regulations in the Howard County Code in order to remain eligible for the National Flood Insurance Program; defining certain terms; amending certain definitions; clarifying certain provisions; making certain technical corrections; clarifying certain prohibitions against the storage of materials in a floodplain; setting forth the statutory authority and purposes of floodplain regulations; providing that a stricter law shall govern if there is a conflict of law; providing a basis for establishing special flood hazard areas and base flood elevations; providing for the use and interpretation of Flood Insurance Rate Maps; setting forth certain requirements for certain types of development in the floodplain under certain conditions and subject to certain limitations; requiring certain permits consistent with current requirements; requiring certain information to be submitted with a permit application; providing for certain disclaimers and warnings; establishing the role, duties and responsibilities of the Floodplain Administrator; requiring certain conditions when a development is going to affect the flood-carrying capacity of nontidal waters; requiring that certain subdivision and development proposals minimize flood damage; providing for certain enforcement authority; clarifying certain variance criteria; and generally relating to floodplain regulations in the Howard County Code.

Introduced and read first time _____, 2013. Ordered posted and hearing scheduled.

By order _____
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2013.

By order _____
Sheila M. Tolliver, Administrator

This Bill was read the third time on _____, 2013 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2013 at ____ a.m./p.m.

By order _____
Sheila M. Tolliver, Administrator

Approved/Vetoed by the County Executive _____, 2013

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard
2 County Code is amended as follows:

3 *By Amending:*

- 4 1. *Title 3, Buildings.*
5 *Section 3.101, Amendments to the International Building Code, 2012 Edition*
6 *Subsection (b)(71)*
7
- 8 2. *Title 16, Planning, Zoning and Subdivisions and Land Development Regulations.*
9 *Section 16.115 "Floodplain preservation"*
10
- 11 3. *Title 16, Planning, Zoning and Subdivisions and Land Development Regulations.*
12 *Subtitle 7, Floodplain*
13

14 **Title 3. Buildings.**

15 **Subtitle 1. Building Code.**

16
17 **Section 3.101. Amendments to the International Building Code, 2012 Edition.**

18 (b) Local Amendments. The following amendments modify certain provisions of the adopted
19 Code.

20 (71) *Section 3112 Floodplain.*

21 Add new section 3112 after section 3111 as follows:

22 Section 3112 Floodplain.

23 3112.1 General. For the purpose of this section, the floodplain is delineated in title 16,
24 subtitle 7 of the Howard County Code.

25 3112.2 Within designated floodplain. The construction, reconstruction, modification,
26 alteration, repair, or improvement of buildings, [[mobile]] MANUFACTURED homes, or
27 other structures located within a designated floodplain shall be done in accordance with
28 the requirements set forth in this section.

29 3112.2.1 New construction. New residential or nonresidential construction shall not occur
30 within a designated floodplain.

1 Exception 1: [[Except for mobile homes, an]] AN existing nonconforming structure
2 located within a designated floodplain which is destroyed by fire[[,]]OR flood, or [[other
3 calamity]] THAT SUSTAINS SUBSTANTIAL DAMAGE may be restored to the same size and
4 dimension and in the same location on the same lot as the destroyed structure, provided
5 construction begins within 12 months of the date of destruction. Construction shall
6 comply with the elevating and floodproofing requirements of subsection 3112.4 for new
7 construction adjacent to a floodplain. [[Variances to the requirements set forth in
8 subsection 3112.4 may be granted by the Building Official in accordance with FEMA
9 regulations, section 60.6(a)(1), (3), (4), (5), and (6).]] A person shall not intentionally
10 demolish or reconstruct any nonconforming structure [[is prohibited by this Code]]. THIS
11 EXCEPTION DOES NOT APPLY TO MANUFACTURED HOMES. A MANUFACTURED HOME
12 CANNOT BE RESTORED UNDER ANY CONDITION WITHIN A DESIGNATED FLOODPLAIN.

13 Exception 2: Transportation networks, utility installations, piers, open pier structures, and
14 open decks approved by the Department of Public Works. Streets, sidewalks, pathways,
15 and utility systems in accordance with the Howard County Design Manual and all other
16 applicable codes, ordinances, resolutions, and regulations.

17 3112.2.2 Additions and enlargements. Existing nonconforming structures located within a
18 designated floodplain shall not be expanded or enlarged.

19 3112.2.3 Modifications, alterations, and repairs. Modifications, alterations, repairs, or
20 improvements that cost less than 50% of the fair market value of the structure may be
21 made to existing nonconforming structures located within a designated floodplain without
22 floodproofing or elevating if the owner demonstrates through a Maryland State registered
23 professional engineer that floodproofing or elevating is impractical.

24 3112.3 Substantial improvements within a designated floodplain. Substantial
25 improvements within a designated floodplain shall meet the standards set forth in this
26 subsection.

27 3112.3.1. Residential. The lowest floor, including a basement, of substantial
28 improvements to existing nonconforming residential structures located within a
29 designated floodplain shall be elevated to at least 2 feet above the 100-year flood
30 elevation.

1 3112.3.2. Nonresidential. The lowest floor, including a basement, of substantial
2 improvements to existing nonconforming nonresidential structures shall be elevated to at
3 least 2 feet above the 100-year flood elevation or shall be designed so that any area of the
4 building which is lower than 2 feet above the 100-year flood elevation, as determined or
5 approved by the department of public works, is watertight with walls substantially
6 impermeable to the passage of water and with structural components having the
7 capability of withstanding applicable hydrostatic, hydrodynamic, impact, soil, and, when
8 applicable, hurricane and tidal wave loading conditions. The water tightness and
9 structural capabilities shall be those described in floodproofing regulations published by
10 the Office of the Chief of Engineers, U.S. Army, Washington, D.C., [[March 1992]]
11 DECEMBER 1995, OR SUBSEQUENT REVISIONS, AND SECTION 16.705(C) OF THE HOWARD
12 COUNTY CODE.

13 3112.4 Construction Adjacent to a Designated Floodplain. Where buildings are located
14 adjacent to a designated floodplain the following subsections shall apply:

15 3112.4.1 Residential. In new construction of residential buildings or additions or
16 substantial improvements to residential buildings, all floors, including those of basement
17 and storage areas, shall be elevated at least 2 feet above the 100-year flood level.

18 3112.4.2 Nonresidential. In new construction of nonresidential buildings or additions or
19 substantial improvements to nonresidential buildings, either:

- 20 (i) All floors (including those of basement and storage areas) shall be elevated at
21 least 2 feet above the 100-year flood level, as determined or approved by the
22 [[department of public works]]DEPARTMENT OF PUBLIC WORKS; or
23 (ii) The construction or improvement (including attendant utility or sanitary facilities)
24 shall be designed so that any areas of the building that are lower than 2 feet above
25 the 100-year flood elevation, as determined or approved by the Department of
26 Public Works, are watertight with walls substantially impermeable to the passage
27 of water and with structural components having the capability of withstanding
28 applicable hydrostatic, hydrodynamic, impact, soil, and, when applicable,
29 hurricane and tidal wave loading conditions. Electrical, heating, ventilation,
30 plumbing, air conditioning equipment, and other service facilities associated with
31 the buildings shall be designed or located to prevent water from entering or

1 accumulating within the components during flood conditions. The water tightness
2 and structural capabilities shall be those described in floodproofing regulations,
3 published by the Office of the Chief of Engineers, U.S. Army, Washington, D.C.,
4 [[March 1992]] DECEMBER 1995, OR SUBSEQUENT REVISIONS, AND SECTION
5 16.705(C) OF THE HOWARD COUNTY CODE.

6 3112.4.3. Modifications, alterations or repairs. Modifications, alterations, repairs, or
7 improvements that costs less than 50% of the fair market value of the structure may be
8 made to existing nonconforming structures located adjacent to a designated floodplain
9 without floodproofing or elevating.

10 3112.4.4. VARIANCES. VARIANCES TO THE REQUIREMENTS SET FORTH IN THIS SUBSECTION
11 MAY BE GRANTED BY THE BUILDING OFFICIAL IN ACCORDANCE WITH SECTION 16.711 OF
12 THE HOWARD COUNTY CODE.

13 3112.5 Substantial improvements adjacent to a designated floodplain. SUBSTANTIAL
14 IMPROVEMENTS ADJACENT TO A DESIGNATED FLOODPLAIN SHALL MEET THE STANDARDS
15 SET FORTH IN THIS SUBSECTION.

16 3112.5.1 Residential. The lowest floor, including a basement, of substantial
17 improvements to existing nonconforming residential structures located adjacent to a
18 designated floodplain shall be elevated to at least 2 feet above the 100-year flood
19 elevation.

20 3112.5.2 Nonresidential. The lowest floor, including a basement, of substantial
21 improvements to existing nonconforming nonresidential structures located adjacent to a
22 designated floodplain shall be elevated to at least 2 feet above the 100-year flood
23 elevation or shall be designed so that any area of the building which is lower than 2 feet
24 above the 100-year flood elevation, as determined or approved by the [[department of
25 public works]]DEPARTMENT OF PUBLIC WORKS, is watertight with walls substantially
26 impermeable to the passage of water and with structural components having the
27 capability of withstanding applicable hydrostatic, hydrodynamic impact, soil, and, when
28 applicable, hurricane and tidal wave loading conditions. Electrical, heating, ventilation,
29 plumbing, air conditioning equipment, and other service facilities associated with the
30 buildings shall be designed or located so as to prevent water from entering or
31 accumulating within the components during conditions of flooding. The water tightness

1 and structural capabilities shall be those described in floodproofing regulations published
2 by the Office of the Chief of Engineers, U.S. Army, Washington, D.C., [[March 1992]]
3 DECEMBER 1995, OR SUBSEQUENT REVISIONS, AND SECTION 16.705(C) OF THE HOWARD
4 COUNTY CODE.

5 3112.6 Verification. For the purpose of verifying compliance with section
6 [[3111.4]]3112.4 for construction adjacent to a designated floodplain, the following shall
7 apply:

- 8 (i) When floodproofing by means other than elevating, a document stating that the
9 proposed construction has been adequately designed to withstand the loading
10 conditions stated in subsection 3112.4.2(ii) shall be certified by a professional
11 engineer or architect currently registered in Maryland. This document shall be
12 required prior to issuance of a building permit.
- 13 (ii) When floodproofing by elevating is used, the owner shall agree, in writing, to
14 provide a FEMA Elevation Certificate Form [[#81-31]]086-0-33, completed by a
15 professional engineer or professional land surveyor currently registered in
16 Maryland, certifying that the as-built lowest floor of the structure is elevated at
17 least 2 feet above the 100-year floodplain elevation. The agreement shall be made
18 prior to the issuance of the building permit and the completed certification shall
19 be submitted prior to foundation approval by the Building Official.
- 20 (iii) Fair market value of a structure shall be established by a recent (within 6 months)
21 formal appraisal from a qualified appraiser. Fair market value shall not include
22 land value.
- 23 (iv) Cost to repair or improve a structure shall be established by a recent (within 6
24 months) written estimate from a licensed contractor and shall include the
25 complete cost of repairs or improvements to the point of use or occupancy.

26 3112.7 Definitions. NOTWITHSTANDING CHAPTER 2 OF THE INTERNATIONAL BUILDING
27 CODE, THE FOLLOWING DEFINITIONS SHALL APPLY TO SECTION 3112, FLOODPLAIN, OF THIS
28 CODE:

29 *Accessory structure.* A detached structure on the same parcel or property as the
30 principal structure that has a use that is incidental to the principal structure including, but
31 not limited to, a shed or detached garage.

1 *ADJACENT TO A FLOODPLAIN. SHARING A COMMON BORDER WITH A FLOODPLAIN.*

2 *Basement.* An enclosed area that is below grade on all sides.

3 *Floodplain.* Shall be as delineated in title 16, subtitle 7 of the Howard County
4 Code.

5 *Floodproofing.* Any combination of additions, changes, or adjustments to a
6 structure which reduce or eliminate flood damage to real estate or improved real property,
7 water or sanitary facilities, or structures and their ~~[[contents]]~~ CONTENTS, SUCH THAT THE
8 BUILDINGS OR STRUCTURES ARE WATERTIGHT WITH WALLS SUBSTANTIALLY IMPERMEABLE
9 TO THE PASSAGE OF WATER AND WITH STRUCTURAL COMPONENTS HAVING THE CAPABILITY
10 OF RESISTING HYDROSTATIC AND HYDRODYNAMIC LOADS AND EFFECTS OF BUOYANCY.

11 *Historic structure.* A building listed on the National Register of Historic Places, a
12 State Inventory of Historic Places, or an Inventory of Historic Structures adopted by
13 resolution of the County Council. A HISTORIC STRUCTURE ALSO INCLUDES A STRUCTURE
14 THAT IS CERTIFIED OR PRELIMINARILY DETERMINED BY THE UNITED STATES SECRETARY OF
15 THE INTERIOR AS CONTRIBUTING TO THE HISTORICAL SIGNIFICANCE OF A REGISTERED
16 HISTORIC DISTRICT OR A DISTRICT PRELIMINARILY DETERMINED BY THE SECRETARY TO
17 QUALIFY AS A REGISTERED HISTORIC DISTRICT.

18 *Lowest floor.* The lowest floor or the lowest enclosed area, including a basement.
19 Lowest floor does not include an unfinished or flood resistant enclosure used solely for
20 parking vehicles, building access, or storage in an area other than a basement area. The
21 enclosure shall not be built so as to render the structure in violation of the applicable non-
22 elevation design requirements of subsections 3112.4 and 3112.6 of this Code.

23 ~~[[Mobile home]]~~ *MANUFACTURED HOME.* ~~[[A transportable residential structure~~
24 ~~that is built]]~~ on a permanent chasis and designed for use with or without a permanent
25 foundation when connected to the required utilities.]] A MANUFACTURED HOME SHALL
26 HAVE THE MEANING SET FORTH IN TITLE 16, SUBTITLE 7 OF THE HOWARD COUNTY CODE.

27 *New construction.* ~~[[A structure for which:~~

- 28 (i) The application for a building permit was received by the department of
29 inspections, licenses and permits on or after the date of adoption of this
30 subsection, including any subsequent improvements; or

1 (ii) If no building permit is needed for the structure, the structure was built,
2 constructed, or installed on or after the date of adoption of this subsection,
3 including any subsequent improvements.]] STRUCTURES, INCLUDING
4 ADDITIONS AND IMPROVEMENTS, AND THE PLACEMENT OF MANUFACTURED
5 HOMES, FOR WHICH THE START OF CONSTRUCTION COMMENCED ON OR
6 AFTER 3/15/1977, THE INITIAL EFFECTIVE DATE OF THE HOWARD COUNTY
7 FLOOD INSURANCE RATE MAP, INCLUDING ANY SUBSEQUENT
8 IMPROVEMENTS, ALTERATIONS, MODIFICATIONS, AND ADDITIONS TO SUCH
9 STRUCTURES.

10 The repair or replacement of a [[mobile]]MANUFACTURED home because
11 of substantial damage is considered to be new construction AND IS
12 PROHIBITED IN ACCORDANCE WITH SECTION 3112.2.1 OF THIS CODE.

13 *STRUCTURE*, FOR PURPOSES OF THIS SUBSECTION 3112 TO THIS CODE, SHALL HAVE
14 THE MEANING SET FORTH IN TITLE 16, SUBTITLE 7 OF THE HOWARD COUNTY CODE.

15 *Substantial damage.* Damage of any origin sustained by a structure where the cost
16 of returning the structure to its condition prior to damage would equal or exceed 50% of
17 the structure's fair market value before the damage occurred.

18 *Substantial improvement.* The repair, reconstruction, REHABILITATION, ADDITION,
19 or improvement of a building or structure, the cost of which is equal to or greater than
20 50% of the fair market value of the building or structure prior to damage, improvement,
21 or repair. For the purpose of this definition, "substantial improvement" occurs when the
22 first alteration of a wall, ceiling, floor, or other structural part of the building begins,
23 whether or not that alteration affects the external dimensions of the building or structure.
24 The term does not include any project for improving a building or structure to comply
25 with existing state or local health, sanitary, or housing code requirements which are
26 necessary to assure safe living conditions. This term does not include an alteration of a
27 historic structure PROVIDED THAT THE ALTERATION WILL NOT PRECLUDE THE STRUCTURE'S
28 CONTINUED DESIGNATION AS A HISTORIC STRUCTURE.

29 *Variance.* The grant of relief from a term of this subtitle.

30 3112.8 Variances and waivers. EXCEPT AS PROVIDED IN SECTION 3112.4 OF THIS CODE, A
31 [[A]] variance or waiver of this section is not allowed. THE BUILDING OFFICIAL SHALL

1 CONSIDER A VARIANCE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16.711 OF THE
2 HOWARD COUNTY CODE.

3 3112.9 Other agencies. A permit issued by the Building Official under this subtitle is not
4 valid until all necessary permits for the development are obtained. Receipt of federal or
5 state permits do not exempt a development from the provisions of this subtitle.
6

7 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

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

9
10 **Section 16.115. Floodplain preservation.**

11 (a) *Development Restricted in 100-Year Floodplain (BASE FLOOD ELEVATION)*. Development
12 within the boundaries of the [[100-year floodplain]]BASE FLOOD ELEVATION shall be pursuant to
13 [\[\[section 16.700 of this title\]\]](#) TITLE 16, SUBTITLE 7 OF THIS CODE. Most land within [[the 100-
14 year floodplain]] BASE FLOOD ELEVATION is considered a protection area (i.e., a stream valley or
15 valuable ecological area or scenic resource) which is shown:

- 16 (1) In the General Plan of Howard County for conservation status; or
17 (2) In the master plan of parks for acquisition as a conservation area; or
18 (3) In the capital improvement program for acquisition as a conservation area.

19 (b) *Floodplain Protection*. In subdivisions and site development plans containing a [[100-year
20 floodplain]] BASE FLOOD ELEVATION, the floodplain land shall be protected in accordance with
21 one of the following alternatives. Prior to the recordation of the final plat and final acceptance of
22 the construction drawings, a deed description of the floodplain will be provided when requested.

- 23 (1) *Deed the floodplain land to the County*. Developers are encouraged to dedicate
24 and deed the land in the [[100-year floodplain]]BASE FLOOD ELEVATION to
25 Howard County as permanent open space.
26 (2) *Grant a floodplain easement to Howard County*. If the floodplain is not dedicated
27 to the County, the developer shall grant the County right of entry through a
28 perpetual easement, and shall:
29 (i) Dedicate and deed the land area within the [[100-year floodplain]]BASE
30 FLOOD ELEVATION in fee simple to a legally constituted property owners
31 association. The property owners association may use the area in any

1 manner consistent with the maintenance and preservation of the area as a
2 floodplain; or

- 3 (ii) Include the [[100-year floodplain]] BASE FLOOD ELEVATION within the
4 boundary of the lots in accordance with section 16.120 of this subtitle. The
5 property owner whose lot includes floodplain area may use the area in any
6 manner consistent with the maintenance and preservation of the area as a
7 floodplain.

8 (c) *Prohibitions on Use of Floodplain Land:*

9 (1) A PERSON SHALL NOT STORE MATERIALS OF ANY KIND IN A FLOODPLAIN EITHER
10 TEMPORARILY OR PERMANENTLY. ACCORDINGLY, BUILDING [[Building]] materials
11 and other debris shall not be stored or discarded in floodplains.

12 (2) No clearing, excavating, filling, altering drainage, or impervious paving, may
13 occur on land located in a floodplain unless required or authorized by the
14 Department of Planning and Zoning upon the advice of the Department of
15 Inspections, Licenses and Permits, the Department of Public Works, the
16 Department of Recreation and Parks, the Soil Conservation District, or the
17 Maryland Department of the Environment. Any proposed construction of a
18 structure located within a floodplain shall be subject to the requirements of the
19 Howard County Building Code.

20 (d) *Delineation on Final Plats and Site Development Plans.* Floodplain limits shall be clearly
21 defined, except for agricultural preservation subdivisions and rural cluster subdivisions where the
22 floodplain is obviously not critical to the proposed development as defined by the Design
23 Manual nor critical to calculation of forest conservation obligations. Final plats and site
24 development plans shall show the following information:

25 (1) Floodplain elevations at every bearing change to be designated along floodplain
26 limits. Elevation shall be designated at not greater than 200-foot horizontal
27 intervals.

28 (2) Bearings and distances or coordinated values along each line.

29 (3) The area shall be labeled as "100-year floodplain, drainage, and utility easement."
30
31

- 1 (9) REINFORCE THAT THOSE WHO BUILD IN AND OCCUPY SPECIAL FLOOD HAZARD
2 AREAS SHOULD ASSUME RESPONSIBILITY FOR THEIR ACTIONS;
- 3 (10) MINIMIZE THE IMPACT OF DEVELOPMENT ON ADJACENT PROPERTIES WITHIN AND
4 NEAR FLOOD-PRONE AREAS;
- 5 (11) PROVIDE THAT THE FLOOD STORAGE AND CONVEYANCE FUNCTIONS OF
6 FLOODPLAINS ARE MAINTAINED;
- 7 (12) MINIMIZE THE IMPACT OF DEVELOPMENT ON THE NATURAL AND BENEFICIAL
8 FUNCTIONS OF FLOODPLAINS;
- 9 (13) PREVENT FLOODPLAIN USES THAT ARE EITHER HAZARDOUS OR ENVIRONMENTALLY
10 INCOMPATIBLE; AND
- 11 (14) MEET COMMUNITY PARTICIPATION REQUIREMENTS OF THE NATIONAL FLOOD
12 INSURANCE PROGRAM AS SET FORTH IN THE CODE OF FEDERAL REGULATIONS AT
13 44 C.F.R. SECTION 59.22.

14 (C) *ABROGATION AND GREATER RESTRICTIONS*. REGULATIONS GOVERNING THE FLOODPLAIN ARE
15 NOT INTENDED TO REPEAL OR ABROGATE ANY EXISTING REGULATIONS AND ORDINANCES,
16 INCLUDING SUBDIVISION REGULATIONS, THE HOWARD COUNTY ZONING REGULATIONS, THE
17 HOWARD COUNTY BUILDING CODE, THIS CODE, OR ANY EXISTING EASEMENTS, COVENANTS, OR
18 DEED RESTRICTIONS. IF A CONFLICT EXISTS BETWEEN THESE REGULATIONS AND ANY OTHER CODE
19 PROVISION, EASEMENT, COVENANT, OR DEED RESTRICTION, THE MORE RESTRICTIVE SHALL
20 GOVERN.

21

22 **Section [[16.700]]16.701. Definitions.**

23 EXCEPT AS SPECIFICALLY DEFINED IN THIS SECTION, TERMS USED IN THIS SUBTITLE SHALL HAVE
24 THE MEANINGS SET FORTH IN SUBSECTION 3112, FLOODPLAIN, OF THE HOWARD COUNTY
25 BUILDING CODE:

26 (A) *BASE FLOOD* MEANS THE FLOOD HAVING A ONE-PERCENT CHANCE OF BEING EQUALED OR
27 EXCEEDED IN ANY GIVEN YEAR; THE BASE FLOOD ALSO IS REFERRED TO AS THE 1-PERCENT ANNUAL
28 CHANCE (100-YEAR) FLOOD.

29 (B) *BASE FLOOD ELEVATIONS* (“BFE”) MEANS THE WATER SURFACE ELEVATION OF THE BASE FLOOD
30 IN RELATION TO THE DATUM SPECIFIED ON THE COUNTY’S FIRM. IN AREAS OF SHALLOW
31 FLOODING, THE BASE FLOOD ELEVATION IS THE HIGHEST ADJACENT NATURAL GRADE ELEVATION

1 PLUS THE DEPTH NUMBER SPECIFIED IN FEET ON THE FIRM, OR AT LEAST FOUR (4) FEET IF THE
2 DEPTH NUMBER IS NOT SPECIFIED.

3 ([[a]]C) *Building code* means the building code of Howard County adopted pursuant to subtitle
4 1, "Building Code" of title 3, "Buildings," of the Howard County Code.

5 ([[b]]D) *Design Manual* means Howard County's technical standards, approved by resolution of
6 the County Council, for design, construction and inspection of bridges, roads, storm drainage
7 structures, stormwater management systems, sidewalks, walkways, parking areas, traffic control
8 devices, water and sewer facilities, and other improvements.

9 (E) *DEVELOPMENT* MEANS ANY MANMADE CHANGE TO IMPROVED OR UNIMPROVED REAL ESTATE,
10 INCLUDING BUT NOT LIMITED TO BUILDINGS OR OTHER STRUCTURES, PLACEMENT OF
11 MANUFACTURED HOMES, MINING, DREDGING, FILLING, GRADING, PAVING, EXCAVATION OR
12 DRILLING OPERATIONS OR STORAGE OF EQUIPMENT OR MATERIALS.

13 (F) *FEMA* MEANS THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

14 (G) *FLOOD INSURANCE RATE MAP ("FIRM")* MEANS AN OFFICIAL MAP ON WHICH FEMA HAS
15 DELINEATED SPECIAL FLOOD HAZARD AREAS TO INDICATE THE MAGNITUDE AND NATURE OF FLOOD
16 HAZARDS, TO DESIGNATE APPLICABLE FLOOD ZONES, AND TO DELINEATE FLOODWAYS, IF
17 APPLICABLE. FIRMS THAT HAVE BEEN PREPARED IN DIGITAL FORMAT OR CONVERTED TO DIGITAL
18 FORMAT ARE REFERRED TO AS DIGITAL FIRMS (DFIRM).

19 (H) *FLOOD INSURANCE STUDY ("FIS")* MEANS THE OFFICIAL REPORT IN WHICH FEMA HAS
20 PROVIDED FLOOD PROFILES, FLOODWAY INFORMATION, AND THE WATER SURFACE ELEVATIONS.

21 (I) *MANUFACTURED HOME* MEANS A STRUCTURE, TRANSPORTABLE IN ONE OR MORE SECTIONS,
22 WHICH IS BUILT ON A PERMANENT CHASSIS AND IS DESIGNED FOR USE WITH OR WITHOUT A
23 PERMANENT FOUNDATION WHEN CONNECTED TO THE REQUIRED UTILITIES. THE TERM
24 MANUFACTURED HOME DOES NOT INCLUDE A RECREATIONAL VEHICLE.

25 (J) *MDE* MEANS THE MARYLAND DEPARTMENT OF THE ENVIRONMENT.

26 (K) *NFIP* MEANS THE NATIONAL FLOOD INSURANCE PROGRAM.

27 (L) *RECREATIONAL VEHICLE* MEANS A VEHICLE THAT IS BUILT ON A SINGLE CHASSIS, 400 SQUARE
28 FEET OR LESS WHEN MEASURED AT THE LARGEST HORIZONTAL PROJECTION, DESIGNED TO BE SELF-
29 PROPELLED OR PERMANENTLY TOWABLE BY A LIGHT DUTY TRUCK, AND DESIGNED PRIMARILY NOT
30 FOR USE AS A PERMANENT DWELLING, BUT AS TEMPORARY LIVING QUARTERS FOR RECREATIONAL,
31 CAMPING, TRAVEL, OR SEASONAL USE.

1 (M) *SPECIAL FLOOD HAZARD AREA (“SFHA”)* MEANS THE LAND IN THE FLOODPLAIN SUBJECT TO A
2 ONE-PERCENT OR GREATER CHANCE OF FLOODING IN ANY GIVEN YEAR. SPECIAL FLOOD HAZARD
3 AREAS ARE DESIGNATED BY FEMA IN FLOOD INSURANCE STUDIES AND ON FLOOD INSURANCE
4 RATE MAPS AS ZONES A, AE, AH, AO, A1-30, AND A99, AND ZONES VE AND V1-30. THE TERM
5 INCLUDES AREAS SHOWN ON OTHER FLOOD MAPS THAT ARE IDENTIFIED IN SECTION 16.703 OF THIS
6 SUBTITLE.

7 (N) *START OF CONSTRUCTION* MEANS THE DATE THE BUILDING PERMIT WAS ISSUED, PROVIDED THE
8 ACTUAL START OF CONSTRUCTION, REPAIR, RECONSTRUCTION, REHABILITATION, ADDITION
9 PLACEMENT, OR OTHER IMPROVEMENT WAS WITHIN 180 DAYS OF THE PERMIT DATE. THE ACTUAL
10 START MEANS EITHER THE FIRST PLACEMENT OF PERMANENT CONSTRUCTION OF A STRUCTURE ON A
11 SITE, SUCH AS THE POURING OF SLAB OR FOOTINGS, THE INSTALLATION OF PILES, THE
12 CONSTRUCTION OF COLUMNS, OR ANY WORK BEYOND THE STAGE OF EXCAVATION; OR THE
13 PLACEMENT OF A MANUFACTURED HOME ON A FOUNDATION. PERMANENT CONSTRUCTION DOES
14 NOT INCLUDE LAND PREPARATION, SUCH AS CLEARING, GRADING AND FILLING; NOR DOES IT
15 INCLUDE THE INSTALLATION OF STREETS AND/OR WALKWAYS; NOR DOES IT INCLUDE EXCAVATION
16 FOR A BASEMENT, FOOTINGS, PIERS, OR FOUNDATIONS OR THE ERECTION OF TEMPORARY FORMS;
17 NOR DOES IT INCLUDE THE INSTALLATION ON THE PROPERTY OF ACCESSORY STRUCTURES, SUCH AS
18 GARAGES OR SHEDS NOT OCCUPIED AS DWELLING UNITS OR NOT PART OF THE MAIN STRUCTURE.
19 FOR SUBSTANTIAL IMPROVEMENTS, THE ACTUAL START OF CONSTRUCTION MEANS THE FIRST
20 ALTERATION OF ANY WALL, CEILING, FLOOR, OR OTHER STRUCTURAL PART OF A BUILDING,
21 WHETHER OR NOT THAT ALTERATION AFFECTS THE EXTERNAL DIMENSIONS OF THE BUILDING.

22 (O) *STRUCTURE* MEANS THAT WHICH IS BUILT OR CONSTRUCTED; SPECIFICALLY, A WALLED AND
23 ROOFED BUILDING, INCLUDING A GAS OR LIQUID STORAGE TANK THAT IS PRINCIPALLY ABOVE
24 GROUND, AS WELL AS A MANUFACTURED HOME.

25 (P) *VIOLATION* MEANS (I) ANY CONSTRUCTION OR DEVELOPMENT IN A SPECIAL FLOOD HAZARD
26 AREA THAT IS BEING PERFORMED WITHOUT AN ISSUED PERMIT, (II) THE FAILURE OF A BUILDING,
27 STRUCTURE, OR OTHER DEVELOPMENT FOR WHICH A PERMIT IS ISSUED TO BE FULLY COMPLIANT
28 WITH THESE REGULATIONS AND THE CONDITIONS OF THE ISSUED PERMIT, OR (III) A BUILDING,
29 STRUCTURE, OR OTHER DEVELOPMENT WITHOUT THE REQUIRED DESIGN CERTIFICATIONS, THE
30 ELEVATION CERTIFICATE, OR OTHER EVIDENCE OF COMPLIANCE REQUIRED IS PRESUMED TO BE A
31 VIOLATION UNTIL SUCH TIME AS THE REQUIRED DOCUMENTATION IS PROVIDED.

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Section [[16.701]]16.702. Floodplain delineation.

(a) An area to be known as "floodplain" shall include all areas subject to inundation by the waters of the [[100-year]] ONE-PERCENT ANNUAL CHANCE flood. The source of this delineation shall be the Flood Insurance Study FOR HOWARD COUNTY, MARYLAND AND INCORPORATED AREAS, EFFECTIVE NOVEMBER 6, 2013, OR THE MOST RECENT REVISION THEREOF, and THE ACCOMPANYING Flood Insurance Rate Maps, EFFECTIVE NOVEMBER 6, 2013, AND ALL SUBSEQUENT AMENDMENTS AND REVISIONS TO THE FIRMS prepared for Howard County by the Federal Emergency Management Agency or the floodplain studies and requirements of the Department of Public Works and the Department of Planning and Zoning, whichever is more restrictive.

(b) The floodplain shall be comprised of three parts as follows:

- (1) *Floodway.* That portion of the floodplain required to carry and discharge the waters of the [[100-year]] ONE-PERCENT ANNUAL CHANCE flood without increasing the water surface elevation at any point more than one foot above existing conditions.
- (2) *Floodway fringe.* Those portions of land within the floodplain subject to inundation by the [[100-year]] ONE-PERCENT ANNUAL CHANCE flood, lying beyond the floodway.
- (3) *Approximate floodplain.* Those portions of land within the floodplain subject to inundation by the [[100-year]] ONE-PERCENT ANNUAL CHANCE flood, where a detailed study has not been performed, but where a 100-year floodplain boundary has been approximated.

The delineation of the floodplain may be revised, and amended by the Department of Public Works or the Department of Planning and Zoning based upon data reflecting natural or reconstructed physical changes, provided that all such revisions, amendments, and modifications shall be subject to the review and approval of the Federal Emergency Management Agency.

1 **SECTION 16.703. BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS AND BASE**
2 **FLOOD ELEVATIONS.**

3 (A) FOR THE PURPOSES OF THIS SUBTITLE, THE MINIMUM BASIS FOR ESTABLISHING SPECIAL FLOOD
4 HAZARD AREAS AND BASE FLOOD ELEVATIONS IS THE FIS FOR HOWARD COUNTY, MARYLAND AND
5 INCORPORATED AREAS DATED NOVEMBER 6, 2013, OR THE MOST RECENT REVISION THEREOF, AND
6 THE ACCOMPANYING FIRMS AND ALL SUBSEQUENT AMENDMENTS AND REVISIONS TO THE FIRMS.
7 THE FIS AND FIRMS ARE RETAINED ON FILE AND AVAILABLE TO THE PUBLIC AT THE DEPARTMENT
8 OF PUBLIC WORKS.

9 (B) WHERE FIELD SURVEYED TOPOGRAPHY OR DIGITAL TOPOGRAPHY INDICATES THAT GROUND
10 ELEVATIONS ARE BELOW THE CLOSEST APPLICABLE BASE FLOOD ELEVATION, EVEN IN AREAS NOT
11 DELINEATED AS A SPECIAL FLOOD HAZARD ON THE FIRM, THE AREA SHALL BE CONSIDERED AS
12 SPECIAL FLOOD HAZARD AREA.

13 (C) TO ESTABLISH BASE FLOOD ELEVATIONS IN SPECIAL FLOOD HAZARD AREAS THAT DO NOT HAVE
14 SUCH ELEVATIONS SHOWN ON THE FIRM, THE FLOODPLAIN ADMINISTRATOR MAY PROVIDE THE
15 BEST AVAILABLE DATA FOR BASE FLOOD ELEVATIONS, MAY REQUIRE THE APPLICANT TO OBTAIN
16 AVAILABLE INFORMATION FROM FEDERAL, STATE OR OTHER SOURCES, OR MAY REQUIRE THE
17 APPLICANT TO ESTABLISH SPECIAL FLOOD HAZARD AREAS AND BASE FLOOD ELEVATIONS AS SET
18 FORTH IN SECTION 16.704 AND 16.706 OF THIS SUBTITLE.

19
20 **SECTION 16.704. USE AND INTERPRETATIONS OF FIRMS.**

21 (A) THE FLOODPLAIN ADMINISTRATOR SHALL MAKE INTERPRETATIONS, WHERE NEEDED, AS TO
22 THE EXACT LOCATION OF SPECIAL FLOOD HAZARD AREAS, FLOODPLAIN BOUNDARIES, AND
23 FLOODWAY BOUNDARIES.

24 (B) THE FOLLOWING SHALL APPLY TO THE USE AND INTERPRETATION OF FIRMS AND DATA:

25 (1) WHERE FIELD SURVEYED TOPOGRAPHY INDICATES THAT GROUND ELEVATIONS:

26 (I) ARE BELOW THE BASE FLOOD ELEVATION, EVEN IN AREAS NOT DELINEATED
27 AS A SPECIAL FLOOD HAZARD AREA ON A FIRM, THE AREA SHALL BE
28 CONSIDERED AS SPECIAL FLOOD HAZARD AREA AND SUBJECT TO THE
29 REQUIREMENTS OF THESE REGULATIONS;

30 (II) ARE ABOVE THE BASE FLOOD ELEVATION, THE AREA SHALL BE REGULATED
31 AS SPECIAL FLOOD HAZARD AREA UNLESS THE APPLICANT OBTAINS A

1 LETTER OF MAP CHANGE THAT REMOVES THE AREA FROM THE SPECIAL
2 FLOOD HAZARD AREA.

- 3 (2) IN FEMA-IDENTIFIED SPECIAL FLOOD HAZARD AREAS WHERE BASE FLOOD
4 ELEVATION AND FLOODWAY DATA HAVE NOT BEEN IDENTIFIED AND IN AREAS
5 WHERE FEMA HAS NOT IDENTIFIED SPECIAL FLOOD HAZARD AREAS, ANY OTHER
6 FLOOD HAZARD DATA AVAILABLE FROM A FEDERAL, STATE, OR OTHER SOURCE
7 SHALL BE REVIEWED AND REASONABLY USED.
- 8 (3) BASE FLOOD ELEVATIONS AND DESIGNATED FLOODWAY BOUNDARIES ON FIRMS
9 AND IN FISs SHALL TAKE PRECEDENCE OVER BASE FLOOD ELEVATIONS AND
10 FLOODWAY BOUNDARIES BY ANY OTHER SOURCES IF SUCH SOURCES SHOW
11 REDUCED FLOODWAY WIDTHS AND/OR LOWER BASE FLOOD ELEVATIONS.
- 12 (4) OTHER SOURCES OF DATA SHALL BE REASONABLY USED IF SUCH SOURCES SHOW
13 INCREASED BASE FLOOD ELEVATIONS AND/OR LARGER FLOODWAY AREAS THAN ARE
14 SHOWN ON FIRMS AND IN FISs.
- 15 (5) IF A PRELIMINARY FLOOD INSURANCE RATE MAP AND/OR A PRELIMINARY FLOOD
16 INSURANCE STUDY HAS BEEN PROVIDED BY FEMA:
- 17 (I) UPON THE ISSUANCE OF A LETTER OF FINAL DETERMINATION BY FEMA,
18 THE PRELIMINARY FLOOD HAZARD DATA SHALL BE USED AND SHALL
19 REPLACE THE FLOOD HAZARD DATA PREVIOUSLY PROVIDED FROM FEMA
20 FOR THE PURPOSES OF ADMINISTERING THESE REGULATIONS.
- 21 (II) PRIOR TO THE ISSUANCE OF A LETTER OF FINAL DETERMINATION BY
22 FEMA, THE USE OF PRELIMINARY FLOOD HAZARD DATA SHALL BE DEEMED
23 THE BEST AVAILABLE DATA PURSUANT TO SECTION 16.703(C) OF THIS
24 SUBTITLE AND USED WHERE NO BASE FLOOD ELEVATIONS OR FLOODWAY
25 AREAS ARE PROVIDED ON THE EFFECTIVE FIRM.
- 26 (III) PRIOR TO ISSUANCE OF A LETTER OF FINAL DETERMINATION BY FEMA,
27 THE USE OF PRELIMINARY FLOOD HAZARD DATA IS PERMITTED WHERE THE
28 PRELIMINARY BASE FLOOD ELEVATIONS OR FLOODWAY AREAS EXCEED THE
29 BASE FLOOD ELEVATIONS AND/OR DESIGNATED FLOODWAY WIDTHS IN
30 EXISTING FLOOD HAZARD DATA PROVIDED BY FEMA. SUCH PRELIMINARY
31 DATA MAY BE SUBJECT TO CHANGE OR APPEAL TO FEMA.

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Section ~~[[16.702]]16.705. Requirements and restrictions applicable to the floodplain.~~

(a) Within the ~~[[floodway and floodway fringe]]FLOODPLAIN~~, no development shall be permitted except as provided in THIS SUBTITLE, the Howard County Building Code adopted at Title 3, Subtitle 1 of the Howard County Code and the Subdivision Regulations adopted at Title 16, Subtitle 1 of the Howard County Code.

(b) Within the approximate floodplain for new subdivisions, site development plans, or single lots, the 100-year flood elevations shall be certified by a qualified design professional as determined by the Director of the Department of Public Works based on hydrologic and hydraulic analyses which include a floodway analysis. For a single lot, if no data are available, methods described in Federal Emergency Management Agency Publication No. 265, "Managing Floodplain Development in Approximate Zone A Areas", or a method approved by the Department of Planning and Zoning shall be used to determine the ~~[[100-year]]BASE~~ flood elevation.

(c) *BUILDINGS AND STRUCTURES.* IN ADDITION TO THE REQUIREMENTS SET FORTH IN THE HOWARD COUNTY BUILDING CODE, 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:

- (1) 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 HOWARD COUNTY BUILDING CODE, WHICHEVER IS HIGHER.
- (2) BE CONSTRUCTED BY METHODS AND PRACTICES THAT MINIMIZE FLOOD DAMAGE.

1 (3) USE FLOOD DAMAGE-RESISTANT MATERIALS BELOW THE ELEVATION OF THE
2 LOWEST FLOOR REQUIRED IN SECTION 3112 OF THE HOWARD COUNTY BUILDING
3 CODE.

4 (4) HAVE ELECTRICAL SYSTEMS, EQUIPMENT AND COMPONENTS, AND MECHANICAL,
5 HEATING, VENTILATING, AIR CONDITIONING, AND PLUMBING APPLIANCES,
6 PLUMBING FIXTURES, DUCT SYSTEMS, AND OTHER SERVICE EQUIPMENT LOCATED AT
7 OR ABOVE THE ELEVATION OF THE LOWEST FLOOR REQUIRED IN SECTION 3112 OF
8 THE HOWARD COUNTY BUILDING CODE. ELECTRICAL WIRING SYSTEMS ARE
9 PERMITTED TO BE LOCATED BELOW ELEVATION OF THE LOWEST FLOOR PROVIDED
10 THEY CONFORM TO THE PROVISIONS OF THE ELECTRICAL PART OF THE HOWARD
11 COUNTY BUILDING CODE FOR WET LOCATIONS. IF REPLACED AS PART OF A
12 SUBSTANTIAL IMPROVEMENT, ELECTRICAL SYSTEMS, EQUIPMENT AND
13 COMPONENTS, AND HEATING, VENTILATION, AIR CONDITIONING, AND PLUMBING
14 APPLIANCES, PLUMBING FIXTURES, DUCT SYSTEMS, AND OTHER SERVICE EQUIPMENT
15 SHALL MEET THE REQUIREMENTS OF THIS SECTION.

16 (5) AS AN ALTERNATIVE TO PARAGRAPH (4), ELECTRICAL SYSTEMS, EQUIPMENT AND
17 COMPONENTS, AND HEATING, VENTILATING, AIR CONDITIONING, AND PLUMBING
18 APPLIANCES, PLUMBING FIXTURES, DUCT SYSTEMS, AND OTHER SERVICE EQUIPMENT
19 ARE PERMITTED TO BE LOCATED BELOW THE ELEVATION OF THE LOWEST FLOOR
20 PROVIDED THEY ARE DESIGNED AND INSTALLED TO PREVENT WATER FROM
21 ENTERING OR ACCUMULATING WITHIN THE COMPONENTS AND TO RESIST
22 HYDROSTATIC AND HYDRODYNAMIC LOADS AND STRESSES, INCLUDING THE
23 EFFECTS OF BUOYANCY, DURING THE OCCURRENCE OF FLOODING TO THAT
24 ELEVATION.

25 (6) HAVE THE ELECTRIC PANELBOARD ELEVATED AT LEAST THREE (3) FEET ABOVE THE
26 BFE.

27 (7) COMPLY WITH THE REQUIREMENTS OF THE MOST RESTRICTIVE DESIGNATION IF
28 LOCATED ON A SITE THAT HAS MORE THAN ONE FLOOD ZONE DESIGNATION (A
29 ZONE, DESIGNATED FLOODWAY).

30 (D) *RECREATIONAL VEHICLES*. RECREATIONAL VEHICLES SHALL:

- 1 (1) COMPLY WITH THE REQUIREMENTS FOR MANUFACTURED HOMES AS SET FORTH IN
- 2 THE HOWARD COUNTY BUILDING CODE;
- 3 (2) BE FULLY LICENSED AND READY FOR HIGHWAY USE; OR
- 4 (3) BE ON A SITE FOR LESS THAN 180 CONSECUTIVE DAYS.

5 (E) *PROTECTION OF WATER SUPPLY AND SANITARY SEWAGE SYSTEMS.*

- 6 (1) NEW AND REPLACEMENT WATER SUPPLY SYSTEMS SHALL BE DESIGNED TO
- 7 MINIMIZE OR ELIMINATE INFILTRATION OF FLOODWATERS INTO THE SYSTEMS.
- 8 (2) NEW AND REPLACEMENT SANITARY SEWAGE SYSTEMS SHALL BE DESIGNED TO
- 9 MINIMIZE OR ELIMINATE INFILTRATION OF FLOODWATERS INTO SYSTEMS AND
- 10 DISCHARGES FROM SYSTEMS INTO FLOODWATERS.
- 11 (3) IN ADDITION TO THE REQUIREMENTS OF SECTION 3.808 OF THIS CODE, ON-SITE
- 12 WASTE DISPOSAL SYSTEMS SHALL BE LOCATED TO AVOID IMPAIRMENT TO OR
- 13 CONTAMINATION FROM THEM DURING CONDITIONS OF FLOODING.

14
15 **SECTION 16.706. PERMITS.**

16 (A) *PERMITS REQUIRED.* A PERSON SHALL NOT BEGIN ANY DEVELOPMENT OR CONSTRUCTION
17 WHICH IS WHOLLY WITHIN, PARTIALLY WITHIN, OR IN CONTACT WITH ANY FLOOD HAZARD AREA
18 ESTABLISHED IN SECTION 16.703 OF THIS SUBTITLE, INCLUDING BUT NOT LIMITED TO: FILLING;
19 GRADING; CONSTRUCTION OF NEW STRUCTURES; THE SUBSTANTIAL IMPROVEMENT OF BUILDINGS
20 OR STRUCTURES, INCLUDING REPAIR OF SUBSTANTIAL DAMAGE; PLACEMENT OR REPLACEMENT OF
21 MANUFACTURED HOMES, INCLUDING SUBSTANTIAL IMPROVEMENT OR REPAIR OF SUBSTANTIAL
22 DAMAGE OF MANUFACTURED HOMES; ERECTING OR INSTALLING A TEMPORARY STRUCTURE, OR
23 ALTERATION OF A WATERCOURSE, UNTIL A PERMIT IS OBTAINED FROM THE COUNTY IN
24 ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE AND THE HOWARD COUNTY BUILDING
25 CODE.

26 (B) IN ADDITION TO THE PERMITS REQUIRED IN PARAGRAPH (A), APPLICANTS FOR PERMITS IN
27 NONTIDAL WATERS OF THE STATE ARE ADVISED TO CONTACT MDE. UNLESS WAIVED BY MDE,
28 PURSUANT TO CODE OF MARYLAND REGULATIONS 26.17.04, CONSTRUCTION ON NONTIDAL
29 WATERS AND FLOODPLAINS, MDE REGULATES THE “100-YEAR FREQUENCY FLOODPLAIN OF FREE-
30 FLOWING WATERS,” ALSO REFERRED TO AS NONTIDAL WATERS OF THE STATE. TO DETERMINE THE
31 100-YEAR FREQUENCY FLOODPLAIN, HYDROLOGIC CALCULATIONS ARE BASED ON THE ULTIMATE

1 DEVELOPMENT OF THE WATERSHED, ASSUMING EXISTING ZONING. THE RESULTING FLOOD HAZARD
2 AREAS DELINEATED USING THE RESULTS OF SUCH CALCULATIONS MAY BE DIFFERENT THAN THE
3 SPECIAL FLOOD HAZARD AREAS ESTABLISHED IN SECTION 16.703 OF THIS SUBTITLE.

4 (C) A PERMIT IS VALID PROVIDED THE ACTUAL START OF WORK IS WITHIN 180 DAYS OF THE DATE
5 OF PERMIT ISSUANCE. REQUESTS FOR EXTENSIONS SHALL BE SUBMITTED IN WRITING AND
6 JUSTIFIABLE CAUSE DEMONSTRATED. THE FLOODPLAIN ADMINISTRATOR MAY GRANT, IN WRITING,
7 ONE OR MORE EXTENSIONS OF TIME, FOR ADDITIONAL PERIODS NOT EXCEEDING MORE THAN 90
8 DAYS EACH AND PROVIDED THERE HAS BEEN NO AMENDMENT OR REVISION TO THE BASIS FOR
9 ESTABLISHING SPECIAL FLOOD HAZARD AREAS AND BFEs SET FORTH IN SECTION 16.703 OF THIS
10 SUBTITLE.

11 (D) *APPLICATION REQUIRED.* IN ACCORDANCE WITH THE HOWARD COUNTY BUILDING CODE, AN
12 APPLICATION FOR A PERMIT SHALL BE MADE BY THE OWNER OF THE PROPERTY OR THE OWNER'S
13 AUTHORIZED AGENT PRIOR TO THE START OF ANY WORK. THE APPLICATION SHALL BE ON A FORM
14 PROVIDED BY THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS.

15 (E) *ADDITIONAL APPLICATION REQUIREMENTS –CERTAIN DEVELOPMENT.* IN ADDITION TO THE
16 PERMIT APPLICATION REQUIREMENTS SET FORTH IN SECTION 3.101 OF THIS CODE, A PERMIT
17 APPLICATION FOR DEVELOPMENT PROPOSALS AND SUBDIVISION PROPOSALS HAVING THE LESSER OF
18 5 LOTS OR AT LEAST 5 ACRES IN SPECIAL FLOOD HAZARD AREAS WHERE BASE FLOOD ELEVATIONS
19 ARE NOT SHOWN ON THE FIRM SHALL INCLUDE:

- 20 (1) A DETERMINATION OF THE BASE FLOOD ELEVATIONS; AND
- 21 (2) IF HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSES ARE SUBMITTED, SUCH
22 ANALYSES SHALL BE PERFORMED IN ACCORDANCE WITH THE REQUIREMENTS AND
23 SPECIFICATIONS OF MDE AND FEMA.

24 (F) *NEW TECHNICAL DATA.*

- 25 (1) THE APPLICANT MAY SEEK A LETTER OF MAP CHANGE BY SUBMITTING NEW
26 TECHNICAL DATA TO FEMA, SUCH AS BASE MAPS, TOPOGRAPHY, AND ENGINEERING
27 ANALYSES TO SUPPORT REVISION OF FLOODPLAIN AND FLOODWAY BOUNDARIES
28 AND/OR BASE FLOOD ELEVATIONS. SUCH SUBMISSIONS SHALL BE PREPARED IN A
29 FORMAT ACCEPTABLE TO FEMA AND ANY FEES SHALL BE THE SOLE
30 RESPONSIBILITY OF THE APPLICANT. A COPY OF THE SUBMITTAL SHALL BE
31 ATTACHED TO THE APPLICATION FOR A PERMIT.

1 (2) AN APPLICANT WHO SUBMITS NEW TECHNICAL DATA TO SUPPORT ANY CHANGE IN
2 FLOODPLAIN AND DESIGNATED FLOODWAY BOUNDARIES OR BASE FLOOD
3 ELEVATIONS SHALL SUBMIT A LETTER OF MAP CHANGE FROM FEMA AS SOON AS
4 PRACTICABLE, BUT NOT LATER THAN SIX MONTHS AFTER THE DATE SUCH
5 INFORMATION BECOMES AVAILABLE. SUCH SUBMISSIONS SHALL BE PREPARED IN A
6 FORMAT ACCEPTABLE TO FEMA AND ANY FEES SHALL BE THE SOLE
7 RESPONSIBILITY OF THE APPLICANT.

8 (G) *APPLICATION OF REQUIREMENTS.* THE GENERAL REQUIREMENTS OF THIS SUBTITLE AND THE
9 HOWARD COUNTY BUILDING CODE APPLY TO ALL DEVELOPMENT PROPOSED WITHIN ALL SPECIAL
10 FLOOD HAZARD AREAS IDENTIFIED IN SECTION 16.703 OF THIS SUBTITLE.

11
12 **SECTION 16.707. WARNING AND DISCLAIMER OF LIABILITY.**

13 (A) *WARNING.* THE DEGREE OF FLOOD PROTECTION REQUIRED BY FLOODPLAIN REGULATIONS
14 CONTAINED IN THE HOWARD COUNTY CODE IS CONSIDERED REASONABLE FOR REGULATORY
15 PURPOSES AND IS BASED ON SCIENTIFIC AND ENGINEERING CONSIDERATIONS. LARGER FLOODS CAN
16 AND WILL OCCUR, AND FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES.
17 THESE REGULATIONS DO NOT IMPLY THAT LAND OUTSIDE OF THE SPECIAL FLOOD HAZARD AREAS
18 OR USES THAT ARE PERMITTED WITHIN SUCH AREAS WILL BE FREE FROM FLOODING OR FLOOD
19 DAMAGE.

20 (B) *DISCLAIMER.* THESE REGULATIONS SHALL NOT CREATE LIABILITY ON THE PART OF HOWARD
21 COUNTY, ANY OFFICER, OFFICIAL, OR EMPLOYEE THEREOF, MDE OR FEMA, FOR ANY FLOOD
22 DAMAGE THAT RESULTS FROM RELIANCE ON THESE REGULATIONS OR ANY ADMINISTRATIVE
23 DECISION LAWFULLY MADE HEREUNDER.

24
25 **SECTION 16.708. FLOODPLAIN ADMINISTRATOR.**

26 (A) *DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.* THE DIRECTOR OF THE DEPARTMENT OF
27 PUBLIC WORKS IS APPOINTED TO ADMINISTER AND IMPLEMENT FLOODPLAIN REGULATIONS AS
28 CONTAINED IN THIS CODE AND IS REFERRED TO AS THE FLOODPLAIN ADMINISTRATOR.

1 (B) *DELEGATION OF AUTHORITY.* THE FLOODPLAIN ADMINISTRATOR MAY:

2 (1) DELEGATE DUTIES AND RESPONSIBILITIES SET FORTH IN THESE REGULATIONS TO
3 QUALIFIED TECHNICAL PERSONNEL, PLAN EXAMINERS, INSPECTORS, AND OTHER
4 EMPLOYEES; AND

5 (2) ENTER INTO A WRITTEN AGREEMENT OR WRITTEN CONTRACT WITH ANOTHER
6 MARYLAND POLITICAL SUBDIVISION OR PRIVATE SECTOR ENTITY TO ADMINISTER
7 SPECIFIC PROVISIONS OF THIS SUBTITLE, SUBTITLE 7 OF THIS TITLE, AND THE
8 HOWARD COUNTY BUILDING CODE. ADMINISTRATION OF ANY PART OF THESE
9 REGULATIONS BY ANOTHER ENTITY SHALL NOT RELIEVE THE POLITICAL
10 SUBDIVISION OF ITS RESPONSIBILITIES PURSUANT TO THE PARTICIPATION
11 REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM AS SET FORTH IN
12 THE CODE OF FEDERAL REGULATIONS AT 44 C.F.R. SECTION 59.22.

13 (C) *DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.* THE DUTIES AND
14 RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR SHALL INCLUDE BUT ARE NOT LIMITED TO:

15 (1) REVIEW APPLICATIONS FOR PERMITS TO DETERMINE WHETHER PROPOSED
16 ACTIVITIES WILL BE LOCATED IN FLOOD HAZARD AREAS.

17 (2) INTERPRET FLOODPLAIN BOUNDARIES AND PROVIDE AVAILABLE BASE FLOOD
18 ELEVATION AND FLOOD HAZARD INFORMATION.

19 (3) REVIEW APPLICATIONS TO DETERMINE WHETHER PROPOSED ACTIVITIES WILL BE
20 REASONABLY SAFE FROM FLOODING AND REQUIRE NEW CONSTRUCTION AND
21 SUBSTANTIAL IMPROVEMENTS TO MEET THE REQUIREMENTS OF THESE
22 REGULATIONS.

23 (4) REVIEW APPLICATIONS TO DETERMINE WHETHER ALL NECESSARY PERMITS HAVE
24 BEEN OBTAINED FROM THE FEDERAL, STATE OR LOCAL AGENCIES FROM WHICH
25 PRIOR OR CONCURRENT APPROVAL IS REQUIRED; IN PARTICULAR, PERMITS FROM
26 MDE FOR ANY CONSTRUCTION, RECONSTRUCTION, REPAIR, OR ALTERATION OF A
27 DAM, RESERVOIR, OR WATERWAY OBSTRUCTION (INCLUDING BRIDGES, CULVERTS,
28 STRUCTURES), ANY ALTERATION OF A WATERCOURSE, OR ANY CHANGE OF THE
29 COURSE, CURRENT, OR CROSS SECTION OF A STREAM OR BODY OF WATER,
30 INCLUDING ANY CHANGE TO THE 100-YEAR FREQUENCY FLOODPLAIN OF FREE-
31 FLOWING NONTIDAL WATERS OF THE STATE.

- 1 (5) VERIFY THAT APPLICANTS PROPOSING AN ALTERATION OF A WATERCOURSE HAVE
2 NOTIFIED ADJACENT COMMUNITIES AND MDE (NFIP STATE COORDINATOR), AND
3 HAVE SUBMITTED COPIES OF SUCH NOTIFICATIONS TO FEMA.
- 4 (6) APPROVE APPLICATIONS AND ISSUE PERMITS TO DEVELOP IN FLOOD HAZARD AREAS
5 IF THE PROVISIONS OF THESE REGULATIONS HAVE BEEN MET, OR DISAPPROVE
6 APPLICATIONS IF THE PROVISIONS OF THESE REGULATIONS HAVE NOT BEEN MET.
- 7 (7) INSPECT OR CAUSE TO BE INSPECTED, BUILDINGS, STRUCTURES, AND OTHER
8 DEVELOPMENT FOR WHICH PERMITS HAVE BEEN ISSUED TO DETERMINE
9 COMPLIANCE WITH THESE REGULATIONS OR TO DETERMINE IF NON-COMPLIANCE
10 HAS OCCURRED OR VIOLATIONS HAVE BEEN COMMITTED.
- 11 (8) REVIEW ELEVATION CERTIFICATES AND REQUIRE INCOMPLETE OR DEFICIENT
12 CERTIFICATES TO BE CORRECTED.
- 13 (9) SUBMIT TO FEMA, OR REQUIRE APPLICANTS TO SUBMIT TO FEMA, DATA AND
14 INFORMATION NECESSARY TO MAINTAIN FIRMS, INCLUDING HYDROLOGIC AND
15 HYDRAULIC ENGINEERING ANALYSES PREPARED BY OR FOR THE COUNTY, WITHIN
16 SIX MONTHS AFTER SUCH DATA AND INFORMATION BECOMES AVAILABLE IF THE
17 ANALYSES INDICATE CHANGES IN BASE FLOOD ELEVATIONS.
- 18 (10) MAINTAIN AND PERMANENTLY KEEP RECORDS THAT ARE NECESSARY FOR THE
19 ADMINISTRATION OF THESE REGULATIONS, INCLUDING:
- 20 (i) FLOOD INSURANCE STUDIES, FLOOD INSURANCE RATE MAPS (INCLUDING
21 HISTORIC STUDIES AND MAPS AND CURRENT EFFECTIVE STUDIES AND MAPS)
22 AND LETTERS OF MAP CHANGE; AND
- 23 (ii) DOCUMENTATION SUPPORTING ISSUANCE AND DENIAL OF PERMITS,
24 ELEVATION CERTIFICATES, DOCUMENTATION OF THE ELEVATION (IN
25 RELATION TO THE DATUM ON THE FIRM) TO WHICH STRUCTURES HAVE
26 BEEN FLOODPROOFED, OTHER REQUIRED DESIGN CERTIFICATIONS,
27 VARIANCES, AND RECORDS OF ENFORCEMENT ACTIONS TAKEN TO CORRECT
28 VIOLATIONS OF THESE REGULATIONS.
- 29 (11) ENFORCE THE PROVISIONS OF THESE REGULATIONS, INVESTIGATE VIOLATIONS,
30 ISSUE NOTICES OF VIOLATIONS OR STOP WORK ORDERS, AND REQUIRE PERMIT
31 HOLDERS TO TAKE CORRECTIVE ACTION.

- 1 (12) ADVISE THE HEARING EXAMINER REGARDING THE INTENT OF THESE REGULATIONS
2 AND, FOR EACH APPLICATION FOR A VARIANCE, PREPARE A STAFF REPORT AND
3 RECOMMENDATION.
- 4 (13) ADMINISTER THE REQUIREMENTS RELATED TO PROPOSED WORK ON EXISTING
5 BUILDINGS:
- 6 (I) MAKE DETERMINATIONS AS TO WHETHER BUILDINGS AND STRUCTURES
7 THAT ARE LOCATED IN FLOOD HAZARD AREAS AND THAT ARE DAMAGED BY
8 ANY CAUSE HAVE BEEN SUBSTANTIALLY DAMAGED.
- 9 (II) MAKE REASONABLE EFFORTS TO NOTIFY OWNERS OF SUBSTANTIALLY
10 DAMAGED STRUCTURES OF THE NEED TO OBTAIN A PERMIT TO REPAIR,
11 REHABILITATE, OR RECONSTRUCT, AND PROHIBIT THE NON-COMPLIANT
12 REPAIR OF SUBSTANTIALLY DAMAGED BUILDINGS EXCEPT FOR TEMPORARY
13 EMERGENCY PROTECTIVE MEASURES NECESSARY TO SECURE A PROPERTY OR
14 STABILIZE A BUILDING OR STRUCTURE TO PREVENT ADDITIONAL DAMAGE.
- 15 (14) UNDERTAKE, AS DETERMINED APPROPRIATE BY THE FLOODPLAIN ADMINISTRATOR
16 DUE TO THE CIRCUMSTANCES, OTHER ACTIONS WHICH MAY INCLUDE BUT ARE NOT
17 LIMITED TO: ISSUING PRESS RELEASES, PUBLIC SERVICE ANNOUNCEMENTS, AND
18 OTHER PUBLIC INFORMATION MATERIALS RELATED TO PERMIT REQUESTS AND
19 REPAIR OF DAMAGED STRUCTURES; COORDINATING WITH OTHER FEDERAL, STATE,
20 AND LOCAL AGENCIES TO ASSIST WITH SUBSTANTIAL DAMAGE DETERMINATIONS;
21 PROVIDING OWNERS OF DAMAGED STRUCTURES INFORMATION RELATED TO THE
22 PROPER REPAIR OF DAMAGED STRUCTURES IN SPECIAL FLOOD HAZARD AREAS; AND
23 ASSISTING PROPERTY OWNERS WITH DOCUMENTATION NECESSARY TO FILE CLAIMS
24 FOR INCREASED COST OF COMPLIANCE COVERAGE UNDER NFIP FLOOD INSURANCE
25 POLICIES.
- 26 (15) NOTIFY FEMA WHEN THE CORPORATE BOUNDARIES OF THE COUNTY HAVE BEEN
27 MODIFIED AND:
- 28 (I) PROVIDE A MAP THAT CLEARLY DELINEATES THE NEW CORPORATE
29 BOUNDARIES OR THE NEW AREA FOR WHICH THE AUTHORITY TO REGULATE
30 PURSUANT TO THESE REGULATIONS HAS EITHER BEEN ASSUMED OR
31 RELINQUISHED THROUGH ANNEXATION; AND

1 (ii) IF THE FIRM FOR ANY ANNEXED AREA INCLUDES SPECIAL FLOOD HAZARD
2 AREAS THAT HAVE FLOOD ZONES THAT HAVE REGULATORY REQUIREMENTS
3 THAT ARE NOT SET FORTH IN THESE REGULATIONS, PREPARE AMENDMENTS
4 TO THESE REGULATIONS TO ADOPT THE FIRM AND APPROPRIATE
5 REQUIREMENTS, AND SUBMIT THE AMENDMENTS TO THE GOVERNING BODY
6 FOR ADOPTION; SUCH ADOPTION SHALL TAKE PLACE WITHIN SIX MONTHS OF
7 THE DATE OF ANNEXATION AND A COPY OF THE AMENDED REGULATIONS
8 SHALL BE PROVIDED TO MDE (NFIP STATE COORDINATOR) AND FEMA.

9 (16) UPON THE REQUEST OF FEMA, COMPLETE AND SUBMIT A REPORT CONCERNING
10 PARTICIPATION IN THE NFIP WHICH MAY REQUEST INFORMATION REGARDING THE
11 NUMBER OF BUILDINGS IN THE SFHA, NUMBER OF PERMITS ISSUED FOR
12 DEVELOPMENT IN THE SFHA, AND NUMBER OF VARIANCES ISSUED FOR
13 DEVELOPMENT IN THE SFHA.

14
15 **SECTION 16.709. DEVELOPMENT THAT AFFECTS FLOOD-CARRYING CAPACITY OF NONTIDAL**
16 **WATERS.**

17 (A) *ALTERATION OF A WATERCOURSE.* UNLESS WAIVED BY MDE AND EXCEPT AS PROVIDED IN
18 SUBSECTION (B) OF THIS SECTION, FOR ANY PROPOSED DEVELOPMENT THAT INVOLVES ALTERATION
19 OF A WATERCOURSE THAT IS IN AN AREA WITHOUT BASE FLOOD ELEVATIONS AND DESIGNATED
20 FLOODWAYS, AN APPLICANT SHALL DEVELOP HYDROLOGIC AND HYDRAULIC ENGINEERING
21 ANALYSES AND TECHNICAL DATA REFLECTING SUCH CHANGES, INCLUDING A FLOODWAY
22 ANALYSIS, AND SUBMIT SUCH TECHNICAL DATA TO THE FLOODPLAIN ADMINISTRATOR AND TO
23 FEMA. THE ANALYSES SHALL BE PREPARED BY A LICENSED PROFESSIONAL ENGINEER IN A FORMAT
24 REQUIRED BY MDE AND BY FEMA FOR A CONDITIONAL LETTER OF MAP REVISION AND/OR
25 LETTER OF MAP REVISION. SUBMITTAL REQUIREMENTS AND FEES SHALL BE THE RESPONSIBILITY
26 OF THE APPLICANT.

27 (B) *EXCEPTION.* A WATERCOURSE MAY BE ALTERED ONLY UPON SUBMISSION, BY THE APPLICANT,
28 OF THE FOLLOWING:

29 (1) A CERTIFICATION BY A *LICENSED* PROFESSIONAL ENGINEER THAT THE FLOOD-
30 CARRYING CAPACITY OF THE *WATERCOURSE* WILL NOT BE DIMINISHED; AND

- 1 (2) EVIDENCE THAT ADJACENT COMMUNITIES, THE U.S. ARMY CORPS OF ENGINEERS,
2 AND MDE HAVE BEEN NOTIFIED OF THE PROPOSAL, AND EVIDENCE THAT SUCH
3 NOTIFICATIONS HAVE BEEN SUBMITTED TO FEMA.
4

5 **SECTION 16.710. SUBDIVISION PROPOSALS AND DEVELOPMENT PROPOSALS.**

6 IN ACCORDANCE WITH SECTION 16.115 OF THIS CODE, IN ALL FLOOD ZONES, SUBDIVISION
7 PROPOSALS AND DEVELOPMENT PROPOSALS SHALL:

8 (A) BE CONSISTENT WITH THE NEED TO MINIMIZE FLOOD DAMAGE AND ARE SUBJECT TO ALL
9 APPLICABLE STANDARDS IN THIS SUBTITLE AND THE HOWARD COUNTY BUILDING CODE.

10 (B) HAVE UTILITIES AND FACILITIES SUCH AS SEWER, GAS, ELECTRICAL, AND WATER SYSTEMS
11 LOCATED AND CONSTRUCTED TO MINIMIZE FLOOD DAMAGE.

12 (C) HAVE ADEQUATE DRAINAGE PATHS PROVIDED TO REDUCE EXPOSURE TO FLOOD HAZARDS AND
13 TO GUIDE FLOODWATERS AROUND AND AWAY FROM PROPOSED STRUCTURES.
14

15 **SECTION 16.711. VARIANCES.**

16 (A) *GENERALLY.*

- 17 (1) *AUTHORITY TO CONSIDER.* THE FLOODPLAIN ADMINISTRATOR, THROUGH THE
18 DIRECTOR OF THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS, SHALL
19 HAVE THE POWER TO CONSIDER AND AUTHORIZE OR DENY VARIANCES FROM THE
20 STRICT APPLICATION OF THE REQUIREMENTS OF THESE REGULATIONS FOR
21 CONSTRUCTION ADJACENT TO A FLOODPLAIN IN ACCORDANCE WITH SECTION
22 3112.4 OF THE HOWARD COUNTY BUILDING CODE. A VARIANCE SHALL BE
23 APPROVED ONLY IF IT IS DETERMINED TO NOT BE CONTRARY TO THE PUBLIC
24 INTEREST AND WHERE, OWING TO SPECIAL CONDITIONS OF THE LOT OR PARCEL, A
25 LITERAL ENFORCEMENT OF THE PROVISIONS OF THESE REGULATIONS, AN
26 UNNECESSARY HARDSHIP WOULD RESULT.

- 27 (2) *CONDITIONS.* UPON CONSIDERATION OF THE PURPOSES OF THESE REGULATIONS,
28 THE INDIVIDUAL CIRCUMSTANCES, AND THE CONSIDERATIONS AND LIMITATIONS OF
29 THIS SECTION, THE FLOODPLAIN ADMINISTRATOR, THROUGH THE DIRECTOR OF THE
30 DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS, MAY ATTACH SUCH

1 CONDITIONS TO VARIANCES AS IT DEEMS NECESSARY TO FURTHER THE PURPOSES OF
2 THESE REGULATIONS.

3 (3) *NOTIFICATION TO APPLICANT.* THE FLOODPLAIN ADMINISTRATOR, THROUGH THE
4 DIRECTOR OF THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS, SHALL
5 NOTIFY, IN WRITING, ANY APPLICANT TO WHOM A VARIANCE IS GRANTED TO
6 CONSTRUCT OR SUBSTANTIALLY IMPROVE A BUILDING OR STRUCTURE WITH ITS
7 LOWEST FLOOR BELOW THE ELEVATION REQUIRED BY THESE REGULATIONS THAT
8 THE VARIANCE IS TO THE FLOODPLAIN MANAGEMENT REQUIREMENTS OF THESE
9 REGULATIONS ONLY, AND THAT THE COST OF FEDERAL FLOOD INSURANCE WILL BE
10 COMMENSURATE WITH THE INCREASED RISK, WITH RATES UP TO \$25 PER \$100 OF
11 INSURANCE COVERAGE AND THAT THE CONSTRUCTION OF STRUCTURES BELOW THE
12 BASE FLOOD ELEVATION INCREASES RISKS TO LIFE AND PROPERTY.

13 (4) *RECORDS.* A RECORD OF ALL VARIANCE ACTIONS, INCLUDING JUSTIFICATION FOR
14 ISSUANCE SHALL BE MAINTAINED PURSUANT TO SECTION 16.709 OF THIS SUBTITLE.

15 (B) *CONSIDERATIONS FOR GRANTING VARIANCES.* THE FLOODPLAIN ADMINISTRATOR, THROUGH
16 THE DIRECTOR OF THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS SHALL MAKE AN
17 AFFIRMATIVE DECISION ON A VARIANCE REQUEST FOR CONSTRUCTION ADJACENT TO A
18 FLOODPLAIN ONLY UPON:

19 (1) A SHOWING OF GOOD AND SUFFICIENT CAUSE.

20 (2) A DETERMINATION THAT FAILURE TO GRANT THE VARIANCE WOULD RESULT IN
21 EXCEPTIONAL HARDSHIP DUE TO THE PHYSICAL CHARACTERISTICS OF THE
22 PROPERTY. INCREASED COST OR INCONVENIENCE OF MEETING THE REQUIREMENTS
23 OF THESE REGULATIONS DOES NOT CONSTITUTE AN EXCEPTIONAL HARDSHIP TO THE
24 APPLICANT.

25 (3) A DETERMINATION THAT THE GRANTING OF A VARIANCE FOR DEVELOPMENT
26 WITHIN ANY DESIGNATED FLOODWAY, OR FLOOD HAZARD AREA WITH BASE FLOOD
27 ELEVATIONS BUT NO DESIGNATED FLOODWAY, WILL NOT RESULT IN INCREASED
28 FLOOD HEIGHTS BEYOND THAT WHICH IS ALLOWED IN THESE REGULATIONS.

29 (4) A DETERMINATION THAT THE GRANTING OF A VARIANCE WILL NOT RESULT IN
30 ADDITIONAL THREATS TO PUBLIC SAFETY; EXTRAORDINARY PUBLIC EXPENSE,

1 NUISANCES, FRAUD OR VICTIMIZATION OF THE PUBLIC, OR CONFLICT WITH EXISTING
2 LOCAL LAWS.

3 (5) A DETERMINATION THAT THE BUILDING, STRUCTURE OR OTHER DEVELOPMENT IS
4 PROTECTED BY METHODS TO MINIMIZE FLOOD DAMAGES.

5 (6) A DETERMINATION THAT THE VARIANCE IS THE MINIMUM NECESSARY TO AFFORD
6 RELIEF, CONSIDERING THE FLOOD HAZARD.

7 (C) *VARIANCE PROHIBITED.* A VARIANCE SHALL NOT BE ISSUED WITHIN ANY DESIGNATED
8 REGULATORY FLOODWAY IF ANY INCREASE IN FLOOD LEVELS DURING THE BASE FLOOD DISCHARGE
9 WOULD RESULT.

10
11 **Section [[16.703]]16.712. Violation.**

12 (A) IF THE COUNTY DETERMINES THAT THERE HAS BEEN A VIOLATION OF ANY PROVISION OF THESE
13 REGULATIONS, THE COUNTY SHALL GIVE NOTICE OF SUCH VIOLATION TO THE OWNER, THE
14 OWNER'S AUTHORIZED AGENT, AND THE PERSON RESPONSIBLE FOR THE VIOLATION AND MAY ISSUE
15 A STOP WORK ORDER. THE NOTICE OF VIOLATION AND STOP WORK ORDER SHALL BE IN
16 ACCORDANCE WITH THE HOWARD COUNTY BUILDING CODE.

17 (B) Where there is any violation of this subtitle or any action taken thereunder, the [[Department
18 of Public Works]]COUNTY shall institute appropriate action to prevent, enjoin, or compel
19 compliance with the provisions of this subtitle. In addition to and concurrent with all other
20 remedies at law or equity, the [[Department of Public Works]]COUNTY may enforce the
21 provisions of this subtitle with civil penalties pursuant to the provisions of title 24 "Civil
22 Penalties" of the Howard County Code. A violation is a Class B offense. Each day that a
23 violation continues is a separate offense.

24
25 **SECTION 16.713. REFERENCES TO THE 100-YEAR FLOODPLAIN.**

26 EACH REFERENCE IN THE HOWARD COUNTY CODE OR THE HOWARD COUNTY ZONING
27 REGULATIONS TO THE "100-YEAR FLOODPLAIN" SHALL MEAN "BASE FLOOD ELEVATION".

28
29 **SECTION 16.714. SEVERABILITY**

1 IF ANY SECTION, SENTENCE, CLAUSE OR PHRASE OF THIS SUBTITLE IS HELD INVALID OR
2 UNCONSTITUTIONAL BY ANY COURT OR COMPETENT JURISDICTION, THE RULING SHALL NOT AFFECT
3 THE VALIDITY OF THE REMAINING PORTIONS OR THIS SUBTITLE.

4

5 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland,
6 *that this Act shall become effective 61 days after its enactment.*