

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.

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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

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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 AND TITLE 16, SUBTITLE 7 OF THE HOWARD COUNTY CODE.

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 AND TITLE 16, SUBTITLE 7  
15 OF THE HOWARD COUNTY CODE shall apply:

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

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

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

1 the buildings shall be designed or located to prevent water from entering or  
2 accumulating within the components during flood conditions. The water tightness  
3 and structural capabilities shall be those described in floodproofing regulations,  
4 published by the Office of the Chief of Engineers, U.S. Army, Washington, D.C.,  
5 [[March 1992]] DECEMBER 1995, OR SUBSEQUENT REVISIONS, AND SECTION  
6 16.705(C) OF THE HOWARD COUNTY CODE.

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

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

14 3112.5 Substantial improvements adjacent to a designated floodplain. SUBSTANTIAL  
15 IMPROVEMENTS ADJACENT TO A DESIGNATED FLOODPLAIN SHALL MEET THE STANDARDS  
16 SET FORTH IN THIS SUBSECTION AND TITLE 16, SUBTITLE 7 OF THE HOWARD COUNTY  
17 CODE.

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

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

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

7 3112.6 Verification. For the purpose of verifying compliance with section  
8 [[3111.4]]3112.4 for construction adjacent to a designated floodplain, the following shall  
9 apply:

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

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

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

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

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

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

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

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

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

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

30           *New construction.* [[A structure for which:

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

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

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

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

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

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

2                    3112.8 Variances and waivers. EXCEPT AS PROVIDED IN SECTION 3112.4 OF THIS CODE, A  
3                    [[A]] variance or waiver of this section is not allowed. THE BUILDING OFFICIAL SHALL  
4                    CONSIDER A VARIANCE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16.711 OF THE  
5                    HOWARD COUNTY CODE.

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

9  
10                    **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

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

12  
13                    **Section 16.115. Floodplain preservation.**

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

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

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

- 28                    (1)     *Deed the floodplain land to the County.* Developers are encouraged to dedicate  
29                    and deed the land in the ~~[[100-year floodplain]]~~BASE FLOOD ELEVATION 100-year  
30                    floodplain (BASE FLOOD ELEVATION) to Howard County as permanent open space.

1 (2) *Grant a floodplain easement to Howard County.* If the floodplain is not dedicated  
2 to the County, the developer shall grant the County right of entry through a  
3 perpetual easement, and shall:

4 (i) Dedicate and deed the land area within the ~~[[100-year floodplain]]~~BASE  
5 ~~FLOOD-ELEVATION~~ 100-year floodplain (BASE FLOOD ELEVATION) in fee  
6 simple to a legally constituted property owners association. The property  
7 owners association may use the area in any manner consistent with the  
8 maintenance and preservation of the area as a floodplain; or

9 (ii) Include the ~~[[100-year floodplain]]~~BASE-FLOOD-ELEVATION 100-year  
10 floodplain (BASE FLOOD ELEVATION) within the boundary of the lots in  
11 accordance with section 16.120 of this subtitle. The property owner whose  
12 lot includes floodplain area may use the area in any manner consistent  
13 with the maintenance and preservation of the area as a floodplain.

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

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

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

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

- 1 (1) Floodplain elevations at every bearing change to be designated along floodplain
- 2 limits. Elevation shall be designated at not greater than 200-foot horizontal
- 3 intervals.
- 4 (2) Bearings and distances or coordinated values along each line.
- 5 (3) The area shall be labeled as "100-year floodplain, drainage, and utility easement."
- 6
- 7

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

9 **Subtitle 7. Floodplain.**

10

11 **SECTION 16.700. STATUTORY AUTHORITY; PURPOSE; ABROGATION AND GREATER**

12 **RESTRICTIONS.**

13 (A) *STATUTORY AUTHORITY.* THE MARYLAND GENERAL ASSEMBLY, IN THE LAND USE ARTICLE OF

14 THE ANNOTATED CODE OF MARYLAND, HAS ESTABLISHED AS POLICY OF THE STATE THAT THE

15 ORDERLY DEVELOPMENT AND USE OF LAND AND STRUCTURES REQUIRES COMPREHENSIVE

16 REGULATION THROUGH THE IMPLEMENTATION OF PLANNING AND ZONING CONTROL, AND THAT

17 PLANNING AND ZONING CONTROLS SHALL BE IMPLEMENTED BY LOCAL GOVERNMENT IN ORDER TO,

18 AMONG OTHER PURPOSES, SECURE THE PUBLIC SAFETY, PROMOTE HEALTH AND GENERAL WELFARE,

19 AND PROMOTE THE CONSERVATION OF NATURAL RESOURCES. THEREFORE, HOWARD COUNTY DOES

20 ADOPT FLOODPLAIN MANAGEMENT REGULATIONS AS CONTAINED IN THIS SUBTITLE; TITLE 16,

21 SUBTITLE 1 OF THIS CODE; AND THE HOWARD COUNTY BUILDING CODE.

22 (B) *PURPOSE.* IT IS THE PURPOSE OF THIS SUBTITLE TO PROMOTE THE PUBLIC HEALTH, SAFETY AND

23 GENERAL WELFARE, AND TO:

- 24 (1) PROTECT HUMAN LIFE, HEALTH AND WELFARE;
- 25 (2) ENCOURAGE THE USE OF APPROPRIATE CONSTRUCTION PRACTICES IN ORDER TO
- 26 PREVENT OR MINIMIZE FLOOD DAMAGE IN THE FUTURE;
- 27 (3) MINIMIZE FLOODING OF WATER SUPPLY AND SANITARY SEWAGE DISPOSAL
- 28 SYSTEMS;
- 29 (4) MAINTAIN NATURAL DRAINAGE;

- 1 (5) REDUCE FINANCIAL BURDENS IMPOSED ON THE COMMUNITY, ITS GOVERNMENTAL  
2 UNITS AND ITS RESIDENTS, BY DISCOURAGING UNWISE DESIGN AND CONSTRUCTION  
3 OF DEVELOPMENT IN AREAS SUBJECT TO FLOODING;
- 4 (6) MINIMIZE THE NEED FOR RESCUE AND RELIEF EFFORTS ASSOCIATED WITH FLOODING  
5 AND GENERALLY UNDERTAKEN AT THE EXPENSE OF THE GENERAL PUBLIC;
- 6 (7) MINIMIZE PROLONGED BUSINESS INTERRUPTIONS;
- 7 (8) MINIMIZE DAMAGE TO PUBLIC FACILITIES AND OTHER UTILITIES SUCH AS WATER  
8 AND GAS MAINS, ELECTRIC, TELEPHONE AND SEWER LINES, STREETS AND BRIDGES;
- 9 (9) REINFORCE THAT THOSE WHO BUILD IN AND OCCUPY SPECIAL FLOOD HAZARD  
10 AREAS SHOULD ASSUME RESPONSIBILITY FOR THEIR ACTIONS;
- 11 (10) MINIMIZE THE IMPACT OF DEVELOPMENT ON ADJACENT PROPERTIES WITHIN AND  
12 NEAR FLOOD-PRONE AREAS;
- 13 (11) PROVIDE THAT THE FLOOD STORAGE AND CONVEYANCE FUNCTIONS OF  
14 FLOODPLAINS ARE MAINTAINED;
- 15 (12) MINIMIZE THE IMPACT OF DEVELOPMENT ON THE NATURAL AND BENEFICIAL  
16 FUNCTIONS OF FLOODPLAINS;
- 17 (13) PREVENT FLOODPLAIN USES THAT ARE EITHER HAZARDOUS OR ENVIRONMENTALLY  
18 INCOMPATIBLE; AND
- 19 (14) MEET COMMUNITY PARTICIPATION REQUIREMENTS OF THE NATIONAL FLOOD  
20 INSURANCE PROGRAM AS SET FORTH IN THE CODE OF FEDERAL REGULATIONS AT  
21 44 C.F.R. SECTION 59.22.

22 (C) *ABROGATION AND GREATER RESTRICTIONS*. REGULATIONS GOVERNING THE FLOODPLAIN ARE  
23 NOT INTENDED TO REPEAL OR ABROGATE ANY EXISTING REGULATIONS AND ORDINANCES,  
24 INCLUDING SUBDIVISION REGULATIONS, THE HOWARD COUNTY ZONING REGULATIONS, THE  
25 HOWARD COUNTY BUILDING CODE, THIS CODE, OR ANY EXISTING EASEMENTS, COVENANTS, OR  
26 DEED RESTRICTIONS. IF A CONFLICT EXISTS BETWEEN THESE REGULATIONS AND ANY OTHER CODE  
27 PROVISION, EASEMENT, COVENANT, OR DEED RESTRICTION, THE MORE RESTRICTIVE SHALL  
28 GOVERN.

29  
30 **Section ~~[[16.700]]16.701. Definitions.~~**

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

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

7 (B) *BASE FLOOD ELEVATIONS* (“BFE”) MEANS THE WATER SURFACE ELEVATION OF THE BASE FLOOD  
8 IN RELATION TO THE DATUM SPECIFIED ON THE COUNTY’S *FIRM*. IN AREAS OF SHALLOW  
9 FLOODING, THE BASE FLOOD ELEVATION IS THE HIGHEST ADJACENT NATURAL GRADE ELEVATION  
10 PLUS THE DEPTH NUMBER SPECIFIED IN FEET ON THE *FIRM*, OR AT LEAST FOUR (4) FEET IF THE  
11 DEPTH NUMBER IS NOT SPECIFIED.

12 ([[a]]C) *Building code* means the building code of Howard County adopted pursuant to subtitle  
13 1, "Building Code" of title 3, "Buildings," of the Howard County Code.

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

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

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

23 (G) *FLOOD INSURANCE RATE MAP* (“*FIRM*”) MEANS AN OFFICIAL MAP ON WHICH FEMA HAS  
24 DELINEATED SPECIAL FLOOD HAZARD AREAS TO INDICATE THE MAGNITUDE AND NATURE OF FLOOD  
25 HAZARDS, TO DESIGNATE APPLICABLE FLOOD ZONES, AND TO DELINEATE FLOODWAYS, IF  
26 APPLICABLE. *FIRMS* THAT HAVE BEEN PREPARED IN DIGITAL FORMAT OR CONVERTED TO DIGITAL  
27 FORMAT ARE REFERRED TO AS DIGITAL *FIRMS* (*DFIRM*).

28 (H) *FLOOD INSURANCE STUDY* (“*FIS*”) MEANS THE OFFICIAL REPORT IN WHICH FEMA HAS  
29 PROVIDED FLOOD PROFILES, FLOODWAY INFORMATION, AND THE WATER SURFACE ELEVATIONS.

30 (I) *MANUFACTURED HOME* MEANS A STRUCTURE, TRANSPORTABLE IN ONE OR MORE SECTIONS,  
31 WHICH IS BUILT ON A PERMANENT CHASSIS AND IS DESIGNED FOR USE WITH OR WITHOUT A

1 PERMANENT FOUNDATION WHEN CONNECTED TO THE REQUIRED UTILITIES. THE TERM  
2 MANUFACTURED HOME DOES NOT INCLUDE A RECREATIONAL VEHICLE.

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

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

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

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

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

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

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

11  
12 **Section ~~[[16.701]]16.702. Floodplain delineation.~~**

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

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

- 23 (1) *Floodway*. That portion of the floodplain required to carry and discharge the  
24 waters of the ~~[[100-year]]~~ ONE-PERCENT ANNUAL CHANCE flood without  
25 increasing the water surface elevation at any point more than one foot above  
26 existing conditions.
- 27 (2) *Floodway fringe*. Those portions of land within the floodplain subject to  
28 inundation by the ~~[[100-year]]~~ ONE-PERCENT ANNUAL CHANCE flood, lying beyond  
29 the floodway.
- 30 (3) *Approximate floodplain*. Those portions of land within the floodplain subject to  
31 inundation by the ~~[[100-year]]~~ ONE-PERCENT ANNUAL CHANCE flood, where a

1 detailed study has not been performed, but where a 100-year floodplain boundary  
2 has been approximated.

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

8  
9 **SECTION 16.703. BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS AND BASE  
10 FLOOD ELEVATIONS.**

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

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

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

27  
28 **SECTION 16.704. USE AND INTERPRETATIONS OF FIRMS.**

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

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

- 2 (1) WHERE FIELD SURVEYED TOPOGRAPHY INDICATES THAT GROUND ELEVATIONS:
- 3 (I) ARE BELOW THE BASE FLOOD ELEVATION, EVEN IN AREAS NOT DELINEATED
- 4 AS A SPECIAL FLOOD HAZARD AREA ON A FIRM, THE AREA SHALL BE
- 5 CONSIDERED AS SPECIAL FLOOD HAZARD AREA AND SUBJECT TO THE
- 6 REQUIREMENTS OF THESE REGULATIONS;
- 7 (II) ARE ABOVE THE BASE FLOOD ELEVATION, THE AREA SHALL BE REGULATED
- 8 AS SPECIAL FLOOD HAZARD AREA UNLESS THE APPLICANT OBTAINS A
- 9 LETTER OF MAP CHANGE THAT REMOVES THE AREA FROM THE SPECIAL
- 10 FLOOD HAZARD AREA.
- 11 (2) IN FEMA-IDENTIFIED SPECIAL FLOOD HAZARD AREAS WHERE BASE FLOOD
- 12 ELEVATION AND FLOODWAY DATA HAVE NOT BEEN IDENTIFIED AND IN AREAS
- 13 WHERE FEMA HAS NOT IDENTIFIED SPECIAL FLOOD HAZARD AREAS, ANY OTHER
- 14 FLOOD HAZARD DATA AVAILABLE FROM A FEDERAL, STATE, OR OTHER SOURCE
- 15 SHALL BE REVIEWED AND REASONABLY USED.
- 16 (3) BASE FLOOD ELEVATIONS AND DESIGNATED FLOODWAY BOUNDARIES ON FIRMS
- 17 AND IN FISs SHALL TAKE PRECEDENCE OVER BASE FLOOD ELEVATIONS AND
- 18 FLOODWAY BOUNDARIES BY ANY OTHER SOURCES IF SUCH SOURCES SHOW
- 19 REDUCED FLOODWAY WIDTHS AND/OR LOWER BASE FLOOD ELEVATIONS.
- 20 (4) OTHER SOURCES OF DATA SHALL BE REASONABLY USED IF SUCH SOURCES SHOW
- 21 INCREASED BASE FLOOD ELEVATIONS AND/OR LARGER FLOODWAY AREAS THAN ARE
- 22 SHOWN ON FIRMS AND IN FISs.
- 23 (5) IF A PRELIMINARY FLOOD INSURANCE RATE MAP AND/OR A PRELIMINARY FLOOD
- 24 INSURANCE STUDY HAS BEEN PROVIDED BY FEMA:
- 25 (I) UPON THE ISSUANCE OF A LETTER OF FINAL DETERMINATION BY FEMA,
- 26 THE PRELIMINARY FLOOD HAZARD DATA SHALL BE USED AND SHALL
- 27 REPLACE THE FLOOD HAZARD DATA PREVIOUSLY PROVIDED FROM FEMA
- 28 FOR THE PURPOSES OF ADMINISTERING THESE REGULATIONS.
- 29 (II) PRIOR TO THE ISSUANCE OF A LETTER OF FINAL DETERMINATION BY
- 30 FEMA, THE USE OF PRELIMINARY FLOOD HAZARD DATA SHALL BE DEEMED
- 31 THE BEST AVAILABLE DATA PURSUANT TO SECTION 16.703(C) OF THIS

1 SUBTITLE AND USED WHERE NO BASE FLOOD ELEVATIONS OR FLOODWAY  
2 AREAS ARE PROVIDED ON THE EFFECTIVE FIRM.

- 3 (III) PRIOR TO ISSUANCE OF A LETTER OF FINAL DETERMINATION BY FEMA,  
4 THE USE OF PRELIMINARY FLOOD HAZARD DATA IS PERMITTED WHERE THE  
5 PRELIMINARY BASE FLOOD ELEVATIONS OR FLOODWAY AREAS EXCEED THE  
6 BASE FLOOD ELEVATIONS AND/OR DESIGNATED FLOODWAY WIDTHS IN  
7 EXISTING FLOOD HAZARD DATA PROVIDED BY FEMA. SUCH PRELIMINARY  
8 DATA MAY BE SUBJECT TO CHANGE OR APPEAL TO FEMA.  
9

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

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

15 (b) Within the approximate floodplain for new subdivisions, site development plans, or single  
16 lots, the 100-year flood elevations (BASE FLOOD ELEVATIONS) shall be certified by a qualified  
17 design professional as determined by the Director of the Department of Public Works based on  
18 hydrologic and hydraulic analyses which include a floodway analysis. For a single lot, if no data  
19 are available, methods described in Federal Emergency Management Agency Publication No.  
20 265, "Managing Floodplain Development in Approximate Zone A Areas", or a method approved  
21 by the Department of Planning and Zoning shall be used to determine the ~~[[100-year]]~~BASE flood  
22 elevation.

23 (C) *BUILDINGS AND STRUCTURES*. IN ADDITION TO THE REQUIREMENTS SET FORTH IN THE HOWARD  
24 COUNTY BUILDING CODE, NEW BUILDINGS AND STRUCTURES (INCLUDING THE PLACEMENT AND  
25 REPLACEMENT OF MANUFACTURED HOMES) AND SUBSTANTIAL IMPROVEMENT OF EXISTING  
26 STRUCTURES (INCLUDING MANUFACTURED HOMES) THAT ARE LOCATED, IN WHOLE OR IN PART, IN  
27 ANY SPECIAL FLOOD HAZARD AREA SHALL:

- 28 (1) BE DESIGNED (OR MODIFIED) AND CONSTRUCTED TO SAFELY SUPPORT FLOOD  
29 LOADS. THE CONSTRUCTION SHALL PROVIDE A COMPLETE LOAD PATH CAPABLE OF  
30 TRANSFERRING ALL LOADS FROM THEIR POINT OF ORIGIN THROUGH THE LOAD-  
31 RESISTING ELEMENTS TO THE FOUNDATION. STRUCTURES SHALL BE DESIGNED,

1 CONNECTED AND ANCHORED TO RESIST FLOTATION, COLLAPSE OR PERMANENT  
2 LATERAL MOVEMENT DUE TO STRUCTURAL LOADS AND STRESSES, INCLUDING  
3 HYDRODYNAMIC AND HYDROSTATIC LOADS AND THE EFFECTS OF BUOYANCY, FROM  
4 FLOODING EQUAL TO THE FLOOD PROTECTION ELEVATION OR THE ELEVATION  
5 REQUIRED BY THESE REGULATIONS OR THE HOWARD COUNTY BUILDING CODE,  
6 WHICHEVER IS HIGHER.

7 (2) BE CONSTRUCTED BY METHODS AND PRACTICES THAT MINIMIZE FLOOD DAMAGE.

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

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

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

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

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

6 (D) *RECREATIONAL VEHICLES*. RECREATIONAL VEHICLES SHALL ~~NOT BE PARKED OR STORED IN~~  
7 SPECIAL FLOOD HAZARD AREAS.

8 ~~(1) COMPLY WITH THE REQUIREMENTS FOR MANUFACTURED HOMES AS SET FORTH IN~~  
9 ~~THE HOWARD COUNTY BUILDING CODE;~~

10 ~~(2) BE FULLY LICENSED AND READY FOR HIGHWAY USE; OR~~

11 ~~(3) BE ON A SITE FOR LESS THAN 180 CONSECUTIVE DAYS.~~

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

13 (1) NEW AND REPLACEMENT WATER SUPPLY SYSTEMS SHALL BE DESIGNED TO  
14 MINIMIZE OR ELIMINATE INFILTRATION OF FLOODWATERS INTO THE SYSTEMS.

15 (2) NEW AND REPLACEMENT SANITARY SEWAGE SYSTEMS SHALL BE DESIGNED TO  
16 MINIMIZE OR ELIMINATE INFILTRATION OF FLOODWATERS INTO SYSTEMS AND  
17 DISCHARGES FROM SYSTEMS INTO FLOODWATERS.

18 (3) IN ADDITION TO THE REQUIREMENTS OF SECTION 3.808 OF THIS CODE, ON-SITE  
19 WASTE DISPOSAL SYSTEMS SHALL BE LOCATED TO AVOID IMPAIRMENT TO OR  
20 CONTAMINATION FROM THEM DURING CONDITIONS OF FLOODING.

21  
22 **SECTION 16.706. PERMITS.**

23 (A) *PERMITS REQUIRED*. A PERSON SHALL NOT BEGIN ANY DEVELOPMENT OR CONSTRUCTION  
24 WHICH IS WHOLLY WITHIN, PARTIALLY WITHIN, OR IN CONTACT WITH ANY FLOOD HAZARD AREA  
25 ESTABLISHED IN SECTION 16.703 OF THIS SUBTITLE, INCLUDING BUT NOT LIMITED TO: FILLING;  
26 GRADING; CONSTRUCTION OF NEW STRUCTURES; THE SUBSTANTIAL IMPROVEMENT OF BUILDINGS  
27 OR STRUCTURES, INCLUDING REPAIR OF SUBSTANTIAL DAMAGE; PLACEMENT OR REPLACEMENT OF  
28 MANUFACTURED HOMES, INCLUDING SUBSTANTIAL IMPROVEMENT OR REPAIR OF SUBSTANTIAL  
29 DAMAGE OF MANUFACTURED HOMES; ERECTING OR INSTALLING A TEMPORARY STRUCTURE, OR  
30 ALTERATION OF A WATERCOURSE, UNTIL A PERMIT IS OBTAINED FROM THE COUNTY IN

1 ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE AND THE HOWARD COUNTY BUILDING  
2 CODE.

3 (B) IN ADDITION TO THE PERMITS REQUIRED IN PARAGRAPH (A), APPLICANTS FOR PERMITS IN  
4 NONTIDAL WATERS OF THE STATE ARE ADVISED TO CONTACT MDE. UNLESS WAIVED BY MDE,  
5 PURSUANT TO CODE OF MARYLAND REGULATIONS 26.17.04, CONSTRUCTION ON NONTIDAL  
6 WATERS AND FLOODPLAINS, MDE REGULATES THE “100-YEAR FREQUENCY FLOODPLAIN OF FREE-  
7 FLOWING WATERS,” ALSO REFERRED TO AS NONTIDAL WATERS OF THE STATE. TO DETERMINE THE  
8 100-YEAR FREQUENCY FLOODPLAIN, HYDROLOGIC CALCULATIONS ARE BASED ON THE ULTIMATE  
9 DEVELOPMENT OF THE WATERSHED, ASSUMING EXISTING ZONING. THE RESULTING FLOOD HAZARD  
10 AREAS DELINEATED USING THE RESULTS OF SUCH CALCULATIONS MAY BE DIFFERENT THAN THE  
11 SPECIAL FLOOD HAZARD AREAS ESTABLISHED IN SECTION 16.703 OF THIS SUBTITLE.

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

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

23 (E) *ADDITIONAL APPLICATION REQUIREMENTS –CERTAIN DEVELOPMENT.* IN ADDITION TO THE  
24 PERMIT APPLICATION REQUIREMENTS SET FORTH IN SECTION 3.101 OF THIS CODE, A PERMIT  
25 APPLICATION FOR DEVELOPMENT PROPOSALS AND SUBDIVISION PROPOSALS HAVING THE LESSER OF  
26 5 LOTS OR AT LEAST 5 ACRES IN SPECIAL FLOOD HAZARD AREAS WHERE BASE FLOOD ELEVATIONS  
27 ARE NOT SHOWN ON THE FIRM SHALL INCLUDE:

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

1 (F) *NEW TECHNICAL DATA.*

2 (1) THE APPLICANT MAY SEEK A LETTER OF MAP CHANGE BY SUBMITTING NEW  
3 TECHNICAL DATA TO FEMA, SUCH AS BASE MAPS, TOPOGRAPHY, AND ENGINEERING  
4 ANALYSES TO SUPPORT REVISION OF FLOODPLAIN AND FLOODWAY BOUNDARIES  
5 AND/OR BASE FLOOD ELEVATIONS. SUCH SUBMISSIONS SHALL BE PREPARED IN A  
6 FORMAT ACCEPTABLE TO FEMA AND ANY FEES SHALL BE THE SOLE  
7 RESPONSIBILITY OF THE APPLICANT. A COPY OF THE SUBMITTAL SHALL BE  
8 ATTACHED TO THE APPLICATION FOR A PERMIT.

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

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

19  
20 **SECTION 16.707. WARNING AND DISCLAIMER OF LIABILITY.**

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

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

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**SECTION 16.708. FLOODPLAIN ADMINISTRATOR.**

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

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

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

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

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

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

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

(3) 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.

(4) 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

1 DAM, RESERVOIR, OR WATERWAY OBSTRUCTION (INCLUDING BRIDGES, CULVERTS,  
2 STRUCTURES), ANY ALTERATION OF A WATERCOURSE, OR ANY CHANGE OF THE  
3 COURSE, CURRENT, OR CROSS SECTION OF A STREAM OR BODY OF WATER,  
4 INCLUDING ANY CHANGE TO THE 100-YEAR FREQUENCY FLOODPLAIN OF FREE-  
5 FLOWING NONTIDAL WATERS OF THE STATE.

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

1 VARIANCES, AND RECORDS OF ENFORCEMENT ACTIONS TAKEN TO CORRECT  
2 VIOLATIONS OF THESE REGULATIONS.

3 (11) ENFORCE THE PROVISIONS OF THESE REGULATIONS, INVESTIGATE VIOLATIONS,  
4 ISSUE NOTICES OF VIOLATIONS OR STOP WORK ORDERS, AND REQUIRE PERMIT  
5 HOLDERS TO TAKE CORRECTIVE ACTION.

6 (12) ADVISE THE HEARING EXAMINER REGARDING THE INTENT OF THESE REGULATIONS  
7 AND, FOR EACH APPLICATION FOR A VARIANCE, PREPARE A STAFF REPORT AND  
8 RECOMMENDATION.

9 (13) ADMINISTER THE REQUIREMENTS RELATED TO PROPOSED WORK ON EXISTING  
10 BUILDINGS:

11 (I) MAKE DETERMINATIONS AS TO WHETHER BUILDINGS AND STRUCTURES  
12 THAT ARE LOCATED IN FLOOD HAZARD AREAS AND THAT ARE DAMAGED BY  
13 ANY CAUSE HAVE BEEN SUBSTANTIALLY DAMAGED.

14 (II) MAKE REASONABLE EFFORTS TO NOTIFY OWNERS OF SUBSTANTIALLY  
15 DAMAGED STRUCTURES OF THE NEED TO OBTAIN A PERMIT TO REPAIR,  
16 REHABILITATE, OR RECONSTRUCT, AND PROHIBIT THE NON-COMPLIANT  
17 REPAIR OF SUBSTANTIALLY DAMAGED BUILDINGS EXCEPT FOR TEMPORARY  
18 EMERGENCY PROTECTIVE MEASURES NECESSARY TO SECURE A PROPERTY OR  
19 STABILIZE A BUILDING OR STRUCTURE TO PREVENT ADDITIONAL DAMAGE.

20 (14) UNDERTAKE, AS DETERMINED APPROPRIATE BY THE FLOODPLAIN ADMINISTRATOR  
21 DUE TO THE CIRCUMSTANCES, OTHER ACTIONS WHICH MAY INCLUDE BUT ARE NOT  
22 LIMITED TO: ISSUING PRESS RELEASES, PUBLIC SERVICE ANNOUNCEMENTS, AND  
23 OTHER PUBLIC INFORMATION MATERIALS RELATED TO PERMIT REQUESTS AND  
24 REPAIR OF DAMAGED STRUCTURES; COORDINATING WITH OTHER FEDERAL, STATE,  
25 AND LOCAL AGENCIES TO ASSIST WITH SUBSTANTIAL DAMAGE DETERMINATIONS;  
26 PROVIDING OWNERS OF DAMAGED STRUCTURES INFORMATION RELATED TO THE  
27 PROPER REPAIR OF DAMAGED STRUCTURES IN SPECIAL FLOOD HAZARD AREAS; AND  
28 ASSISTING PROPERTY OWNERS WITH DOCUMENTATION NECESSARY TO FILE CLAIMS  
29 FOR INCREASED COST OF COMPLIANCE COVERAGE UNDER NFIP FLOOD INSURANCE  
30 POLICIES.

1 (15) NOTIFY FEMA WHEN THE CORPORATE BOUNDARIES OF THE COUNTY HAVE BEEN  
2 MODIFIED AND:

3 (i) PROVIDE A MAP THAT CLEARLY DELINEATES THE NEW CORPORATE  
4 BOUNDARIES OR THE NEW AREA FOR WHICH THE AUTHORITY TO REGULATE  
5 PURSUANT TO THESE REGULATIONS HAS EITHER BEEN ASSUMED OR  
6 RELINQUISHED THROUGH ANNEXATION; AND

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

15 (16) UPON THE REQUEST OF FEMA, COMPLETE AND SUBMIT A REPORT CONCERNING  
16 PARTICIPATION IN THE NFIP WHICH MAY REQUEST INFORMATION REGARDING THE  
17 NUMBER OF BUILDINGS IN THE SFHA, NUMBER OF PERMITS ISSUED FOR  
18 DEVELOPMENT IN THE SFHA, AND NUMBER OF VARIANCES ISSUED FOR  
19 DEVELOPMENT IN THE SFHA.

20  
21 **SECTION 16.709. DEVELOPMENT THAT AFFECTS FLOOD-CARRYING CAPACITY OF NONTIDAL**  
22 **WATERS.**

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

1 LETTER OF MAP REVISION. SUBMITTAL REQUIREMENTS AND FEES SHALL BE THE RESPONSIBILITY  
2 OF THE APPLICANT.

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

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

7 (2) EVIDENCE THAT ADJACENT COMMUNITIES, THE U.S. ARMY CORPS OF ENGINEERS,  
8 AND MDE HAVE BEEN NOTIFIED OF THE PROPOSAL, AND EVIDENCE THAT SUCH  
9 NOTIFICATIONS HAVE BEEN SUBMITTED TO FEMA.

10

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

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

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

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

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

20

21 **SECTION 16.711. VARIANCES.**

22 (A) *GENERALLY.*

23 (1) *AUTHORITY TO CONSIDER.* THE FLOODPLAIN ADMINISTRATOR, THROUGH THE  
24 DIRECTOR OF THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS, SHALL  
25 HAVE THE POWER TO CONSIDER AND AUTHORIZE OR DENY VARIANCES FROM THE  
26 STRICT APPLICATION OF THE REQUIREMENTS OF THESE REGULATIONS FOR  
27 CONSTRUCTION ADJACENT TO A FLOODPLAIN IN ACCORDANCE WITH SECTION  
28 3112.4 OF THE HOWARD COUNTY BUILDING CODE. A VARIANCE SHALL BE  
29 APPROVED ONLY IF IT IS DETERMINED TO NOT BE CONTRARY TO THE PUBLIC  
30 INTEREST AND WHERE, OWING TO SPECIAL CONDITIONS OF THE LOT OR PARCEL, A

1 LITERAL ENFORCEMENT OF THE PROVISIONS OF THESE REGULATIONS, AN  
2 UNNECESSARY HARDSHIP WOULD RESULT.

3 (2) *CONDITIONS.* UPON CONSIDERATION OF THE PURPOSES OF THESE REGULATIONS,  
4 THE INDIVIDUAL CIRCUMSTANCES, AND THE CONSIDERATIONS AND LIMITATIONS OF  
5 THIS SECTION, THE FLOODPLAIN ADMINISTRATOR, THROUGH THE DIRECTOR OF THE  
6 DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS, MAY ATTACH SUCH  
7 CONDITIONS TO VARIANCES AS IT DEEMS NECESSARY TO FURTHER THE PURPOSES OF  
8 THESE REGULATIONS.

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

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

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

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

26 (2) A DETERMINATION THAT FAILURE TO GRANT THE VARIANCE WOULD RESULT IN  
27 EXCEPTIONAL HARDSHIP DUE TO THE PHYSICAL CHARACTERISTICS OF THE  
28 PROPERTY. INCREASED COST OR INCONVENIENCE OF MEETING THE REQUIREMENTS  
29 OF THESE REGULATIONS DOES NOT CONSTITUTE AN EXCEPTIONAL HARDSHIP TO THE  
30 APPLICANT.

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

5 (4) A DETERMINATION THAT THE GRANTING OF A VARIANCE WILL NOT RESULT IN  
6 ADDITIONAL THREATS TO PUBLIC SAFETY; EXTRAORDINARY PUBLIC EXPENSE,  
7 NUISANCES, FRAUD OR VICTIMIZATION OF THE PUBLIC, OR CONFLICT WITH EXISTING  
8 LOCAL LAWS.

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

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

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

16  
17 **Section ~~[[16.703]]16.712. Violation.~~**

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

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

30  
31 **SECTION 16.713. REFERENCES TO THE 100-YEAR FLOODPLAIN.**

1 EACH REFERENCE IN THE HOWARD COUNTY CODE OR THE HOWARD COUNTY ZONING  
2 REGULATIONS TO THE “100-YEAR FLOODPLAIN” SHALL MEAN “BASE FLOOD ELEVATION”.

3

4 **SECTION 16.714. SEVERABILITY**

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

8

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