

1 COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2
3 2013 Legislative Session
4 Legislative Day #

5
6 BILL NO. 2013-14

7
8 Introduced by: Charles County Commissioners

9
10 FLOODPLAIN MANAGEMENT ORDINANCE

11 EMERGENCY BILL
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17 Date introduced: 06 / 11 / 2013

18
19 Public Hearing: 07 / 10 / 2013 @ 6:30 p.m.

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21 Commissioners Action: 07 / 10 / 2013

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23 Commissioner Votes: CQK: Y, RC: Y, KR: Y, DD: Y, BR: Y

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25 Pass/Fail: Pass

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27 Effective Date: 07 / 10 / 2013

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30 Remarks:
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1 **COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

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4 **2013 Legislative Session**

5
6 Bill No. 2013-14

7 Chapter No. 238

8 Introduced by Charles County Commissioners

9 Date of Introduction June 11, 2013

10
11 **EMERGENCY BILL**

12 AN ACT concerning

13 **FLOODPLAIN MANAGEMENT ORDINANCE**

14
15 FOR the purpose of

16 Enacting a new Floodplain Management Ordinance to meet the requirements of the
17 Federal Emergency Management Agency (FEMA) and Maryland Department of the
18 Environment as part of the adoption of revised Flood Insurance Rate maps by FEMA.

19
20 BY repealing:

21 Chapter 238, Article II– Floodplain Management
22 Sections 238-5 through 238-12
23 Code of Charles County, Maryland
24 (1994 Edition, 2000 Supplement)

25
26 BY enacting:

27 Chapter 238, Article II – Floodplain Management Ordinance
28 Section 238-5 through 238-13
29 Code of Charles County, Maryland
30 (1994 Edition, 2000 Supplement)

31
32 **SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF**
33 **CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as**

1 follows:

2
3 CHAPTER 238

4 ARTICLE II – FLOODPLAIN MANAGEMENT ORDINANCE

5 SECTION 238-5. GENERAL PROVISIONS.

6 (A) FINDINGS

7 THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) HAS
8 IDENTIFIED SPECIAL FLOOD HAZARD AREAS WITHIN THE BOUNDARIES OF
9 CHARLES COUNTY, MARYLAND. SPECIAL FLOOD HAZARD AREAS ARE
10 SUBJECT TO PERIODIC INUNDATION WHICH MAY RESULT IN LOSS OF LIFE
11 AND PROPERTY, HEALTH AND SAFETY HAZARDS, DISRUPTION OF
12 COMMERCE AND GOVERNMENTAL SERVICES, EXTRAORDINARY PUBLIC
13 EXPENDITURES FOR FLOOD PROTECTION AND RELIEF, AND IMPAIRMENT
14 OF THE TAX BASE, ALL OF WHICH ADVERSELY AFFECT THE PUBLIC
15 HEALTH, SAFETY AND GENERAL WELFARE. STRUCTURES THAT ARE
16 INADEQUATELY ELEVATED, IMPROPERLY FLOODPROOFED, OR OTHERWISE
17 UNPROTECTED FROM FLOOD DAMAGE ALSO CONTRIBUTE TO FLOOD
18 LOSSES.

19 (B) CHARLES COUNTY, MARYLAND, BY RESOLUTION, AGREED TO MEET THE
20 REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM AND
21 WAS ACCEPTED FOR PARTICIPATION IN THE PROGRAM ON JUNE 5, 1985. AS
22 OF THAT DATE OR AS OF JUNE 5, 1985, THE INITIAL EFFECTIVE DATE OF THE
23 CHARLES COUNTY, MARYLAND FLOOD INSURANCE RATE MAP, ALL
24 DEVELOPMENT AND NEW CONSTRUCTION AS DEFINED HEREIN, ARE TO BE
25 COMPLIANT WITH THESE REGULATIONS.

26 (C) STATUTORY AUTHORIZATION. THE MARYLAND GENERAL ASSEMBLY, IN
27 THE LAND USE ARTICLE OF THE ANNOTATED CODE OF MARYLAND,
28 SECTION 4-101, ET SEQ., HAS ESTABLISHED, AS POLICY OF THE STATE, THAT
29 THE ORDERLY DEVELOPMENT AND USE OF LAND AND STRUCTURES
30 REQUIRES COMPREHENSIVE REGULATION THROUGH THE
31 IMPLEMENTATION OF PLANNING AND ZONING CONTROL, AND THAT
32 PLANNING AND ZONING CONTROLS SHALL BE IMPLEMENTED BY LOCAL
33 GOVERNMENT IN ORDER TO, AMONG OTHER PURPOSES, SECURE THE

1 PUBLIC SAFETY, PROMOTE HEALTH AND GENERAL WELFARE, AND
2 PROMOTE THE CONSERVATION OF NATURAL RESOURCES. THEREFORE, THE
3 COMMISSIONERS OF CHARLES COUNTY, MARYLAND DO HEREBY ADOPT
4 THE FOLLOWING FLOODPLAIN MANAGEMENT REGULATIONS.

5 (D) STATEMENT OF PURPOSE. IT IS THE PURPOSE OF THESE REGULATIONS TO
6 PROMOTE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE, AND TO:

- 7 (1) PROTECT HUMAN LIFE, HEALTH AND WELFARE;
- 8 (2) ENCOURAGE THE UTILIZATION OF APPROPRIATE CONSTRUCTION
9 PRACTICES IN ORDER TO PREVENT OR MINIMIZE FLOOD DAMAGE IN
10 THE FUTURE;
- 11 (3) MINIMIZE FLOODING OF WATER SUPPLY AND SANITARY SEWAGE
12 DISPOSAL SYSTEMS;
- 13 (4) MAINTAIN NATURAL DRAINAGE;
- 14 (5) REDUCE FINANCIAL BURDENS IMPOSED ON CHARLES COUNTY, ITS
15 GOVERNMENTAL UNITS, AND ITS RESIDENTS, BY DISCOURAGING
16 UNWISE DESIGN AND CONSTRUCTION OF DEVELOPMENT IN
17 AREAS SUBJECT TO FLOODING;
- 18 (6) MINIMIZE THE NEED FOR RESCUE AND RELIEF EFFORTS ASSOCIATED
19 WITH FLOODING AND GENERALLY UNDERTAKEN AT THE EXPENSE
20 OF THE GENERAL PUBLIC;
- 21 (7) MINIMIZE PROLONGED BUSINESS INTERRUPTIONS;
- 22 (8) MINIMIZE DAMAGE TO PUBLIC FACILITIES AND OTHER UTILITIES
23 SUCH AS WATER AND GAS MAINS, ELECTRIC, TELEPHONE AND
24 SEWER LINES, STREETS AND BRIDGES;
- 25 (9) REINFORCE THAT THOSE WHO BUILD IN AND OCCUPY SPECIAL
26 FLOOD HAZARD AREAS SHOULD ASSUME RESPONSIBILITY FOR
27 THEIR ACTIONS;
- 28 (10) MINIMIZE THE IMPACT OF DEVELOPMENT ON ADJACENT
29 PROPERTIES WITHIN AND NEAR FLOOD-PRONE AREAS;
- 30 (11) PROVIDE THAT THE FLOOD STORAGE AND CONVEYANCE FUNCTIONS
31 OF FLOODPLAINS ARE MAINTAINED;
- 32 (12) MINIMIZE THE IMPACT OF DEVELOPMENT ON THE NATURAL AND
33 BENEFICIAL FUNCTIONS OF FLOODPLAINS;

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- (13) PREVENT FLOODPLAIN USES THAT ARE EITHER HAZARDOUS OR ENVIRONMENTALLY INCOMPATIBLE; AND
- (14) MEET COMMUNITY 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.

(E) AREAS TO WHICH THESE REGULATIONS APPLY. THESE REGULATIONS SHALL APPLY TO ALL SPECIAL FLOOD HAZARD AREAS WITHIN THE JURISDICTION OF CHARLES COUNTY, MARYLAND, AND IDENTIFIED IN SECTION 238-5(E).

(F) BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS AND BFE'S.

- (1) FOR THE PURPOSES OF THESE REGULATIONS, THE MINIMUM BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS AND BASE FLOOD ELEVATIONS IS THE FLOOD INSURANCE STUDY FOR CHARLES COUNTY, MARYLAND AND INCORPORATED AREAS DATED SEPTEMBER 4, 2013, OR THE MOST RECENT REVISION THEREOF, AND THE ACCOMPANYING FLOOD INSURANCE RATE MAPS AND ALL SUBSEQUENT AMENDMENTS AND REVISIONS TO THE FIRMS. THE FIS AND FIRMS ARE RETAINED ON FILE AND AVAILABLE TO THE PUBLIC AT THE CHARLES COUNTY GOVERNMENT BUILDING.
- (2) WHERE FIELD SURVEYED TOPOGRAPHY OR DIGITAL TOPOGRAPHY INDICATES THAT GROUND ELEVATIONS ARE BELOW THE CLOSEST APPLICABLE BASE FLOOD ELEVATION, EVEN IN AREAS NOT DELINEATED AS A SPECIAL FLOOD HAZARD ON THE FIRM, THE AREA SHALL BE CONSIDERED AS SPECIAL FLOOD HAZARD AREA.
- (3) TO ESTABLISH BASE FLOOD ELEVATIONS IN SPECIAL FLOOD HAZARD AREAS THAT DO NOT HAVE SUCH ELEVATIONS SHOWN ON THE FIRM, THE FLOODPLAIN ADMINISTRATOR MAY PROVIDE THE BEST AVAILABLE DATA FOR BASE FLOOD ELEVATIONS, MAY REQUIRE THE APPLICANT TO OBTAIN AVAILABLE INFORMATION FROM FEDERAL, STATE OR OTHER SOURCES, OR MAY REQUIRE THE APPLICANT TO ESTABLISH SPECIAL FLOOD HAZARD AREAS AND BASE FLOOD ELEVATIONS AS SET FORTH IN SECTION 238-7(C), (D)

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AND (E) OF THESE REGULATIONS. THE FLOODPLAIN ADMINISTRATOR MAY ALSO ESTABLISH BASE FLOOD ELEVATIONS FOR UNMAPPED FLOODPLAINS OUTSIDE OF SPECIAL FLOOD HAZARD AREAS SHOWN ON THE FIRM BY REQUIRING FLOOD STUDIES AS ESTABLISHED IN SECTION 238-9(H).

(G) ABROGATION AND GREATER RESTRICTIONS. THESE REGULATIONS ARE NOT INTENDED TO REPEAL OR ABROGATE ANY EXISTING REGULATIONS AND ORDINANCES, INCLUDING SUBDIVISION REGULATIONS, ZONING ORDINANCES, BUILDING CODES, OR ANY EXISTING EASEMENTS, COVENANTS, OR DEED RESTRICTIONS. IN THE EVENT OF A CONFLICT BETWEEN THESE REGULATIONS AND ANY OTHER ORDINANCE, THE MORE RESTRICTIVE SHALL GOVERN.

(H) INTERPRETATION. IN THE INTERPRETATION AND APPLICATION OF THESE REGULATIONS, ALL PROVISIONS SHALL BE:

- (1) CONSIDERED AS MINIMUM REQUIREMENTS;
- (2) LIBERALLY CONSTRUED IN FAVOR OF CHARLES COUNTY;
- AND,
- (3) DEEMED NEITHER TO LIMIT NOR REPEAL ANY OTHER POWERS GRANTED UNDER STATE STATUTES;
- (4) NOTES REFERENCING PUBLICATIONS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY REFER TO THE MOST RECENT EDITION OF THOSE PUBLICATIONS, ARE INTENDED ONLY AS GUIDANCE, AND DO NOT BIND OR ALTER THE AUTHORITY OF THE FLOODPLAIN ADMINISTRATOR TO INTERPRET AND APPLY THESE REGULATIONS.

(I) WARNING AND DISCLAIMER OF LIABILITY.

- (1) THE DEGREE OF FLOOD PROTECTION REQUIRED BY THESE REGULATIONS IS CONSIDERED REASONABLE FOR REGULATORY PURPOSES AND IS BASED ON SCIENTIFIC AND ENGINEERING CONSIDERATIONS. LARGER FLOODS CAN AND WILL OCCUR, AND FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THESE REGULATIONS DO NOT IMPLY THAT LAND OUTSIDE OF THE SPECIAL FLOOD HAZARD AREAS OR USES THAT ARE

1 PERMITTED WITHIN SUCH AREAS WILL BE FREE FROM FLOODING
2 OR FLOOD DAMAGE.

3 (2) THESE REGULATIONS SHALL NOT CREATE LIABILITY ON THE PART
4 OF CHARLES COUNTY, ANY OFFICER OR EMPLOYEE THEREOF, THE
5 MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) OR THE
6 FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), FOR ANY
7 FLOOD DAMAGE THAT RESULTS FROM RELIANCE ON THESE
8 REGULATIONS OR ANY ADMINISTRATIVE DECISION LAWFULLY
9 MADE HEREUNDER.

10 (J) SEVERABILITY. SHOULD ANY SECTION OR PROVISION OF THESE
11 REGULATIONS BE DECLARED BY THE COURTS TO BE
12 UNCONSTITUTIONAL OR INVALID, SUCH DECISION SHALL NOT AFFECT
13 THE VALIDITY OF THE REGULATIONS AS A WHOLE, OR ANY PART
14 THEREOF OTHER THAN THE PART SO DECLARED TO BE
15 UNCONSTITUTIONAL OR INVALID.

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17 **SECTION 238-6. DEFINITIONS.**

18 UNLESS SPECIFICALLY DEFINED BELOW, WORDS OR PHRASES USED IN THESE
19 REGULATIONS SHALL BE INTERPRETED TO HAVE THE MEANING THEY HAVE IN
20 COMMON USAGE AND TO GIVE THESE REGULATIONS THE MOST REASONABLE
21 APPLICATION.

22 **ACCESSORY STRUCTURE:** A BUILDING OR STRUCTURE ON THE SAME LOT
23 WITH, AND OF A NATURE CUSTOMARILY INCIDENTAL AND SUBORDINATE
24 TO, THE PRINCIPAL STRUCTURE. FOR THE PURPOSES OF THESE
25 REGULATIONS, AN ACCESSORY STRUCTURE SHALL BE USED SOLELY FOR
26 PARKING OF VEHICLES AND LIMITED STORAGE.

27 **AGREEMENT TO SUBMIT AN ELEVATION CERTIFICATE:** A FORM ON
28 WHICH THE APPLICANT FOR A PERMIT TO CONSTRUCT A BUILDING OR
29 STRUCTURE, TO CONSTRUCT CERTAIN HORIZONTAL ADDITIONS, TO
30 PLACE OR REPLACE A MANUFACTURED HOME, TO SUBSTANTIALLY
31 IMPROVE A BUILDING, STRUCTURE, OR MANUFACTURED HOME,
32 AGREES TO HAVE AN ELEVATION CERTIFICATE PREPARED BY A LICENSED
33 PROFESSIONAL ENGINEER OR LICENSED PROFESSIONAL SURVEYOR, AS

1 SPECIFIED BY THE FLOODPLAIN ADMINISTRATOR, AND TO SUBMIT THE
2 CERTIFICATE:

- 3 (1) UPON PLACEMENT OF THE LOWEST FLOOR AND PRIOR TO FURTHER
4 VERTICAL CONSTRUCTION; AND
5 (2) PRIOR TO THE FINAL INSPECTION AND ISSUANCE OF THE
6 CERTIFICATE OF USE AND OCCUPANCY.

7 **ALTERATION OF A WATERCOURSE:** FOR THE PURPOSE OF THESE
8 REGULATIONS, ALTERATION OF A WATERCOURSE INCLUDES, BUT IS
9 NOT LIMITED TO WIDENING, DEEPENING OR RELOCATING THE CHANNEL,
10 INCLUDING EXCAVATION OR FILLING OF THE CHANNEL. ALTERATION OF
11 A WATERCOURSE DOES NOT INCLUDE CONSTRUCTION OF A ROAD,
12 BRIDGE, CULVERT, DAM, OR IN-STREAM POND UNLESS THE CHANNEL
13 IS PROPOSED TO BE REALIGNED OR RELOCATED AS PART OF SUCH
14 CONSTRUCTION.

15 **AREA OF SHALLOW FLOODING:** A DESIGNATED ZONE AO ON THE FLOOD
16 INSURANCE RATE MAP WITH A 1-PERCENT ANNUAL CHANCE OR
17 GREATER OF FLOODING TO AN AVERAGE DEPTH OF ONE TO THREE FEET
18 WHERE A CLEARLY DEFINED CHANNEL DOES NOT EXIST, WHERE THE
19 PATH OF FLOODING IS UNPREDICTABLE, AND WHERE VELOCITY FLOW
20 MAY BE EVIDENT; SUCH FLOODING IS CHARACTERIZED BY PONDING OR
21 SHEET FLOW.

22 **BASE BUILDING:** THE BUILDING TO WHICH AN ADDITION IS BEING
23 ADDED. THIS TERM IS USED IN PROVISIONS RELATING TO ADDITIONS.

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

28 **BASE FLOOD ELEVATION (BFE):** THE WATER SURFACE ELEVATION OF
29 THE BASE FLOOD IN RELATION TO THE DATUM SPECIFIED ON CHARLES
30 COUNTY'S FLOOD INSURANCE RATE MAP. IN AREAS OF SHALLOW
31 FLOODING, THE BASE FLOOD ELEVATION IS THE HIGHEST ADJACENT
32 NATURAL GRADE ELEVATION PLUS THE DEPTH NUMBER SPECIFIED IN

1 FEET ON THE FLOOD INSURANCE RATE MAP, OR AT LEAST FOUR (4) FEET
2 IF THE DEPTH NUMBER IS NOT SPECIFIED.

3 **BASEMENT:** ANY AREA OF THE BUILDING HAVING ITS FLOOR SUBGRADE
4 (BELOW GROUND LEVEL) ON ALL SIDES.

5 **BUILDING CODE(S):** THE EFFECTIVE MARYLAND BUILDING
6 PERFORMANCE STANDARDS (COMAR 05.02.07), INCLUDING THE BUILDING
7 CODE, RESIDENTIAL CODE, AND EXISTING BUILDING CODE.

8 **CHIEF** – THE CHIEF OF THE DIVISION OF THE COUNTY RESPONSIBLE FOR
9 IMPLEMENTATION OF THE FLOODPLAIN MANAGEMENT PROGRAM.

10 **COASTAL A ZONE:** AN AREA WITHIN A SPECIAL FLOOD HAZARD AREA,
11 LANDWARD OF A COASTAL HIGH HAZARD AREA (V ZONE) OR LANDWARD
12 OF A SHORELINE WITHOUT A MAPPED COASTAL HIGH HAZARD AREA, IN
13 WHICH THE PRINCIPAL SOURCE(S) OF FLOODING ARE ASTRONOMICAL
14 TIDES AND STORM SURGES, AND IN WHICH, DURING BASE FLOOD
15 CONDITIONS, THE POTENTIAL EXISTS FOR BREAKING WAVES WITH
16 HEIGHTS GREATER THAN OR EQUAL TO 1.5 FEET. THE INLAND LIMIT OF
17 THE COASTAL A ZONE MAY BE DELINEATED ON FIRMS AS THE “LIMIT OF
18 MODERATE WAVE ACTION.”

19 **COASTAL HIGH HAZARD AREA:** AN AREA OF SPECIAL FLOOD HAZARD
20 EXTENDING FROM OFFSHORE TO THE INLAND LIMIT OF A PRIMARY
21 FRONTAL DUNE ALONG AN OPEN COAST AND ANY OTHER AREA SUBJECT
22 TO HIGH VELOCITY WAVE ACTION FROM STORMS. COASTAL HIGH
23 HAZARD AREAS ALSO ARE REFERRED TO AS “V ZONES” AND ARE
24 DESIGNATED ON FIRMS AS ZONES VE OR V1-30.

25 **COMMUNITY:** A POLITICAL SUBDIVISION OF THE STATE OF MARYLAND
26 (COUNTY, CITY OR TOWN) THAT HAS AUTHORITY TO ADOPT AND
27 ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS WITHIN ITS
28 JURISDICTIONAL BOUNDARIES.

29 **COUNTY ENGINEER:** THE ENGINEER EMPLOYED BY THE COUNTY WHO IS
30 IN RESPONSIBLE CHARGE AND HAS DIRECT SUPERVISION OF TECHNICAL
31 ISSUES IN THE COUNTY.

32 **CRITICAL AND ESSENTIAL FACILITIES:** BUILDINGS AND OTHER
33 STRUCTURES THAT ARE INTENDED TO REMAIN OPERATIONAL IN THE

1 EVENT OF EXTREME ENVIRONMENTAL LOADING FROM FLOOD, WIND,
2 SNOW OR EARTHQUAKES. NOTE: SEE MARYLAND BUILDING
3 PERFORMANCE STANDARDS, SEC. 1602 AND TABLE 1604.5. CRITICAL AND
4 ESSENTIAL FACILITIES TYPICALLY INCLUDE HOSPITALS, FIRE STATIONS,
5 POLICE STATIONS, STORAGE OF CRITICAL RECORDS, FACILITIES THAT
6 HANDLE OR STORE HAZARDOUS MATERIALS, AND SIMILAR FACILITIES.

7 **DECLARATION OF LAND RESTRICTION (NONCONVERSION**

8 **AGREEMENT)**: A FORM SIGNED BY THE OWNER TO AGREE NOT TO
9 CONVERT OR MODIFY IN ANY MANNER THAT IS INCONSISTENT WITH THE
10 TERMS OF THE PERMIT AND THESE REGULATIONS, CERTAIN ENCLOSURES
11 BELOW THE LOWEST FLOOR OF ELEVATED BUILDINGS AND CERTAIN
12 ACCESSORY STRUCTURES. THE FORM REQUIRES THE OWNER TO RECORD
13 IT ON THE PROPERTY DEED TO INFORM FUTURE OWNERS OF THE
14 RESTRICTIONS.

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

21 **DIRECTOR)**: THE HEAD OF THE DEPARTMENT OF THE COUNTY
22 RESPONSIBLE FOR IMPLEMENTATION OF THE FLOODPLAIN MANAGEMENT
23 PROGRAM.

24 **ELEVATION CERTIFICATE)**: FEMA FORM 81-31, ON WHICH SURVEYED
25 ELEVATIONS AND OTHER DATA PERTINENT TO A PROPERTY AND A
26 BUILDING ARE IDENTIFIED AND WHICH SHALL BE COMPLETED BY A
27 LICENSED PROFESSIONAL LAND SURVEYOR OR A LICENSED
28 PROFESSIONAL ENGINEER, AS SPECIFIED BY THE FLOODPLAIN
29 ADMINISTRATOR. WHEN USED TO DOCUMENT THE HEIGHT ABOVE GRADE
30 OF BUILDINGS IN SPECIAL FLOOD HAZARD AREAS FOR WHICH BASE
31 FLOOD ELEVATION DATA ARE NOT AVAILABLE, THE ELEVATION
32 CERTIFICATE SHALL BE COMPLETED IN ACCORDANCE WITH THE
33 INSTRUCTIONS ISSUED BY FEMA. NOTE: FEMA FORM 81-31 AND

1 INSTRUCTIONS ARE AVAILABLE ONLINE AT

2 [HTTP://WWW.FEMA.GOV/LIBRARY/VIEWRECORD.DO?ID=1383](http://www.fema.gov/library/viewrecord.do?id=1383).

3 **ENCLOSURE BELOW THE LOWEST FLOOR:** AN UNFINISHED OR FLOOD-
4 RESISTANT ENCLOSURE THAT IS LOCATED BELOW AN ELEVATED
5 BUILDING, IS SURROUNDED BY WALLS ON ALL SIDES, AND IS USABLE
6 SOLELY FOR PARKING OF VEHICLES, BUILDING ACCESS OR STORAGE, IN
7 AN AREA OTHER THAN A BASEMENT AREA, PROVIDED THAT SUCH
8 ENCLOSURE IS BUILT IN ACCORDANCE WITH THE APPLICABLE DESIGN
9 REQUIREMENTS SPECIFIED IN THESE REGULATIONS. ALSO SEE "LOWEST
10 FLOOR."

11 **ENGINEER** - MEANS PROFESSIONAL ENGINEER AS DEFINED BY TITLE 14
12 OF THE BUSINESS OCCUPATIONS & PROFESSIONAL ARTICLE OF THE
13 ANNOTATED CODE OF MARYLAND.

14 **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA):** THE FEDERAL
15 AGENCY WITH THE OVERALL RESPONSIBILITY FOR ADMINISTERING THE
16 NATIONAL FLOOD INSURANCE PROGRAM.

17 **FLOOD OR FLOODING:** A GENERAL AND TEMPORARY CONDITION OF
18 PARTIAL OR COMPLETE INUNDATION OF NORMALLY DRY LAND AREAS
19 FROM:

- 20 (1) THE OVERFLOW OF INLAND OR TIDAL WATERS, AND/OR
21 (2) THE UNUSUAL AND RAPID ACCUMULATION OR RUNOFF OF
22 SURFACE WATERS FROM ANY SOURCE.

23 **FLOOD DAMAGE-RESISTANT MATERIALS:** ANY CONSTRUCTION
24 MATERIAL THAT IS CAPABLE OF WITHSTANDING DIRECT AND
25 PROLONGED CONTACT WITH FLOODWATERS WITHOUT SUSTAINING ANY
26 DAMAGE THAT REQUIRES MORE THAN COSMETIC REPAIR. NOTE: SEE NFIP
27 TECHNICAL BULLETIN #2, "FLOOD DAMAGE-RESISTANT MATERIALS
28 REQUIREMENTS."

29 **FLOOD INSURANCE RATE MAP (FIRM):** AN OFFICIAL MAP ON WHICH THE
30 FEDERAL EMERGENCY MANAGEMENT AGENCY HAS DELINEATED
31 SPECIAL FLOOD HAZARD AREAS TO INDICATE THE MAGNITUDE AND
32 NATURE OF FLOOD HAZARDS, TO DESIGNATE APPLICABLE FLOOD ZONES,
33 AND TO DELINEATE FLOODWAYS, IF APPLICABLE. FIRMS THAT HAVE

1 BEEN PREPARED IN DIGITAL FORMAT OR CONVERTED TO DIGITAL
2 FORMAT ARE REFERRED TO AS DIGITAL FIRMS (DFIRM).

3 **FLOOD INSURANCE STUDY (FIS):** THE OFFICIAL REPORT IN WHICH THE
4 FEDERAL EMERGENCY MANAGEMENT AGENCY HAS PROVIDED FLOOD
5 PROFILES, FLOODWAY INFORMATION, AND THE WATER SURFACE
6 ELEVATIONS.

7 **FLOOD OPENING:** A FLOOD OPENING (NON-ENGINEERED) IS AN OPENING
8 THAT IS USED TO MEET THE PRESCRIPTIVE REQUIREMENT OF 1 SQUARE
9 INCH OF NET OPEN AREA FOR EVERY SQUARE FOOT OF ENCLOSED AREA.
10 AN ENGINEERED FLOOD OPENING IS AN OPENING THAT IS DESIGNED AND
11 CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER OR LICENSED
12 ARCHITECT AS MEETING CERTAIN PERFORMANCE CHARACTERISTICS,
13 INCLUDING PROVIDING AUTOMATIC ENTRY AND EXIT OF FLOODWATERS;
14 THE CERTIFICATION REQUIREMENT MAY BE SATISFIED BY AN
15 INDIVIDUAL CERTIFICATION OR ISSUANCE OF AN EVALUATION REPORT
16 BY THE ICC EVALUATION SERVICE, INC. (NOTE: SEE NFIP TECHNICAL
17 BULLETIN #1, "OPENINGS IN FOUNDATION WALLS AND WALLS OF
18 ENCLOSURES.")

19 **FLOOD PROTECTION ELEVATION:** THE BASE FLOOD ELEVATION PLUS
20 TWO (2) FEET OF FREEBOARD UNLESS NOTED OTHERWISE IN THIS
21 ORDINANCE. FREEBOARD IS A FACTOR OF SAFETY THAT COMPENSATES
22 FOR UNCERTAINTY IN FACTORS THAT COULD CONTRIBUTE TO FLOOD
23 HEIGHTS GREATER THAN THE HEIGHT CALCULATED FOR A SELECTED
24 SIZE FLOOD AND FLOODWAY CONDITIONS, SUCH AS WAVE ACTION,
25 OBSTRUCTED BRIDGE OPENINGS, DEBRIS AND ICE JAMS, CLIMATE
26 CHANGE, AND THE HYDROLOGIC EFFECT OF URBANIZATION IN A
27 WATERSHED.

28 **FLOOD PROTECTION SETBACK:** A DISTANCE MEASURED
29 PERPENDICULAR TO THE TOP OF BANK OF A WATERCOURSE THAT
30 DELINEATES AN AREA TO BE LEFT UNDISTURBED TO MINIMIZE FUTURE
31 FLOOD DAMAGE AND TO RECOGNIZE THE POTENTIAL FOR BANK EROSION.
32 ALONG NONTIDAL WATERS OF THE STATE, THE FLOOD PROTECTION
33 SETBACK IS:

- 1 (1) 100 FEET, IF THE WATERCOURSE HAS SPECIAL FLOOD HAZARD
2 AREAS SHOWN ON THE FIRM, EXCEPT WHERE THE SETBACK
3 EXTENDS BEYOND THE BOUNDARY OF THE FLOOD HAZARD AREA;
4 OR
5 (2) 50 FEET, IF THE WATERCOURSE DOES NOT HAVE SPECIAL FLOOD
6 HAZARD AREAS SHOWN ON THE FIRM.

7 **FLOOD ZONE:** A DESIGNATION FOR AREAS THAT ARE SHOWN ON FLOOD
8 INSURANCE RATE MAPS:

- 9 (1) **ZONE A:** SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION
10 BY THE 1-PERCENT ANNUAL CHANCE (100-YEAR) FLOOD; BASE
11 FLOOD ELEVATIONS ARE NOT DETERMINED.
12 (2) **ZONE AE AND ZONE A1-30:** SPECIAL FLOOD HAZARD AREAS
13 SUBJECT TO INUNDATION BY THE 1-PERCENT ANNUAL CHANCE (100-
14 YEAR) FLOOD; BASE FLOOD ELEVATIONS ARE DETERMINED;
15 FLOODWAYS MAY OR MAY NOT BE DETERMINED. IN AREAS
16 SUBJECT TO TIDAL FLOODING, THE LIMIT OF MODERATE WAVE
17 ACTION MAY OR MAY NOT BE DELINEATED.
18 (3) **ZONE AH AND ZONE AO:** AREAS OF SHALLOW FLOODING, WITH
19 FLOOD DEPTHS OF 1 TO 3 FEET (USUALLY AREAS OF PONDING OR
20 SHEET FLOW ON SLOPING TERRAIN), WITH OR WITHOUT BFES OR
21 DESIGNATED FLOOD DEPTHS.
22 (4) **ZONE B AND ZONE X (SHADED):** AREAS SUBJECT TO INUNDATION
23 BY THE 0.2-PERCENT ANNUAL CHANCE (500-YEAR) FLOOD; AREAS
24 SUBJECT TO THE 1-PERCENT ANNUAL CHANCE (100-YEAR) FLOOD
25 WITH AVERAGE DEPTHS OF LESS THAN ONE (1) FOOT OR WITH C
26 ONTRIBUTING DRAINAGE AREA LESS THAN 1 SQUARE MILE; AND
27 AREAS PROTECTED FROM THE BASE FLOOD BY LEVEES.
28 (5) **ZONE C AND ZONE X (UNSHADED):** AREAS OUTSIDE OF ZONES
29 DESIGNATED A, AE, A1-30, AO, VE, V1-30, B, AND X (SHADED).
30 (6) **ZONE VE AND ZONE V1-30:** SPECIAL FLOOD HAZARD AREAS
31 SUBJECT TO INUNDATION BY THE 1-PERCENT ANNUAL CHANCE (100-
32 YEAR) FLOOD AND SUBJECT TO HIGH VELOCITY WAVE ACTION
33 (ALSO SEE COASTAL HIGH HAZARD AREA).

1 **FLOODPLAIN:** ANY LAND AREA SUSCEPTIBLE TO BEING INUNDATED
2 BY WATER FROM ANY SOURCE (SEE DEFINITION OF “FLOOD” OR
3 “FLOODING”).

4 **FLOODPROOFING OR FLOODPROOFED:** ANY COMBINATION OF
5 STRUCTURAL AND NONSTRUCTURAL ADDITIONS, CHANGES, OR
6 ADJUSTMENTS TO BUILDINGS OR STRUCTURES WHICH REDUCE OR
7 ELIMINATE FLOOD DAMAGE TO REAL ESTATE OR IMPROVED REAL
8 PROPERTY, WATER AND SANITARY FACILITIES, STRUCTURES AND THEIR
9 CONTENTS, SUCH THAT THE BUILDINGS OR STRUCTURES ARE
10 WATERTIGHT WITH WALLS SUBSTANTIALLY IMPERMEABLE TO THE
11 PASSAGE OF WATER AND WITH STRUCTURAL COMPONENTS HAVING
12 THE CAPABILITY OF RESISTING HYDROSTATIC AND HYDRODYNAMIC
13 LOADS AND EFFECTS OF BUOYANCY. (NOTE: STATE REGULATIONS AT
14 COMAR 26.17.04.11(B)(7) DO NOT ALLOW NEW NONRESIDENTIAL
15 BUILDINGS IN NONTIDAL WATERS OF THE STATE TO BE FLOODPROOFED.)

16 **FLOODPROOFING CERTIFICATE:** FEMA FORM 81-65 THAT IS TO BE
17 COMPLETED, SIGNED AND SEALED BY A LICENSED PROFESSIONAL
18 ENGINEER OR LICENSED ARCHITECT TO CERTIFY THAT THE DESIGN OF
19 FLOODPROOFING AND PROPOSED METHODS OF CONSTRUCTION ARE IN
20 ACCORDANCE WITH THE APPLICABLE REQUIREMENTS OF SECTION
21 238-9(D)(2) OF THESE REGULATIONS.

22 **FLOODWAY:** THE CHANNEL OF A RIVER OR OTHER WATERCOURSE AND
23 THE ADJACENT LAND AREAS THAT MUST BE RESERVED IN ORDER TO
24 PASS THE BASE FLOOD DISCHARGE SUCH THAT THE CUMULATIVE
25 INCREASE IN THE WATER SURFACE ELEVATION OF THE BASE FLOOD
26 DISCHARGE IS NO MORE THAN A DESIGNATED HEIGHT. WHEN SHOWN ON
27 A FIRM, THE FLOODWAY IS REFERRED TO AS THE “DESIGNATED
28 FLOODWAY.”

29 **FREE-OF-OBSTRUCTION:** A TERM THAT DESCRIBES OPEN FOUNDATIONS
30 (PILINGS, COLUMNS, OR PIERS) WITHOUT ATTACHED ELEMENTS OR
31 FOUNDATION COMPONENTS THAT WOULD OBSTRUCT THE FREE PASSAGE
32 OF FLOODWATERS AND WAVES BENEATH STRUCTURES THAT ARE

1 ELEVATED ON SUCH FOUNDATIONS. (NOTE: SEE NFIP TECHNICAL
2 BULLETIN #5, "FREE-OF-OBSTRUCTION REQUIREMENTS.")

3 **FUNCTIONALLY DEPENDENT USE:** A USE WHICH CANNOT PERFORM ITS
4 INTENDED PURPOSE UNLESS IT IS LOCATED OR CARRIED OUT IN CLOSE
5 PROXIMITY TO WATER; THE TERM INCLUDES ONLY DOCKING FACILITIES,
6 PORT FACILITIES THAT ARE NECESSARY FOR THE LOADING AND
7 UNLOADING OF CARGO OR PASSENGERS, AND SHIP BUILDING AND SHIP
8 REPAIR FACILITIES, BUT DOES NOT INCLUDE LONG-TERM STORAGE OR
9 RELATED MANUFACTURING FACILITIES.

10 **HIGHEST ADJACENT GRADE:** THE HIGHEST NATURAL ELEVATION OF THE
11 GROUND SURFACE, PRIOR TO CONSTRUCTION, NEXT TO THE PROPOSED
12 FOUNDATION OF A STRUCTURE.

13 **HISTORIC STRUCTURE:** ANY STRUCTURE THAT IS:

- 14 (1) INDIVIDUALLY LISTED IN THE NATIONAL REGISTER OF HISTORIC
15 PLACES (A LISTING MAINTAINED BY THE U.S. DEPARTMENT OF
16 INTERIOR) OR PRELIMINARILY DETERMINED BY THE SECRETARY
17 OF THE INTERIOR AS MEETING THE REQUIREMENTS FOR
18 INDIVIDUAL LISTINGS ON THE NATIONAL REGISTER;
- 19 (2) CERTIFIED OR PRELIMINARILY DETERMINED BY THE SECRETARY OF
20 THE INTERIOR AS CONTRIBUTING TO THE HISTORICAL
21 SIGNIFICANCE OF A REGISTERED HISTORIC DISTRICT OR A
22 DISTRICT PRELIMINARILY DETERMINED BY THE SECRETARY TO
23 QUALIFY AS A REGISTERED HISTORIC DISTRICT;
- 24 (3) INDIVIDUALLY LISTED ON THE MARYLAND INVENTORY OF
25 HISTORIC PROPERTIES MAINTAINED BY THE MARYLAND
26 HISTORIC TRUST; OR
- 27 (4) INDIVIDUALLY LISTED ON THE INVENTORY OF HISTORIC PLACES
28 MAINTAINED BY CHARLES COUNTY, MARYLAND WHOSE
29 HISTORIC PRESERVATION PROGRAM HAS BEEN CERTIFIED BY THE
30 MARYLAND HISTORIC TRUST OR THE SECRETARY OF THE
31 INTERIOR.

32 **HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSES:** ANALYSES
33 PERFORMED BY A LICENSED PROFESSIONAL ENGINEER, IN ACCORDANCE

1 WITH STANDARD ENGINEERING PRACTICES THAT ARE ACCEPTED BY THE
2 MARYLAND DEPARTMENT OF THE ENVIRONMENT (NONTIDAL WETLANDS
3 & WATERWAYS) AND FEMA, USED TO DETERMINE THE BASE FLOOD,
4 OTHER FREQUENCY FLOODS, FLOOD ELEVATIONS, FLOODWAY
5 INFORMATION AND BOUNDARIES, AND FLOOD PROFILES.

6 **LETTER OF MAP CHANGE (LOMC):** A LETTER OF MAP CHANGE IS AN
7 OFFICIAL FEMA DETERMINATION, BY LETTER, THAT AMENDS OR REVISES
8 AN EFFECTIVE FLOOD INSURANCE RATE MAP OR FLOOD INSURANCE
9 STUDY. LETTERS OF MAP CHANGE INCLUDE:

10 LETTER OF MAP AMENDMENT (LOMA): AN AMENDMENT BASED ON
11 TECHNICAL DATA SHOWING THAT A PROPERTY WAS INCORRECTLY
12 INCLUDED IN A DESIGNATED SPECIAL FLOOD HAZARD AREA. A LOMA
13 AMENDS THE CURRENT EFFECTIVE FLOOD INSURANCE RATE MAP AND
14 ESTABLISHES THAT A SPECIFIC PROPERTY OR STRUCTURE IS NOT
15 LOCATED IN A SPECIAL FLOOD HAZARD AREA.

16 LETTER OF MAP REVISION (LOMR): A REVISION BASED ON TECHNICAL
17 DATA THAT MAY SHOW CHANGES TO FLOOD ZONES, FLOOD ELEVATIONS,
18 FLOODPLAIN AND FLOODWAY DELINEATIONS, AND PLANIMETRIC
19 FEATURES. A LETTER OF MAP REVISION BASED ON FILL (LOMR-F), IS A
20 DETERMINATION THAT A STRUCTURE OR PARCEL OF LAND HAS BEEN
21 ELEVATED BY FILL ABOVE THE BASE FLOOD ELEVATION AND IS,
22 THEREFORE, NO LONGER EXPOSED TO FLOODING ASSOCIATED WITH THE
23 BASE FLOOD. IN ORDER TO QUALIFY FOR THIS DETERMINATION, THE FILL
24 MUST HAVE BEEN PERMITTED AND PLACED IN ACCORDANCE WITH
25 CHARLES COUNTY'S FLOODPLAIN MANAGEMENT REGULATIONS.

26 CONDITIONAL LETTER OF MAP REVISION (CLOMR): A FORMAL REVIEW
27 AND COMMENT AS TO WHETHER A PROPOSED FLOOD PROTECTION
28 PROJECT OR OTHER PROJECT COMPLIES WITH THE MINIMUM NFIP
29 REQUIREMENTS FOR SUCH PROJECTS WITH RESPECT TO DELINEATION OF
30 SPECIAL FLOOD HAZARD AREAS. A CLOMR DOES NOT REVISE THE
31 EFFECTIVE FLOOD INSURANCE RATE MAP OR FLOOD INSURANCE STUDY;
32 UPON SUBMISSION AND APPROVAL OF CERTIFIED AS-BUILT

1 DOCUMENTATION, A LETTER OF MAP REVISION MAY BE ISSUED BY FEMA,
2 TO REVISE THE EFFECTIVE FIRM.

3 **LICENSED:** AS USED IN THESE REGULATIONS, LICENSED REFERS TO
4 PROFESSIONALS WHO ARE AUTHORIZED TO PRACTICE IN THE STATE OF
5 MARYLAND BY ISSUANCE OF LICENSES BY THE MARYLAND BOARD OF
6 ARCHITECTS, MARYLAND BOARD OF PROFESSIONAL ENGINEERS,
7 MARYLAND BOARD OF PROFESSIONAL LAND SURVEYORS, AND THE
8 MARYLAND REAL ESTATE APPRAISERS AND HOME INSPECTORS
9 COMMISSION.

10 **LOWEST FLOOR:** THE LOWEST FLOOR OF THE LOWEST ENCLOSED AREA
11 (INCLUDING BASEMENT) OF A BUILDING OR STRUCTURE; THE FLOOR OF
12 AN ENCLOSURE BELOW THE LOWEST FLOOR IS NOT THE LOWEST
13 FLOOR PROVIDED THE ENCLOSURE IS CONSTRUCTED IN ACCORDANCE
14 WITH THESE REGULATIONS. THE LOWEST FLOOR OF A MANUFACTURED
15 HOME IS THE BOTTOM OF THE LOWEST HORIZONTAL SUPPORTING
16 MEMBER (LONGITUDINAL CHASSIS FRAME BEAM).

17 **MANUFACTURED HOME:** A STRUCTURE, TRANSPORTABLE IN ONE OR
18 MORE SECTIONS, WHICH IS BUILT ON A PERMANENT CHASSIS AND IS
19 DESIGNED FOR USE WITH OR WITHOUT A PERMANENT FOUNDATION
20 WHEN CONNECTED TO THE REQUIRED UTILITIES. THE TERM
21 MANUFACTURED HOME DOES NOT INCLUDE A RECREATIONAL
22 VEHICLE.

23 **MARKET VALUE:** THE PRICE AT WHICH A PROPERTY WILL CHANGE
24 HANDS BETWEEN A WILLING BUYER AND A WILLING SELLER, NEITHER
25 PARTY BEING UNDER COMPULSION TO BUY OR SELL AND BOTH HAVING
26 REASONABLE KNOWLEDGE OF RELEVANT FACTS. FOR THE PURPOSES OF
27 THESE REGULATIONS, THE MARKET VALUE OF A BUILDING IS
28 DETERMINED BY A LICENSED REAL ESTATE APPRAISER OR THE MOST
29 RECENT, FULL PHASED-IN ASSESSMENT VALUE OF THE BUILDING
30 (IMPROVEMENT) DETERMINED BY THE MARYLAND DEPARTMENT OF
31 ASSESSMENTS AND TAXATION.

32 **MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE):** A PRINCIPAL
33 DEPARTMENT OF THE STATE OF MARYLAND THAT IS CHARGED WITH,

1 AMONG OTHER RESPONSIBILITIES, THE COORDINATION OF THE NATIONAL
2 FLOOD INSURANCE PROGRAM IN MARYLAND (NFIP STATE COORDINATOR)
3 AND THE ADMINISTRATION OF REGULATORY PROGRAMS FOR
4 DEVELOPMENT AND CONSTRUCTION THAT OCCUR WITHIN THE WATERS
5 OF THE STATE, INCLUDING NONTIDAL WETLANDS, NONTIDAL WATERS
6 AND FLOODPLAINS, AND STATE AND PRIVATE TIDAL WETLANDS (TIDAL
7 WETLANDS). UNLESS OTHERWISE SPECIFIED, "MDE" REFERS TO THE
8 DEPARTMENT'S WETLANDS AND WATERWAYS PROGRAM.

9 **NATIONAL FLOOD INSURANCE PROGRAM (NFIP):** THE PROGRAM
10 AUTHORIZED BY THE U.S. CONGRESS IN 42 U.S.C. §§4001 - 4129. THE NFIP
11 MAKES FLOOD INSURANCE COVERAGE AVAILABLE IN COMMUNITIES
12 THAT AGREE TO ADOPT AND ENFORCE MINIMUM REGULATORY
13 REQUIREMENTS FOR DEVELOPMENT IN AREAS PRONE TO FLOODING (SEE
14 DEFINITION OF "SPECIAL FLOOD HAZARD AREA").

15 **NEW CONSTRUCTION:** STRUCTURES, INCLUDING ADDITIONS AND
16 IMPROVEMENTS, AND THE PLACEMENT OF MANUFACTURED HOMES, FOR
17 WHICH THE START OF CONSTRUCTION COMMENCED ON OR AFTER JUNE
18 5, 1985, THE INITIAL EFFECTIVE DATE OF THE CHARLES COUNTY FLOOD
19 INSURANCE RATE MAP, INCLUDING ANY SUBSEQUENT IMPROVEMENTS,
20 ALTERATIONS, MODIFICATIONS, AND ADDITIONS TO SUCH STRUCTURES.

21 **NFIP STATE COORDINATOR:** SEE MARYLAND DEPARTMENT OF THE
22 ENVIRONMENT.

23 **NONTIDAL WATERS OF THE STATE:** SEE "WATERS OF THE STATE." AS
24 USED IN THESE REGULATIONS, "NONTIDAL WATERS OF THE STATE"
25 REFERS TO ANY STREAM OR BODY OF WATER WITHIN THE STATE THAT
26 IS SUBJECT TO STATE REGULATION, INCLUDING THE "100-YEAR
27 FREQUENCY FLOODPLAIN OF FREE-FLOWING WATERS." COMAR 26.17.04
28 STATES THAT "THE LANDWARD BOUNDARIES OF ANY TIDAL WATERS
29 SHALL BE DEEMED COTERMINOUS WITH THE WETLANDS BOUNDARY
30 MAPS ADOPTED PURSUANT TO ENVIRONMENT ARTICLE, §16- 301,
31 ANNOTATED CODE OF MARYLAND. THEREFORE, THE BOUNDARY
32 BETWEEN THE TIDAL AND NONTIDAL WATERS OF THE STATE IS THE
33 TIDAL WETLANDS BOUNDARY.

1 **PERSON:** AN INDIVIDUAL OR GROUP OF INDIVIDUALS, CORPORATION,
2 PARTNERSHIP, ASSOCIATION, OR ANY OTHER ENTITY, INCLUDING STATE
3 AND LOCAL GOVERNMENTS AND AGENCIES.

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

11 **SPECIAL FLOOD HAZARD AREA (SFHA):** THE LAND IN THE FLOODPLAIN
12 SUBJECT TO A ONE-PERCENT OR GREATER CHANCE OF FLOODING IN
13 ANY GIVEN YEAR. SPECIAL FLOOD HAZARD AREAS ARE DESIGNATED BY
14 THE FEDERAL EMERGENCY MANAGEMENT AGENCY IN FLOOD INSURANCE
15 STUDIES AND ON FLOOD INSURANCE RATE MAPS AS ZONES A, AE, AH,
16 AO, A1-30, AND A99, AND ZONES VE AND V1-30. THE TERM INCLUDES
17 AREAS SHOWN ON OTHER FLOOD MAPS THAT ARE SPECIFICALLY LISTED
18 OR OTHERWISE DESCRIBED IN SECTION 238-5(E).

19 **START OF CONSTRUCTION:** THE DATE THE BUILDING PERMIT WAS
20 ISSUED, PROVIDED THE ACTUAL START OF CONSTRUCTION, REPAIR,
21 RECONSTRUCTION, REHABILITATION, ADDITION PLACEMENT, OR OTHER
22 IMPROVEMENT WAS WITHIN 180 DAYS OF THE PERMIT DATE. THE ACTUAL
23 START MEANS EITHER THE FIRST PLACEMENT OF PERMANENT
24 CONSTRUCTION OF A STRUCTURE ON A SITE, SUCH AS THE POURING OF
25 SLAB OR FOOTINGS, THE INSTALLATION OF PILES, THE CONSTRUCTION OF
26 COLUMNS, OR ANY WORK BEYOND THE STAGE OF EXCAVATION; OR THE
27 PLACEMENT OF A MANUFACTURED HOME ON A FOUNDATION.
28 PERMANENT CONSTRUCTION DOES NOT INCLUDE LAND PREPARATION,
29 SUCH AS CLEARING, GRADING AND FILLING; NOR DOES IT INCLUDE THE
30 INSTALLATION OF STREETS AND/OR WALKWAYS; NOR DOES IT INCLUDE
31 EXCAVATION FOR A BASEMENT, FOOTINGS, PIERS, OR FOUNDATIONS OR
32 THE ERECTION OF TEMPORARY FORMS; NOR DOES IT INCLUDE THE
33 INSTALLATION ON THE PROPERTY OF ACCESSORY STRUCTURES, SUCH AS

1 GARAGES OR SHEDS NOT OCCUPIED AS DWELLING UNITS OR NOT PART OF
2 THE MAIN STRUCTURE. FOR SUBSTANTIAL IMPROVEMENTS, THE ACTUAL
3 START OF CONSTRUCTION MEANS THE FIRST ALTERATION OF ANY WALL,
4 CEILING, FLOOR, OR OTHER STRUCTURAL PART OF A BUILDING, WHETHER
5 OR NOT THAT ALTERATION AFFECTS THE EXTERNAL DIMENSIONS OF THE
6 BUILDING.

7 **STRUCTURE:** THAT WHICH IS BUILT OR CONSTRUCTED; SPECIFICALLY, A
8 WALLED AND ROOFED BUILDING, INCLUDING A GAS OR LIQUID STORAGE
9 TANK THAT IS PRINCIPALLY ABOVE GROUND, AS WELL AS A
10 MANUFACTURED HOME.

11 **SUBSTANTIAL DAMAGE:** DAMAGE OF ANY ORIGIN SUSTAINED BY A
12 BUILDING OR STRUCTURE WHEREBY THE COST OF RESTORING THE
13 BUILDING OR STRUCTURE TO IT BEFORE DAMAGED CONDITION WOULD
14 EQUAL OR EXCEED 50 PERCENT OF THE MARKET VALUE OF THE BUILDING
15 OR STRUCTURE BEFORE THE DAMAGE OCCURRED. ALSO USED AS
16 "SUBSTANTIALLY DAMAGED" STRUCTURES.

17 **SUBSTANTIAL IMPROVEMENT:** ANY RECONSTRUCTION,
18 REHABILITATION, ADDITION, OR OTHER IMPROVEMENT OF A BUILDING
19 OR STRUCTURE, THE COST OF WHICH EQUALS OR EXCEEDS 50 PERCENT OF
20 THE MARKET VALUE OF THE BUILDING OR STRUCTURE BEFORE THE
21 START OF CONSTRUCTION OF THE IMPROVEMENT. THE TERM INCLUDES
22 STRUCTURES WHICH HAVE INCURRED SUBSTANTIAL DAMAGE,
23 REGARDLESS OF THE ACTUAL REPAIR WORK PERFORMED. THE TERM
24 DOES NOT, HOWEVER, INCLUDE EITHER:

- 25 (1) ANY PROJECT FOR IMPROVEMENT OF A BUILDING OR STRUCTURE
26 TO CORRECT EXISTING VIOLATIONS OF STATE OR LOCAL HEALTH,
27 SANITARY, OR SAFETY CODE SPECIFICATIONS WHICH HAVE BEEN
28 IDENTIFIED BY THE LOCAL CODE ENFORCEMENT OFFICIAL PRIOR
29 TO SUBMISSION OF AN APPLICATION FOR A PERMIT AND WHICH
30 ARE THE MINIMUM NECESSARY TO ASSURE SAFE LIVING
31 CONDITIONS; OR

1 (2) ANY ALTERATION OF A HISTORIC STRUCTURE, PROVIDED THAT THE
2 ALTERATION WILL NOT PRECLUDE THE STRUCTURE'S CONTINUED
3 DESIGNATION AS A HISTORIC STRUCTURE.

4 **TEMPORARY STRUCTURE:** A STRUCTURE INSTALLED, USED, OR
5 ERECTED FOR A PERIOD OF LESS THAN 180 DAYS.

6 **UNMAPPED FLOODPLAINS:** REFERS TO STREAMS, RIVULETS, OR LOW
7 AREAS WHICH MAY BE DISCERNABLE IN THE FIELD BUT MAY OR MAY
8 NOT HAVE BEEN IDENTIFIED ON ANY FLOODPLAIN REFERENCE MAPS.
9 THIS WOULD APPLY TO ALL PERENNIAL AND INTERMITTENT STREAMS AS
10 IDENTIFIED ON ANY U.S. GEOLOGICAL SURVEY, MARYLAND GEOLOGICAL
11 SURVEY MAP OR ANY SOURCE, AND ANY LOW AREA WITH A
12 CONTRIBUTING DRAINAGE AREA OF 50 ACRES OR MORE IN SIZE.

13 **VARIANCE:** A GRANT OF RELIEF FROM THE STRICT APPLICATION OF ONE
14 OR MORE REQUIREMENTS OF THESE REGULATIONS.

15 **VIOLATION:** ANY CONSTRUCTION OR DEVELOPMENT IN A SPECIAL
16 FLOOD HAZARD AREA THAT IS BEING PERFORMED WITHOUT AN ISSUED
17 PERMIT. THE FAILURE OF A BUILDING, STRUCTURE, OR OTHER
18 DEVELOPMENT FOR WHICH A PERMIT IS ISSUED TO BE FULLY COMPLIANT
19 WITH THESE REGULATIONS AND THE CONDITIONS OF THE ISSUED PERMIT.
20 A BUILDING, STRUCTURE, OR OTHER DEVELOPMENT WITHOUT THE
21 REQUIRED DESIGN CERTIFICATIONS, THE ELEVATION CERTIFICATE, OR
22 OTHER EVIDENCE OF COMPLIANCE REQUIRED IS PRESUMED TO BE A
23 VIOLATION UNTIL SUCH TIME AS THE REQUIRED DOCUMENTATION IS
24 PROVIDED.

25 **WATERCOURSE:** THE CHANNEL, INCLUDING CHANNEL BANKS AND BED,
26 OF NONTIDAL WATERS OF THE STATE.

27 **WATERS OF THE STATE:** WATERS OF THE STATE INCLUDE:

- 28 (1) BOTH SURFACE AND UNDERGROUND WATERS WITHIN THE
29 BOUNDARIES OF THE STATE SUBJECT TO ITS JURISDICTION;
30 (2) THAT PORTION OF THE ATLANTIC OCEAN WITHIN THE BOUNDARIES
31 OF THE STATE;
32 (3) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

- 1 (4) ALL PONDS, LAKES, RIVERS, STREAMS, PUBLIC DITCHES, TAX
2 DITCHES, AND PUBLIC DRAINAGE SYSTEMS WITHIN THE STATE,
3 OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY,
4 OR DISPOSE OF SANITARY SEWAGE; AND
5 (5) THE FLOODPLAIN OF FREE-FLOWING WATERS DETERMINED BY MDE
6 ON THE BASIS OF THE 100-YEAR FLOOD FREQUENCY.
7

8 **SECTION 238-7. ADMINISTRATION.**

9 (A) DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR. THE CHIEF IS
10 HEREBY APPOINTED TO ADMINISTER AND IMPLEMENT THESE
11 REGULATIONS AND IS REFERRED TO HEREIN AS THE FLOODPLAIN
12 ADMINISTRATOR. THE FLOODPLAIN ADMINISTRATOR MAY:

- 13 (1) DELEGATE DUTIES AND RESPONSIBILITIES SET FORTH IN THESE
14 REGULATIONS TO QUALIFIED TECHNICAL PERSONNEL, PLAN
15 EXAMINERS, INSPECTORS, AND OTHER EMPLOYEES.
16 (2) ENTER INTO A WRITTEN AGREEMENT OR WRITTEN CONTRACT WITH
17 A PRIVATE SECTOR ENTITY TO ADMINISTER SPECIFIC PROVISIONS
18 OF THESE REGULATIONS. ADMINISTRATION OF ANY PART OF THESE
19 REGULATIONS BY ANOTHER ENTITY SHALL NOT RELIEVE
20 CHARLES COUNTY OF ITS RESPONSIBILITIES PURSUANT TO THE
21 PARTICIPATION REQUIREMENTS OF THE NATIONAL FLOOD
22 INSURANCE PROGRAM AS SET FORTH IN THE CODE OF FEDERAL
23 REGULATIONS AT 44 C.F.R. SECTION 59.22.

24 (B) DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.
25 THE DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR
26 SHALL INCLUDE BUT ARE NOT LIMITED TO:

- 27 (1) REVIEW APPLICATIONS FOR PERMITS TO DETERMINE WHETHER
28 PROPOSED ACTIVITIES WILL BE LOCATED IN FLOOD HAZARD
29 AREAS.
30 (2) INTERPRET FLOODPLAIN BOUNDARIES AND PROVIDE AVAILABLE
31 BASE FLOOD ELEVATION AND FLOOD HAZARD INFORMATION.
32 (3) REVIEW APPLICATIONS TO DETERMINE WHETHER PROPOSED
33 ACTIVITIES WILL BE REASONABLY SAFE FROM FLOODING AND

1 REQUIRE NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS
2 TO MEET THE REQUIREMENTS OF THESE REGULATIONS.

3 (4) REVIEW APPLICATIONS TO DETERMINE WHETHER ALL NECESSARY
4 PERMITS HAVE BEEN OBTAINED FROM THE FEDERAL, STATE OR
5 LOCAL AGENCIES FROM WHICH PRIOR OR CONCURRENT APPROVAL
6 IS REQUIRED; IN PARTICULAR, PERMITS FROM MDE FOR ANY
7 CONSTRUCTION, RECONSTRUCTION, REPAIR, OR ALTERATION OF A
8 DAM, RESERVOIR, OR WATERWAY OBSTRUCTION (INCLUDING
9 BRIDGES, CULVERTS, STRUCTURES), ANY ALTERATION OF A
10 WATERCOURSE, OR ANY CHANGE OF THE COURSE, CURRENT, OR
11 CROSS SECTION OF A STREAM OR BODY OF WATER, INCLUDING ANY
12 CHANGE TO THE 100-YEAR FREQUENCY FLOODPLAIN OF FREE-
13 FLOWING NONTIDAL WATERS OF THE STATE.

14 (5) VERIFY THAT APPLICANTS PROPOSING AN ALTERATION OF A
15 WATERCOURSE HAVE NOTIFIED ADJACENT COMMUNITIES AND MDE
16 (NFIP STATE COORDINATOR), AND HAVE SUBMITTED COPIES OF
17 SUCH NOTIFICATIONS TO FEMA.

18 (6) ADVISE APPLICANTS FOR NEW CONSTRUCTION OR SUBSTANTIAL
19 IMPROVEMENT OF STRUCTURES THAT ARE LOCATED WITHIN AN
20 AREA OF THE COASTAL BARRIER RESOURCES SYSTEM
21 ESTABLISHED BY THE COASTAL BARRIER RESOURCES ACT THAT
22 FEDERAL FLOOD INSURANCE IS NOT AVAILABLE ON SUCH
23 STRUCTURES; AREAS SUBJECT TO THIS LIMITATION ARE SHOWN ON
24 FLOOD INSURANCE RATE MAPS AS COASTAL BARRIER RESOURCE
25 SYSTEM AREAS (CBRS) OR OTHERWISE PROTECTED AREAS (OPA).

26 (7) APPROVE APPLICATIONS AND ISSUE PERMITS TO DEVELOP IN
27 FLOOD HAZARD AREAS IF THE PROVISIONS OF THESE
28 REGULATIONS HAVE BEEN MET, OR DISAPPROVE APPLICATIONS IF
29 THE PROVISIONS OF THESE REGULATIONS HAVE NOT BEEN MET.

30 (8) INSPECT OR CAUSE TO BE INSPECTED, BUILDINGS, STRUCTURES,
31 AND OTHER DEVELOPMENT FOR WHICH PERMITS HAVE BEEN
32 ISSUED TO DETERMINE COMPLIANCE WITH THESE REGULATIONS OR

1 TO DETERMINE IF NON-COMPLIANCE HAS OCCURRED OR
2 VIOLATIONS HAVE BEEN COMMITTED.

3 (9) REVIEW ELEVATION CERTIFICATES AND REQUIRE INCOMPLETE OR
4 DEFICIENT CERTIFICATES TO BE CORRECTED.

5 (10) SUBMIT TO FEMA, OR REQUIRE APPLICANTS TO SUBMIT TO FEMA,
6 DATA AND INFORMATION NECESSARY TO MAINTAIN FIRMS,
7 INCLUDING HYDROLOGIC AND HYDRAULIC ENGINEERING
8 ANALYSES PREPARED BY OR FOR CHARLES COUNTY,
9 MARYLAND, WITHIN SIX MONTHS AFTER SUCH DATA AND
10 INFORMATION BECOMES AVAILABLE IF THE ANALYSIS INDICATED
11 IN BASE FLOOD ELEVATIONS.

12 (11) MAINTAIN AND PERMANENTLY KEEP RECORDS THAT ARE
13 NECESSARY FOR THE ADMINISTRATION OF THESE REGULATIONS,
14 INCLUDING:

15 (A) FLOOD INSURANCE STUDIES, FLOOD INSURANCE RATE MAPS
16 (INCLUDING HISTORIC STUDIES AND MAPS AND CURRENT
17 EFFECTIVE STUDIES AND MAPS) AND LETTERS OF MAP
18 CHANGE; AND

19 (B) DOCUMENTATION SUPPORTING ISSUANCE AND DENIAL OF
20 PERMITS, ELEVATION CERTIFICATES, DOCUMENTATION OF
21 THE ELEVATION (IN RELATION TO THE DATUM ON THE FIRM)
22 TO WHICH STRUCTURES HAVE BEEN FLOODPROOFED, OTHER
23 REQUIRED DESIGN CERTIFICATIONS, VARIANCES, AND
24 RECORDS OF ENFORCEMENT ACTIONS TAKEN TO CORRECT
25 VIOLATIONS OF THESE REGULATIONS.

26 (12) ENFORCE THE PROVISIONS OF THESE REGULATIONS, INVESTIGATE
27 VIOLATIONS, ISSUE NOTICES OF VIOLATIONS OR STOP WORK
28 ORDERS, AND REQUIRE PERMIT HOLDERS TO TAKE CORRECTIVE
29 ACTION.

30 (13) ADVISE THE DIRECTOR REGARDING THE INTENT OF THESE
31 REGULATIONS AND, FOR EACH APPLICATION FOR A VARIANCE,
32 PREPARE A STAFF REPORT AND RECOMMENDATION.

1 (14) ADMINISTER THE REQUIREMENTS RELATED TO PROPOSED WORK
2 ON EXISTING BUILDINGS:

3 (A) MAKE DETERMINATIONS AS TO WHETHER BUILDINGS AND
4 STRUCTURES THAT ARE LOCATED IN FLOOD HAZARD AREAS
5 AND THAT ARE DAMAGED BY ANY CAUSE HAVE BEEN
6 SUBSTANTIALLY DAMAGED.

7 (B) MAKE REASONABLE EFFORTS TO NOTIFY OWNERS OF
8 SUBSTANTIALLY DAMAGED STRUCTURES OF THE NEED TO
9 OBTAIN A PERMIT TO REPAIR, REHABILITATE, OR
10 RECONSTRUCT, AND PROHIBIT THE NON-COMPLIANT REPAIR
11 OF SUBSTANTIALLY DAMAGED BUILDINGS EXCEPT FOR
12 TEMPORARY EMERGENCY PROTECTIVE MEASURES
13 NECESSARY TO SECURE A PROPERTY OR STABILIZE A
14 BUILDING OR STRUCTURE TO PREVENT ADDITIONAL
15 DAMAGE.

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

30 (16) NOTIFY THE FEMA WHEN THE CORPORATE BOUNDARIES OF
31 CHARLES COUNTY, MARYLAND HAVE BEEN MODIFIED AND:

32 (A) PROVIDE A MAP THAT CLEARLY DELINEATES THE NEW
33 CORPORATE BOUNDARIES OR THE NEW AREA FOR WHICH

1 THE AUTHORITY TO REGULATE PURSUANT TO THESE
2 REGULATIONS HAS EITHER BEEN ASSUMED OR RELINQUISHED
3 THROUGH ANNEXATION; AND

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

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

21 (C) USE AND INTERPRETATION OF FIRMS. THE FLOODPLAIN ADMINISTRATOR
22 SHALL MAKE INTERPRETATIONS, WHERE NEEDED, AS TO THE EXACT
23 LOCATION OF SPECIAL FLOOD HAZARD AREAS, FLOODPLAIN BOUNDARIES,
24 AND FLOODWAY BOUNDARIES. THE FOLLOWING SHALL APPLY TO THE USE
25 AND INTERPRETATION OF FIRMS AND DATA:

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

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

33 (B) ARE ABOVE THE BASE FLOOD ELEVATION, THE AREA SHALL

1 BE REGULATED AS SPECIAL FLOOD HAZARD AREA UNLESS
2 THE APPLICANT OBTAINS A LETTER OF MAP CHANGE THAT
3 REMOVES THE AREA FROM THE SPECIAL FLOOD
4 HAZARD AREA.

5 (2) IN FEMA-IDENTIFIED SPECIAL FLOOD HAZARD AREAS WHERE BASE
6 FLOOD ELEVATION AND FLOODWAY DATA HAVE NOT BEEN
7 IDENTIFIED AND IN AREAS WHERE FEMA HAS NOT IDENTIFIED
8 SPECIAL FLOOD HAZARD AREAS, ANY OTHER FLOOD HAZARD DATA
9 AVAILABLE FROM A FEDERAL, STATE, OR OTHER SOURCE SHALL BE
10 REVIEWED AND REASONABLY USED.

11 (3) BASE FLOOD ELEVATIONS AND DESIGNATED FLOODWAY
12 BOUNDARIES ON FIRMS AND IN FISS SHALL TAKE PRECEDENCE
13 OVER BASE FLOOD ELEVATIONS AND FLOODWAY BOUNDARIES BY
14 ANY OTHER SOURCES IF SUCH SOURCES SHOW REDUCED
15 FLOODWAY WIDTHS AND/OR LOWER BASE FLOOD ELEVATIONS.

16 (4) OTHER SOURCES OF DATA SHALL BE REASONABLY USED IF SUCH
17 SOURCES SHOW INCREASED BASE FLOOD ELEVATIONS AND/OR
18 LARGER FLOODWAY AREAS THAN ARE SHOWN ON FIRMS AND IN
19 FISS.

20 (5) IF A PRELIMINARY FLOOD INSURANCE RATE MAP AND/OR A
21 PRELIMINARY FLOOD INSURANCE STUDY HAS BEEN PROVIDED BY
22 FEMA:

23 (A) UPON THE ISSUANCE OF A LETTER OF FINAL DETERMINATION
24 BY FEMA, THE PRELIMINARY FLOOD HAZARD DATA SHALL BE
25 USED AND SHALL REPLACE THE FLOOD HAZARD DATA
26 PREVIOUSLY PROVIDED FROM FEMA FOR THE PURPOSES OF
27 ADMINISTERING THESE REGULATIONS.

28 (B) PRIOR TO THE ISSUANCE OF A LETTER OF FINAL
29 DETERMINATION BY FEMA, THE USE OF PRELIMINARY FLOOD
30 HAZARD DATA SHALL BE DEEMED THE BEST AVAILABLE DATA
31 PURSUANT TO SECTION 238-5(D)(3) AND USED WHERE NO
32 BASE FLOOD ELEVATIONS AND/OR FLOODWAY
33 AREAS ARE PROVIDED ON THE EFFECTIVE FIRM.

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

9 (D) PERMITS REQUIRED AND EXPIRATION.

10 (1) IT SHALL BE UNLAWFUL FOR ANY PERSON TO BEGIN ANY
11 DEVELOPMENT OR CONSTRUCTION WHICH IS WHOLLY
12 WITHIN, PARTIALLY WITHIN, OR IN CONTACT WITH ANY FLOOD
13 HAZARD AREA ESTABLISHED IN SECTION 238-5(E),
14 INCLUDING BUT NOT LIMITED TO: FILLING; GRADING;
15 CONSTRUCTION OF NEW STRUCTURES; THE SUBSTANTIAL
16 IMPROVEMENT OF BUILDINGS OR STRUCTURES, INCLUDING REPAIR
17 OF SUBSTANTIAL DAMAGE; PLACEMENT OR REPLACEMENT OF
18 MANUFACTURED HOMES, INCLUDING SUBSTANTIAL IMPROVEMENT
19 OR REPAIR OF SUBSTANTIAL DAMAGE OF MANUFACTURED HOMES;
20 ERECTING OR INSTALLING A TEMPORARY STRUCTURE, OR
21 ALTERATION OF A WATERCOURSE, UNTIL A PERMIT IS OBTAINED
22 FROM CHARLES COUNTY. NO SUCH PERMIT SHALL BE ISSUED UNTIL
23 THE REQUIREMENTS OF THESE REGULATIONS HAVE BEEN MET.

24 (2) IN ADDITION TO THE PERMITS REQUIRED IN PARAGRAPH (A),
25 APPLICANTS FOR PERMITS IN NONTIDAL WATERS OF THE STATE ARE
26 ADVISED TO CONTACT MDE UNLESS WAIVED BY MDE, PURSUANT
27 TO CODE OF MARYLAND REGULATIONS 26.17.04, CONSTRUCTION ON
28 NONTIDAL WATERS AND FLOODPLAINS, MDE REGULATES THE
29 "100-YEAR FREQUENCY FLOODPLAIN OF FREE-FLOWING WATERS,"
30 ALSO REFERRED TO AS NONTIDAL WATERS OF THE STATE. TO
31 DETERMINE THE 100-YEAR FREQUENCY FLOODPLAIN, HYDROLOGIC
32 CALCULATIONS ARE BASED ON THE ULTIMATE DEVELOPMENT OF
33 THE WATERSHED, ASSUMING EXISTING ZONING. THE RESULTING

1 FLOOD HAZARD AREAS DELINEATED USING THE RESULTS OF SUCH
2 CALCULATIONS MAY BE DIFFERENT THAN THE SPECIAL FLOOD
3 HAZARD AREAS ESTABLISHED IN SECTION 238-5(E) OF THESE
4 REGULATIONS.

5 (3) A PERMIT IS VALID PROVIDED THE ACTUAL START OF WORK IS
6 WITHIN 180 DAYS OF THE DATE OF PERMIT ISSUANCE. REQUESTS
7 FOR EXTENSIONS SHALL BE SUBMITTED IN WRITING AND
8 JUSTIFIABLE CAUSE DEMONSTRATED. THE FLOODPLAIN
9 ADMINISTRATOR MAY GRANT, IN WRITING, ONE OR MORE
10 EXTENSIONS OF TIME, FOR ADDITIONAL PERIODS NOT
11 EXCEEDING 90 DAYS EACH AND PROVIDED THERE HAS BEEN NO
12 AMENDMENT OR REVISION TO THE BASIS FOR ESTABLISHING
13 SPECIAL FLOOD HAZARD AREAS AND BFES SET FORTH IN SECTION
14 238-8(E).

15 (4) PERMITS FOR INCREMENTAL IMPROVEMENTS AND ADDITIONS
16 SHALL BE TRACKED BY THE DEPARTMENT, AND IF CUMULATIVE
17 IMPROVEMENTS CONSTITUTE SUBSTANTIAL IMPROVEMENT, NO
18 FURTHER PERMITS MAY BE ISSUED UNLESS THE STRUCTURE
19 CONFORMS TO THE PROVISIONS OF THIS ORDINANCE.

20 (E) APPLICATION REQUIRED. APPLICATION FOR A PERMIT SHALL BE MADE BY
21 THE OWNER OF THE PROPERTY OR THE OWNER'S AUTHORIZED AGENT
22 (HEREIN REFERRED TO AS THE APPLICANT) PRIOR TO THE START OF ANY
23 WORK. THE APPLICATION SHALL BE ON A FORM FURNISHED FOR THAT
24 PURPOSE.

25 (1) APPLICATION CONTENTS. AT A MINIMUM, APPLICATIONS SHALL
26 INCLUDE:

27 (A) SITE PLANS DRAWN TO SCALE SHOWING THE NATURE,
28 LOCATION, DIMENSIONS, AND EXISTING AND PROPOSED
29 TOPOGRAPHY OF THE AREA IN QUESTION, AND THE
30 LOCATION OF EXISTING AND PROPOSED STRUCTURES,
31 EXCAVATION, FILLING, STORAGE OF MATERIALS, DRAINAGE
32 FACILITIES, AND OTHER PROPOSED ACTIVITIES.

33 (B) ELEVATION OF THE EXISTING NATURAL GROUND WHERE

1 BUILDINGS OR STRUCTURES ARE PROPOSED, REFERENCED TO
2 THE DATUM ON THE FIRM.

3 (C) DELINEATION OF FLOOD HAZARD AREAS, DESIGNATED
4 FLOODWAY BOUNDARIES, FLOOD ZONES, BASE FLOOD
5 ELEVATIONS, AND FLOOD PROTECTION SETBACKS.
6 BASE FLOOD ELEVATIONS SHALL BE USED TO DELINEATE THE
7 BOUNDARY OF FLOOD HAZARD AREAS AND SUCH
8 DELINEATIONS SHALL PREVAIL OVER THE BOUNDARY OF
9 SFHAS SHOWN ON FIRMS.

10 (D) WHERE FLOODWAYS ARE NOT DELINEATED OR BASE FLOOD
11 ELEVATIONS ARE NOT SHOWN ON THE FIRMS, THE
12 FLOODPLAIN ADMINISTRATOR HAS THE AUTHORITY TO
13 REQUIRE THE APPLICANT TO USE INFORMATION
14 PROVIDED BY THE FLOODPLAIN ADMINISTRATOR,
15 INFORMATION THAT IS AVAILABLE FROM FEDERAL,
16 STATE, OR OTHER SOURCES, OR TO DETERMINE SUCH
17 INFORMATION USING ACCEPTED ENGINEERING
18 PRACTICES OR METHODS APPROVED BY THE FLOODPLAIN
19 ADMINISTRATOR. NOTE: SEE "MANAGING FLOODPLAIN
20 DEVELOPMENT IN APPROXIMATE ZONE A AREAS: A
21 GUIDE FOR OBTAINING AND DEVELOPING BASE
22 (100-YEAR) FLOOD ELEVATIONS" (FEMA 265).

23 (E) DETERMINATION OF THE BASE FLOOD ELEVATIONS, FOR
24 DEVELOPMENT PROPOSALS AND SUBDIVISION PROPOSALS,
25 EACH WITH AT LEAST 5 LOTS OR AT LEAST 5 ACRES,
26 WHICHEVER IS THE LESSER, IN SPECIAL FLOOD HAZARD
27 AREAS WHERE BASE FLOOD ELEVATIONS ARE NOT SHOWN ON
28 THE FIRM; IF HYDROLOGIC AND HYDRAULIC ENGINEERING
29 ANALYSES ARE SUBMITTED, SUCH ANALYSES SHALL
30 BE PERFORMED IN ACCORDANCE WITH THE REQUIREMENTS
31 AND SPECIFICATIONS OF MDE AND FEMA.

32 (F) HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSES FOR
33 PROPOSALS IN SPECIAL FLOOD HAZARD AREAS WHERE FEMA

1 HAS PROVIDED BASE FLOOD ELEVATIONS BUT HAS NOT
2 DELINEATED A FLOODWAY; SUCH ANALYSES SHALL
3 DEMONSTRATE THAT THE CUMULATIVE EFFECT OF PROPOSED
4 DEVELOPMENT, WHEN COMBINED WITH ALL OTHER
5 EXISTING AND ANTICIPATED DEVELOPMENT WILL
6 NOT INCREASE THE WATER SURFACE ELEVATION OF THE BASE
7 FLOOD BY MORE THAN ONE (1) FOOT OR A LOWER INCREASE
8 IF REQUIRED BY MDE.

9 (G) FOR ENCROACHMENTS IN FLOODWAYS, AN EVALUATION OF
10 ALTERNATIVES TO SUCH ENCROACHMENTS, INCLUDING
11 DIFFERENT USES OF THE SITE OR PORTION OF THE SITE
12 WITHIN THE FLOODWAY, AND MINIMIZATION OF
13 SUCH ENCROACHMENT.

14 (H) IF FILL IS PROPOSED TO BE PLACED FOR A PURPOSE OTHER
15 THAN TO ELEVATE STRUCTURES, THE APPLICANT SHALL
16 INDICATE THE INTENDED PURPOSE FOR THE FILL.

17 (I) FOR PROPOSED BUILDINGS AND STRUCTURES, INCLUDING
18 SUBSTANTIAL IMPROVEMENT AND REPAIR OF SUBSTANTIAL
19 DAMAGE, AND PLACEMENT AND REPLACEMENT OF
20 MANUFACTURED HOMES, INCLUDING SUBSTANTIAL
21 IMPROVEMENT AND REPAIR OF SUBSTANTIAL DAMAGE:

22 (I) THE PROPOSED ELEVATION OF THE LOWEST FLOOR,
23 INCLUDING BASEMENT, REFERENCED TO THE DATUM
24 ON THE FIRM AND A SIGNED AGREEMENT TO SUBMIT
25 AN ELEVATION CERTIFICATE.

26 (II) THE SIGNED DECLARATION OF LAND RESTRICTION
27 (NONCONVERSION AGREEMENT) THAT SHALL BE
28 RECORDED ON THE PROPERTY DEED PRIOR TO
29 ISSUANCE OF THE CERTIFICATE OF USE AND
30 OCCUPANCY, IF THE APPLICATION INCLUDES
31 AN ENCLOSURE BELOW THE LOWEST FLOOR OR A
32 CRAWL/UNDERFLOOR SPACE THAT IS MORE THAN FOUR
33 (4) FEET IN HEIGHT.

1 (III) A WRITTEN EVALUATION OF ALTERNATIVE METHODS
2 CONSIDERED TO ELEVATE STRUCTURES AND
3 MANUFACTURED HOMES, IF THE LOCATION IS IN
4 NONTIDAL WATERS OF THE STATE AND FILL IS
5 PROPOSED TO ACHIEVE THE ELEVATION REQUIRED IN
6 SECTION 238-9(D)(1) OR SECTION 238-9(E)(1).

7 (J) FOR ACCESSORY STRUCTURES THAT ARE 300 SQUARE FEET OR
8 LARGER IN AREA (FOOTPRINT) THAT ARE BELOW THE BASE
9 FLOOD ELEVATION, A DECLARATION OF LAND RESTRICTION
10 (NONCONVERSION AGREEMENT) SHALL BE RECORDED
11 ON THE PROPERTY DEED PRIOR TO ISSUANCE OF THE
12 CERTIFICATE OF USE AND OCCUPANCY.

13 (K) FOR TEMPORARY STRUCTURES AND TEMPORARY STORAGE,
14 SPECIFICATION OF THE DURATION OF THE TEMPORARY USE.

15 (L) FOR PROPOSED WORK ON EXISTING BUILDINGS, STRUCTURE,
16 AND MANUFACTURED HOMES, INCLUDING ANY
17 IMPROVEMENT, ADDITION, REPAIRS, ALTERATIONS,
18 REHABILITATION, OR RECONSTRUCTION, SUFFICIENT
19 INFORMATION TO DETERMINE IF THE WORK CONSTITUTES
20 SUBSTANTIAL IMPROVEMENT OR REPAIR OF SUBSTANTIAL
21 DAMAGE, INCLUDING BUT NOT LIMITED TO:

22 (I) IF THE EXISTING BUILDING OR STRUCTURE WAS
23 CONSTRUCTED AFTER JUNE 5, 1985, EVIDENCE THAT
24 THE WORK WILL NOT ALTER ANY ASPECT OF THE
25 BUILDING OR STRUCTURE THAT WAS REQUIRED FOR
26 COMPLIANCE WITH THE FLOODPLAIN MANAGEMENT
27 REQUIREMENTS IN EFFECT AT THE TIME THE BUILDING
28 OR STRUCTURE WAS PERMITTED.

29 (II) IF THE PROPOSED WORK IS A HORIZONTAL ADDITION, A
30 DESCRIPTION OF THE ADDITION AND WHETHER IT
31 WILL BE INDEPENDENTLY SUPPORTED OR
32 STRUCTURALLY CONNECTED TO THE BASE BUILDING
33 AND THE NATURE OF ALL OTHER MODIFICATIONS TO

1 THE BASE BUILDING, IF ANY.

2 (III) DOCUMENTATION OF THE MARKET VALUE OF THE
3 BUILDING OR STRUCTURE BEFORE THE IMPROVEMENT
4 OR, IF THE WORK IS REPAIR OF DAMAGE, BEFORE
5 THE DAMAGE OCCURRED.

6 (IV) DOCUMENTATION OF THE ACTUAL CASH VALUE OF ALL
7 PROPOSED WORK, INCLUDING THE ACTUAL CASH
8 VALUE OF ALL WORK NECESSARY TO REPAIR AND
9 RESTORE DAMAGE TO THE BEFORE-DAMAGED
10 CONDITION, REGARDLESS OF THE AMOUNT OF
11 WORK THAT WILL BE PERFORMED. THE VALUE OF
12 WORK PERFORMED BY THE OWNER OR VOLUNTEERS
13 SHALL BE VALUED AT MARKET LABOR RATES; THE
14 VALUE OF DONATED OR DISCOUNTED MATERIALS
15 SHALL BE VALUED AT MARKET RATES.

16 (M) CERTIFICATIONS AND/OR TECHNICAL ANALYSES PREPARED
17 OR CONDUCTED BY A LICENSED PROFESSIONAL ENGINEER,
18 OR LICENSED ARCHITECT, AS APPROPRIATE, INCLUDING:

19 (I) THE DETERMINATION OF THE BASE FLOOD ELEVATIONS
20 OR HYDROLOGIC AND HYDRAULIC ENGINEERING
21 ANALYSES PREPARED BY A LICENSED PROFESSIONAL
22 ENGINEER THAT ARE REQUIRED BY THE FLOODPLAIN
23 ADMINISTRATOR OR ARE REQUIRED BY THESE
24 REGULATIONS IN: SECTION 238-8(B) FOR CERTAIN
25 SUBDIVISIONS AND DEVELOPMENT; SECTION 238-
26 9(C)(1) FOR DEVELOPMENT IN DESIGNATED
27 FLOODWAYS; SECTION 238-9(C)(3) FOR DEVELOPMENT
28 IN FLOOD HAZARD AREAS WITH BASE FLOOD
29 ELEVATIONS BUT NO DESIGNATED FLOODWAYS;
30 AND SECTION 238-9(D)(5) FOR DELIBERATE ALTERATION
31 OR RELOCATION OF WATERCOURSES.

32 (II) THE FLOODPROOFING CERTIFICATE FOR
33 NONRESIDENTIAL STRUCTURES THAT ARE

1 FLOODPROOFED AS REQUIRED IN SECTION 238-9(E)(2).

2 (III) CERTIFICATION THAT ENGINEERED FLOOD OPENINGS
3 ARE DESIGNED TO MEET THE MINIMUM REQUIREMENTS
4 OF SECTION 238-9(D)(3)(C) TO AUTOMATICALLY
5 EQUALIZE HYDROSTATIC FLOOD FORCES.

6 (IV) CERTIFICATION THAT THE PROPOSED ELEVATION,
7 STRUCTURAL DESIGN, SPECIFICATIONS AND PLANS,
8 AND THE METHODS OF CONSTRUCTION TO BE USED
9 FOR STRUCTURES IN COASTAL HIGH HAZARD AREAS (V
10 ZONES) AND COASTAL A ZONES, ARE IN ACCORDANCE
11 WITH ACCEPTED STANDARDS OF PRACTICE AND MEET
12 THE REQUIREMENTS OF SECTION 238-10(C)(3).

13 (N) FOR NONRESIDENTIAL STRUCTURES THAT ARE PROPOSED
14 WITH FLOODPROOFING, AN OPERATIONS AND MAINTENANCE
15 PLAN AS SPECIFIED IN 238-9(E)(2)(C).

16 (O) SUCH OTHER MATERIAL AND INFORMATION AS MAY BE
17 REQUESTED BY THE FLOODPLAIN ADMINISTRATOR AND
18 NECESSARY TO DETERMINE CONFORMANCE WITH THESE
19 REGULATIONS.

20 (2) NEW TECHNICAL DATA

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

30 (B) IF THE APPLICANT SUBMITS NEW TECHNICAL DATA TO
31 SUPPORT ANY CHANGE IN FLOODPLAIN AND DESIGNATED
32 FLOODWAY BOUNDARIES AND/OR BASE FLOOD ELEVATIONS
33 BUT HAS NOT SOUGHT A LETTER OF MAP CHANGE FROM

1 FEMA, THE APPLICANT SHALL SUBMIT SUCH DATA TO FEMA
2 AS SOON AS PRACTICABLE, BUT NOT LATER THAN SIX
3 MONTHS AFTER THE DATE SUCH INFORMATION BECOMES
4 AVAILABLE. SUCH SUBMISSIONS SHALL BE PREPARED IN A
5 FORMAT ACCEPTABLE TO FEMA AND ANY FEES SHALL BE THE
6 SOLE RESPONSIBILITY OF THE APPLICANT.

7 (F) REVIEW OF APPLICATION. THE FLOODPLAIN ADMINISTRATOR SHALL:

- 8 (1) REVIEW APPLICATIONS FOR DEVELOPMENT IN SPECIAL FLOOD
9 HAZARD AREAS TO DETERMINE THE COMPLETENESS OF
10 INFORMATION SUBMITTED. THE APPLICANT SHALL BE NOTIFIED OF
11 INCOMPLETENESS OR ADDITIONAL INFORMATION THAT IS
12 REQUIRED TO SUPPORT THE APPLICATION.
- 13 (2) NOTIFY APPLICANTS THAT PERMITS FROM MDE AND THE U.S. ARMY
14 CORPS OF ENGINEERS, AND OTHER STATE AND FEDERAL
15 AUTHORITIES MAY BE REQUIRED.
- 16 (3) REVIEW ALL PERMIT APPLICATIONS TO ASSURE THAT ALL
17 NECESSARY PERMITS HAVE BEEN RECEIVED FROM THE FEDERAL,
18 STATE OR LOCAL GOVERNMENTAL AGENCIES FROM WHICH PRIOR
19 APPROVAL IS REQUIRED. THE APPLICANT SHALL BE RESPONSIBLE
20 FOR OBTAINING SUCH PERMITS, INCLUDING PERMITS ISSUED BY:
- 21 (A) THE U.S. ARMY CORPS OF ENGINEERS UNDER SECTION 10 OF
22 THE RIVERS AND HARBORS ACT AND SECTION 404 OF THE
23 CLEAN WATER ACT;
- 24 (B) MDE PURSUANT TO COMAR 26.23 (NONTIDAL WETLANDS) AND
25 SECTION 401 OF THE CLEAN WATER ACT;
- 26 (C) MDE FOR CONSTRUCTION ON NONTIDAL WATERS OF THE
27 STATE PURSUANT TO COMAR 26.17.04; AND
- 28 (D) MDE PURSUANT TO COMAR 26.24 (TIDAL WETLANDS).
- 29 (4) REVIEW APPLICATIONS FOR COMPLIANCE WITH THESE
30 REGULATIONS AFTER ALL INFORMATION REQUIRED IN SECTION
31 238-7(A) OF THESE REGULATIONS OR IDENTIFIED AND REQUIRED BY
32 THE FLOODPLAIN ADMINISTRATOR HAS BEEN RECEIVED.

33 (G) INSPECTIONS. THE FLOODPLAIN ADMINISTRATOR SHALL MAKE PERIODIC

1 INSPECTIONS OF DEVELOPMENT PERMITTED IN SPECIAL FLOOD HAZARD
2 AREAS, AT APPROPRIATE TIMES THROUGHOUT THE PERIOD OF
3 CONSTRUCTION IN ORDER TO MONITOR COMPLIANCE. SUCH INSPECTIONS
4 MAY INCLUDE:

- 5 (1) STAKE-OUT INSPECTION, TO DETERMINE LOCATION ON THE SITE
6 RELATIVE TO THE FLOOD HAZARD AREA AND DESIGNATED
7 FLOODWAY.
- 8 (2) FOUNDATION INSPECTION, UPON PLACEMENT OF THE LOWEST
9 FLOOR AND PRIOR TO FURTHER VERTICAL CONSTRUCTION, TO
10 COLLECT INFORMATION OR CERTIFICATION OF THE ELEVATION OF
11 THE LOWEST FLOOR.
- 12 (3) INSPECTION OF ENCLOSURES BELOW THE LOWEST FLOOR,
13 INCLUDING CRAWL/UNDERFLOOR SPACES, TO DETERMINE
14 COMPLIANCE WITH APPLICABLE PROVISIONS.
- 15 (4) UTILITY INSPECTION, UPON INSTALLATION OF SPECIFIED
16 EQUIPMENT AND APPLIANCES, TO DETERMINE APPROPRIATE
17 LOCATION WITH RESPECT TO THE BASE FLOOD ELEVATION.
- 18 (5) FINAL INSPECTION PRIOR TO ISSUANCE OF THE CERTIFICATE OF USE
19 AND OCCUPANCY.

20 (H) SUBMISSIONS REQUIRED PRIOR TO FINAL INSPECTION. PURSUANT TO THE
21 AGREEMENT TO SUBMIT AN ELEVATION CERTIFICATE SUBMITTED WITH
22 THE APPLICATION AS REQUIRED IN SECTION 238-7(E)(1)(H), THE PERMITTEE
23 SHALL HAVE AN ELEVATION CERTIFICATE PREPARED AND SUBMITTED
24 PRIOR TO FINAL INSPECTION AND ISSUANCE OF A CERTIFICATE OF USE
25 AND OCCUPANCY FOR ELEVATED STRUCTURES AND MANUFACTURED
26 HOMES, INCLUDING NEW STRUCTURES AND MANUFACTURED HOMES,
27 SUBSTANTIALLY- IMPROVED STRUCTURES AND MANUFACTURED HOMES,
28 AND ADDITIONS TO STRUCTURES AND MANUFACTURED HOMES.

29
30 **SECTION 238-8. REQUIREMENTS IN FLOOD HAZARD AREAS.**

31 (A) THE GENERAL REQUIREMENTS OF THIS SECTION APPLY TO ALL
32 DEVELOPMENT PROPOSED WITHIN ALL SPECIAL FLOOD HAZARD AREAS

1 IDENTIFIED IN SECTION 238-5(E).

2 (B) SUBDIVISION PROPOSALS AND DEVELOPMENT PROPOSALS.

3 (1) IN ALL FLOOD ZONES:

4 (A) SUBDIVISION PROPOSALS AND DEVELOPMENT PROPOSALS
5 SHALL BE CONSISTENT WITH THE NEED TO MINIMIZE FLOOD
6 DAMAGE AND ARE SUBJECT TO ALL APPLICABLE STANDARDS
7 IN THESE REGULATIONS.

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

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

17 (D) SUBDIVISION PROPOSALS AND DEVELOPMENT PROPOSALS
18 CONTAINING AT LEAST 5 LOTS OR AT LEAST 5 ACRES,
19 WHICHEVER IS THE LESSER, THAT ARE WHOLLY OR PARTIALLY
20 IN FLOOD HAZARD AREAS WHERE BASE FLOOD ELEVATION
21 DATA ARE NOT PROVIDED BY THE FLOODPLAIN
22 ADMINISTRATOR OR AVAILABLE FROM OTHER SOURCES,
23 SHALL BE SUPPORTED BY DETERMINATIONS OF BASE
24 FLOOD ELEVATIONS AS REQUIRED IN SECTION 238-7(E) OF
25 THESE REGULATIONS.

26 (E) SUBDIVISION ROADS, ACCESS DRIVEWAYS AND PARKING AND
27 TRAVEL AREAS FOR ANY TYPE OF DEVELOPMENT SHALL HAVE
28 THE DRIVING SURFACE AT ONE (1) FOOT ABOVE THE BASE
29 FLOOD ELEVATION.

30 (F) ADDITIONS TO STRUCTURES OR STRUCTURES THAT ARE
31 SUBSTANTIALLY IMPROVED SHALL BE ELEVATED TO ONE (1)
32 FOOT ABOVE THE BASE FLOOD ELEVATION AS OPPOSED TO
33 THE FLOOD PROTECTION ELEVATION DEFINED IN THIS

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ORDINANCE.

(2) IN SPECIAL FLOOD HAZARD AREAS OF NONTIDAL WATERS OF THE STATE:

(A) SUBDIVISION PROPOSALS SHALL BE LAID OUT SUCH THAT PROPOSED BUILDING PADS ARE LOCATED OUTSIDE OF THE SPECIAL FLOOD HAZARD AREA AND ANY PORTION OF PLATTED LOTS THAT INCLUDE LAND AREAS THAT ARE BELOW THE BASE FLOOD ELEVATION SHALL BE USED FOR OTHER PURPOSES, DEED RESTRICTED, OR OTHERWISE PROTECTED TO PRESERVE IT AS OPEN SPACE.

(B) SUBDIVISION ROADS, ACCESS DRIVEWAYS AND PARKING AND TRAVEL AREAS FOR ANY TYPE OF DEVELOPMENT SHALL HAVE THE DRIVING SURFACE AT ONE (1) FOOT ABOVE THE BASE FLOOD ELEVATION.

(C) PROTECTION OF WATER SUPPLY AND SANITARY SEWAGE SYSTEMS

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

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

(3) ON-SITE WASTE DISPOSAL SYSTEMS SHALL BE LOCATED TO AVOID IMPAIRMENT TO OR CONTAMINATION FROM THEM DURING CONDITIONS OF FLOODING.

(D) BUILDINGS AND STRUCTURES. NEW BUILDINGS AND STRUCTURES (INCLUDING THE PLACEMENT AND REPLACEMENT OF MANUFACTURED HOMES) AND SUBSTANTIAL IMPROVEMENT OF EXISTING STRUCTURES (INCLUDING MANUFACTURED HOMES) THAT ARE LOCATED, IN WHOLE OR IN PART, IN ANY SPECIAL FLOOD HAZARD AREA SHALL:

(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

1 FROM THEIR POINT OF ORIGIN THROUGH THE LOAD-RESISTING
2 ELEMENTS TO THE FOUNDATION. STRUCTURES SHALL BE
3 DESIGNED, CONNECTED AND ANCHORED TO RESIST FLOTATION,
4 COLLAPSE OR PERMANENT LATERAL MOVEMENT DUE TO
5 STRUCTURAL LOADS AND STRESSES, INCLUDING HYDRODYNAMIC
6 AND HYDROSTATIC LOADS AND THE EFFECTS OF BUOYANCY, FROM
7 FLOODING EQUAL TO THE FLOOD PROTECTION ELEVATION OR THE
8 ELEVATION REQUIRED BY THESE REGULATIONS OR THE BUILDING
9 CODE, WHICHEVER IS HIGHER.

- 10 (2) BE CONSTRUCTED BY METHODS AND PRACTICES THAT MINIMIZE
11 FLOOD DAMAGE.
- 12 (3) USE FLOOD DAMAGE-RESISTANT MATERIALS BELOW THE
13 ELEVATION OF THE LOWEST FLOOR REQUIRED IN SECTION 238-
14 9(E)(1) (FOR A ZONES) OR SECTION 238-10(C)(2) (FOR V ZONES AND
15 COASTAL A ZONES).
- 16 (4) HAVE ELECTRICAL SYSTEMS, EQUIPMENT AND COMPONENTS, AND
17 MECHANICAL, HEATING, VENTILATING, AIR CONDITIONING, AND
18 PLUMBING APPLIANCES, PLUMBING FIXTURES, DUCT SYSTEMS,
19 AND OTHER SERVICE EQUIPMENT LOCATED AT OR ABOVE THE
20 ELEVATION OF THE LOWEST FLOOR REQUIRED IN SECTION 238-9(E)
21 (A ZONES) OR SECTION 238-10(C) (V ZONES). ELECTRICAL WIRING
22 SYSTEMS ARE PERMITTED TO BE LOCATED BELOW ELEVATION OF
23 THE LOWEST FLOOR PROVIDED THEY CONFORM TO THE PROVISIONS
24 OF THE ELECTRICAL PART OF THE BUILDING CODE FOR WET
25 LOCATIONS. IF REPLACED AS PART OF A SUBSTANTIAL
26 IMPROVEMENT, ELECTRICAL SYSTEMS, EQUIPMENT AND
27 COMPONENTS, AND HEATING, VENTILATION, AIR CONDITIONING,
28 AND PLUMBING APPLIANCES, PLUMBING FIXTURES, DUCT
29 SYSTEMS, AND OTHER SERVICE EQUIPMENT SHALL MEET THE
30 REQUIREMENTS OF THIS SECTION.
- 31 (5) AS AN ALTERNATIVE TO PARAGRAPH (4), ELECTRICAL SYSTEMS,
32 EQUIPMENT AND COMPONENTS, AND HEATING, VENTILATING, AIR
33 CONDITIONING, AND PLUMBING APPLIANCES, PLUMBING

1 FIXTURES, DUCT SYSTEMS, AND OTHER SERVICE EQUIPMENT ARE
2 PERMITTED TO BE LOCATED BELOW THE ELEVATION OF THE
3 LOWEST FLOOR PROVIDED THEY ARE DESIGNED AND INSTALLED
4 TO PREVENT WATER FROM ENTERING OR ACCUMULATING WITHIN
5 THE COMPONENTS AND TO RESIST HYDROSTATIC AND
6 HYDRODYNAMIC LOADS AND STRESSES, INCLUDING THE
7 EFFECTS OF BUOYANCY, DURING THE OCCURRENCE OF THE BASE
8 FLOOD.

9 (6) HAVE THE ELECTRIC PANEL BOARD ELEVATED AT LEAST THREE (3)
10 FEET ABOVE THE BFE.

11 (7) COMPLY WITH THE SPECIFIC REQUIREMENTS OF SECTION 238-9 IF
12 LOCATED IN FLOOD HAZARD AREAS (A ZONES) THAT ARE NOT
13 IDENTIFIED AS COASTAL A ZONES AND COASTAL HIGH HAZARD
14 AREAS (V ZONES).

15 (8) COMPLY WITH THE SPECIFIC REQUIREMENTS OF SECTION 238-10 OR
16 SECTION 238-9, IF APPLICABLE, IF LOCATED IN COASTAL A ZONES.

17 (9) COMPLY WITH THE SPECIFIC REQUIREMENTS OF SECTION 238-10 IF
18 LOCATED IN COASTAL HIGH HAZARD AREAS (V ZONES).

19 (10) COMPLY WITH THE REQUIREMENTS OF THE MOST RESTRICTIVE
20 DESIGNATION IF LOCATED ON A SITE THAT HAS MORE THAN ONE
21 FLOOD ZONE DESIGNATION (A ZONE, DESIGNATED FLOODWAY,
22 COASTAL A ZONE, V ZONE).

23 (E) PLACEMENT OF FILL

24 (1) DISPOSAL OF FILL, INCLUDING BUT NOT LIMITED TO EARTHEN
25 SOILS, ROCK, RUBBLE, CONSTRUCTION DEBRIS, WOODY DEBRIS,
26 AND TRASH, SHALL NOT BE PERMITTED IN SPECIAL FLOOD
27 HAZARD AREAS.

28 (2) FILL SHALL NOT BE PLACED IN COASTAL A ZONES OR COASTAL HIGH
29 HAZARD AREAS (V ZONES) EXCEPT AS PROVIDED IN SECTION 238-
30 10(B).

31 (3) FILL PROPOSED TO BE PLACED TO ELEVATE STRUCTURES IN FLOOD
32 HAZARD AREAS (A ZONES) THAT ARE NOT COASTAL A ZONES OR
33 COASTAL HIGH HAZARD AREAS (V ZONES) SHALL COMPLY WITH

1 THE LIMITATIONS IN SECTION 238-9 AND THE REQUIREMENTS OF
2 SECTION 238-9(D)(2).

3 (F) HISTORIC STRUCTURES. REPAIR, ALTERATION, ADDITION,
4 REHABILITATION, OR OTHER IMPROVEMENT OF HISTORIC STRUCTURES
5 SHALL BE SUBJECT TO THE REQUIREMENTS OF THESE REGULATIONS IF
6 THE PROPOSED WORK IS DETERMINED TO BE A SUBSTANTIAL
7 IMPROVEMENT, UNLESS A DETERMINATION IS MADE THAT THE
8 PROPOSED WORK WILL NOT PRECLUDE THE STRUCTURE'S CONTINUED
9 DESIGNATION AS A HISTORIC STRUCTURE. THE FLOODPLAIN
10 ADMINISTRATOR MAY REQUIRE DOCUMENTATION OF A STRUCTURE'S
11 CONTINUED ELIGIBILITY AND DESIGNATION AS A HISTORIC STRUCTURE.

12 (G) MANUFACTURED HOMES

- 13 (1) NEW MANUFACTURED HOMES SHALL NOT BE PLACED OR
14 INSTALLED IN FLOODWAYS OR COASTAL HIGH HAZARD AREAS (V
15 ZONES).
- 16 (2) FOR THE PURPOSE OF THESE REGULATIONS, THE LOWEST FLOOR OF
17 A MANUFACTURED HOME IS THE BOTTOM OF THE LOWEST
18 HORIZONTAL SUPPORTING MEMBER (LONGITUDINAL CHASSIS
19 FRAME BEAM).
- 20 (3) NEW MANUFACTURED HOMES LOCATED OUTSIDE OF FLOODWAYS
21 AND COASTAL HIGH HAZARD AREAS (V ZONES), REPLACEMENT
22 MANUFACTURED HOMES IN ANY FLOOD HAZARD AREAS, AND
23 SUBSTANTIAL IMPROVEMENT (INCLUDING REPAIR OF SUBSTANTIAL
24 DAMAGE) OF EXISTING MANUFACTURED HOMES IN ALL FLOOD
25 HAZARD AREA, SHALL:
- 26 (A) BE ELEVATED ON A PERMANENT, REINFORCED FOUNDATION
27 IN ACCORDANCE WITH SECTION 238-9 OR SECTION 238-10, AS
28 APPLICABLE TO THE FLOOD ZONE;
- 29 (B) BE INSTALLED IN ACCORDANCE WITH THE ANCHOR AND TIE-
30 DOWN REQUIREMENTS OF THE BUILDING CODE OR THE
31 MANUFACTURER'S WRITTEN INSTALLATION INSTRUCTIONS
32 AND SPECIFICATIONS; AND
- 33 (C) HAVE ENCLOSURES BELOW THE LOWEST FLOOR OF THE

1 ELEVATED MANUFACTURED HOME, IF ANY, INCLUDING
2 ENCLOSURES THAT ARE SURROUNDED BY RIGID SKIRTING OR
3 OTHER MATERIAL THAT IS ATTACHED TO THE FRAME OR
4 FOUNDATION, THAT COMPLY WITH THE REQUIREMENTS OF
5 SECTION 238-9 OR SECTION 238-10, AS APPLICABLE TO THE
6 FLOOD ZONE.

7 NOTE: SEE "PROTECTING MANUFACTURED HOMES FROM
8 FLOODS AND OTHER HAZARDS: A MULTI-HAZARD
9 FOUNDATION AND INSTALLATION GUIDE" (FEMA 85).

10 (H) RECREATIONAL VEHICLES. RECREATIONAL VEHICLES SHALL:

- 11 (1) MEET THE REQUIREMENTS FOR MANUFACTURED HOMES IN
12 SECTION 238-8(G); OR
13 (2) BE FULLY LICENSED AND READY FOR HIGHWAY USE; OR
14 (3) BE ON A SITE FOR LESS THAN 180 CONSECUTIVE DAYS.

15 (I) CRITICAL AND ESSENTIAL FACILITIES. CRITICAL AND ESSENTIAL
16 FACILITIES SHALL:

- 17 (1) NOT BE LOCATED IN COASTAL HIGH HAZARD AREAS (V ZONES).
18 (2) IF LOCATED IN FLOOD HAZARD AREAS OTHER THAN COASTAL HIGH
19 HAZARD AREAS, BE ELEVATED TO THE HIGHER OF ELEVATION
20 REQUIRED BY THESE REGULATIONS PLUS ONE (1) FOOT, THE
21 ELEVATION REQUIRED BY THE BUILDING CODE, OR THE ELEVATION
22 OF THE 0.2 PERCENT CHANCE (500-YEAR) FLOOD.

23 (J) CRITICAL AND ESSENTIAL FACILITIES. CRITICAL AND ESSENTIAL
24 FACILITIES SHALL:

- 25 (1) NOT BE LOCATED IN COASTAL HIGH HAZARD AREAS (V ZONES).
26 (2) IF LOCATED IN FLOOD HAZARD AREAS OTHER THAN COASTAL HIGH
27 HAZARD AREAS, BE ELEVATED TO THE HIGHER OF ELEVATION
28 REQUIRED BY THESE REGULATIONS PLUS ONE (1) FOOT, THE
29 ELEVATION REQUIRED BY THE BUILDING CODE, OR THE ELEVATION
30 OF THE 0.2 PERCENT CHANCE (500-YEAR) FLOOD.

31 (K) TEMPORARY STRUCTURES AND TEMPORARY STORAGE. IN ADDITION TO
32 THE APPLICATION REQUIREMENTS OF SECTION 238-7(D), APPLICATIONS
33 FOR THE PLACEMENT OR ERECTION OF TEMPORARY STRUCTURES AND

1 THE TEMPORARY STORAGE OF ANY GOODS, MATERIALS, AND EQUIPMENT,
2 SHALL SPECIFY THE DURATION OF THE TEMPORARY USE. TEMPORARY
3 STRUCTURES AND TEMPORARY STORAGE IN FLOODWAYS SHALL MEET
4 THE LIMITATIONS OF SECTION 238-9(C)(1) OF THESE REGULATIONS. IN
5 ADDITION:

6 (1) TEMPORARY STRUCTURES SHALL:

- 7 (A) BE DESIGNED AND CONSTRUCTED TO PREVENT FLOTATION,
8 COLLAPSE OR LATERAL MOVEMENT RESULTING FROM
9 HYDRODYNAMIC LOADS AND HYDROSTATIC LOADS
10 DURING CONDITIONS OF THE BASE FLOOD;
- 11 (B) HAVE ELECTRIC SERVICE INSTALLED IN COMPLIANCE WITH
12 THE ELECTRIC CODE; AND
- 13 (C) COMPLY WITH ALL OTHER REQUIREMENTS OF THE
14 APPLICABLE STATE AND LOCAL PERMIT AUTHORITIES.

15 (2) TEMPORARY STORAGE SHALL NOT INCLUDE HAZARDOUS
16 MATERIALS.

17 (L) GAS OR LIQUID STORAGE TANKS

- 18 (1) UNDERGROUND TANKS IN FLOOD HAZARD AREAS SHALL BE
19 ANCHORED TO PREVENT FLOTATION, COLLAPSE OR LATERAL
20 MOVEMENT RESULTING FROM HYDROSTATIC LOADS, INCLUDING
21 THE EFFECTS OF BUOYANCY, DURING CONDITIONS OF THE BASE
22 FLOOD.
- 23 (2) ABOVE-GROUND TANKS IN FLOOD HAZARD AREAS SHALL BE
24 ANCHORED TO A SUPPORTING STRUCTURE AND ELEVATED TO OR
25 ABOVE THE BASE FLOOD ELEVATION, OR SHALL BE ANCHORED OR
26 OTHERWISE DESIGNED AND CONSTRUCTED TO PREVENT
27 FLOTATION, COLLAPSE, OR LATERAL MOVEMENT RESULTING FROM
28 HYDRODYNAMIC AND HYDROSTATIC LOADS, INCLUDING THE
29 EFFECTS OF BUOYANCY, DURING CONDITIONS OF THE BASE FLOOD.
- 30 (3) IN FLOOD HAZARD AREAS, TANK INLETS, FILL OPENINGS, OUTLETS
31 AND VENTS SHALL BE:
 - 32 (A) AT OR ABOVE THE BASE FLOOD ELEVATION OR FITTED WITH
33 COVERS DESIGNED TO PREVENT THE INFLOW OF

1 FLOODWATER OR OUTFLOW OF THE CONTENTS OF THE TANKS
2 DURING CONDITIONS OF THE BASE FLOOD; AND

3 (B) ANCHORED TO PREVENT LATERAL MOVEMENT RESULTING
4 FROM HYDRODYNAMIC AND HYDROSTATIC LOADS,
5 INCLUDING THE EFFECTS OF BUOYANCY, DURING
6 CONDITIONS OF THE BASE FLOOD.

7 (M) FUNCTIONALLY DEPENDENT USES. APPLICATIONS FOR FUNCTIONALLY
8 DEPENDENT USES THAT DO NOT CONFORM TO THE REQUIREMENTS OF
9 THESE REGULATIONS SHALL BE APPROVED ONLY BY VARIANCES ISSUED
10 PURSUANT TO SECTION 238-11. IF APPROVED, FUNCTIONALLY DEPENDENT
11 USES SHALL BE PROTECTED BY METHODS THAT MINIMIZE FLOOD
12 DAMAGE DURING THE BASE FLOOD, INCLUDING MEASURES TO ALLOW
13 FLOODWATERS TO ENTER AND EXIT, USE OF FLOOD DAMAGE-RESISTANT
14 MATERIALS, AND ELEVATION OF ELECTRIC SERVICE AND EQUIPMENT TO
15 THE EXTENT PRACTICAL GIVEN THE USE OF THE BUILDING.

16
17 **SECTION 238-9. REQUIREMENTS IN FLOOD HAZARD AREAS (A ZONES) THAT**
18 **ARE NOT COASTAL HIGH HAZARD OR COASTAL A ZONES**

19 (A) GENERAL REQUIREMENTS. IN ADDITION TO THE GENERAL REQUIREMENTS
20 OF SECTION 238-8, THE REQUIREMENTS OF THIS SECTION SHALL:

21 (1) APPLY IN FLOOD HAZARD AREAS THAT ARE NOT IDENTIFIED AS
22 COASTAL HIGH HAZARD AREAS (V ZONES) AND COASTAL A
23 ZONES. THESE FLOOD HAZARD AREAS, REFERRED TO
24 COLLECTIVELY AS "A ZONES," INCLUDE SPECIAL FLOOD
25 HAZARD AREAS ALONG NONTIDAL WATERS OF THE STATE,
26 LANDWARD OF COASTAL HIGH HAZARD AREAS (V ZONES), AND
27 LANDWARD OF COASTAL A ZONES (IF DELINEATED).

28 (2) APPLY TO ALL DEVELOPMENT, NEW CONSTRUCTION, SUBSTANTIAL
29 IMPROVEMENTS (INCLUDING REPAIR OF SUBSTANTIAL DAMAGE),
30 AND PLACEMENT, REPLACEMENT, AND SUBSTANTIAL
31 IMPROVEMENT (INCLUDING REPAIR OF SUBSTANTIAL DAMAGE) OF
32 MANUFACTURED HOMES.

1 (B) FLOOD PROTECTION SETBACKS. WITHIN AREAS DEFINED BY FLOOD
2 PROTECTION SETBACKS ALONG NONTIDAL WATERS OF THE STATE:

- 3 (1) NO NEW BUILDINGS, STRUCTURES, OR OTHER DEVELOPMENT
4 SHALL BE PERMITTED UNLESS THE APPLICANT DEMONSTRATES
5 THAT THE SITE CANNOT BE DEVELOPED WITHOUT SUCH
6 ENCROACHMENT INTO THE FLOOD PROTECTION SETBACK AND THE
7 ENCROACHMENT IS THE MINIMUM NECESSARY AFTER
8 CONSIDERATION OF VARYING OTHER SITING STANDARDS SUCH AS
9 SIDE, FRONT, AND BACK LOT LINE SETBACKS.
- 10 (2) DISTURBANCE OF NATURAL VEGETATION SHALL BE MINIMIZED AND
11 ANY DISTURBANCE ALLOWED SHALL BE VEGETATIVELY
12 STABILIZED.
- 13 (3) PUBLIC WORKS AND TEMPORARY CONSTRUCTION MAY BE
14 PERMITTED.

15 (C) DEVELOPMENT THAT AFFECTS FLOOD-CARRYING CAPACITY OF NONTIDAL
16 WATERS OF THE STATE

- 17 (1) DEVELOPMENT IN DESIGNATED FLOODWAYS. FOR PROPOSED
18 DEVELOPMENT THAT WILL ENCROACH INTO A DESIGNATED
19 FLOODWAY, SECTION 238-7(E)(1)(G) REQUIRES THE APPLICANT TO
20 SUBMIT AN EVALUATION OF ALTERNATIVES TO SUCH
21 ENCROACHMENT, INCLUDING DIFFERENT USES OF THE SITE OR THE
22 PORTION OF THE SITE WITHIN THE FLOODWAY, AND MINIMIZATION
23 OF SUCH ENCROACHMENT. THIS REQUIREMENT DOES NOT APPLY TO
24 FENCES THAT DO NOT BLOCK THE FLOW OF FLOODWATERS OR TRAP
25 DEBRIS.

26 PROPOSED DEVELOPMENT IN A DESIGNATED FLOODWAY MAY BE
27 PERMITTED ONLY IF:

- 28 (A) THE APPLICANT HAS BEEN ISSUED A PERMIT BY MDE; AND
29 (B) THE APPLICANT HAS DEVELOPED HYDROLOGIC AND
30 HYDRAULIC ENGINEERING ANALYSES AND TECHNICAL DATA
31 PREPARED BY A LICENSED PROFESSIONAL ENGINEER
32 REFLECTING SUCH CHANGES, AND THE ANALYSES, WHICH
33 SHALL BE SUBMITTED TO THE FLOODPLAIN ADMINISTRATOR,

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- DEMONSTRATE THAT THE PROPOSED ACTIVITY WILL NOT RESULT IN ANY INCREASE IN THE BASE FLOOD ELEVATION; OR
- (C) IF THE ANALYSES DEMONSTRATE THAT THE PROPOSED ACTIVITIES WILL RESULT IN AN INCREASE IN THE BASE FLOOD ELEVATION, THE APPLICANT HAS OBTAINED A CONDITIONAL LETTER OF MAP REVISION OR LETTER OF MAP REVISION FROM FEMA. SUBMITTAL REQUIREMENTS AND FEES SHALL BE THE RESPONSIBILITY OF THE APPLICANT.
- (2) DEVELOPMENT THAT INCLUDES THE PLACEMENT OF FILL IN NONTIDAL WATERS OF THE STATE FOR PROPOSED DEVELOPMENT THAT INCLUDES THE PLACEMENT OF FILL IN NONTIDAL WATERS OF THE STATE, OTHER THAN DEVELOPMENT THAT IS SUBJECT TO PARAGRAPH (D), A HYDRAULICALLY- EQUIVALENT VOLUME OF EXCAVATION IS REQUIRED. SUCH EXCAVATIONS SHALL BE DESIGNED TO DRAIN FREELY.
 - (3) DEVELOPMENT IN AREAS WITH BASE FLOOD ELEVATIONS BUT NO DESIGNATED FLOODWAYS FOR DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS OF NONTIDAL WATERS OF THE STATE WITH BASE FLOOD ELEVATIONS BUT NO DESIGNATED FLOODWAYS:
 - (A) THE APPLICANT SHALL DEVELOP HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSES AND TECHNICAL DATA REFLECTING THE PROPOSED ACTIVITY AND SHALL SUBMIT SUCH TECHNICAL DATA TO THE FLOODPLAIN ADMINISTRATOR AS REQUIRED IN SECTION 238-7(D)(1). THE ANALYSES SHALL BE PREPARED BY A LICENSED PROFESSIONAL ENGINEER IN A FORMAT REQUIRED BY FEMA FOR A CONDITIONAL LETTER OF MAP REVISION OR LETTER OF MAP REVISION. SUBMITTAL REQUIREMENTS AND FEES SHALL BE THE RESPONSIBILITY OF THE APPLICANT.
 - (B) THE PROPOSED DEVELOPMENT MAY BE PERMITTED IF THE APPLICANT HAS RECEIVED A PERMIT BY MDE AND IF THE ANALYSES DEMONSTRATE THAT THE CUMULATIVE EFFECT OF THE PROPOSED DEVELOPMENT, WHEN COMBINED

1 WITH ALL OTHER EXISTING AND POTENTIAL FLOOD
2 HAZARD AREA ENCROACHMENTS WILL NOT INCREASE THE
3 BASE FLOOD ELEVATION MORE THAN ONE (1) FOOT AT ANY
4 POINT.

- 5 (4) CONSTRUCTION OF ROADS, BRIDGES, CULVERTS, DAMS AND IN-
6 STREAM PONDS CONSTRUCTION OF ROADS, BRIDGES, CULVERTS,
7 DAMS, AND IN-STREAM PONDS IN NONTIDAL WATERS OF THE STATE
8 SHALL NOT BE APPROVED UNLESS THEY COMPLY WITH THIS
9 SECTION AND THE APPLICANT HAS RECEIVED A PERMIT FROM MDE.
- 10 (5) ALTERATION OF A WATERCOURSE FOR ANY PROPOSED
11 DEVELOPMENT THAT INVOLVES ALTERATION OF A WATERCOURSE
12 NOT SUBJECT TO PARAGRAPH (C), UNLESS WAIVED BY MDE, THE
13 APPLICANT SHALL DEVELOP HYDROLOGIC AND HYDRAULIC
14 ENGINEERING ANALYSES AND TECHNICAL DATA REFLECTING SUCH
15 CHANGES, INCLUDING THE FLOODWAY ANALYSIS REQUIRED IN
16 SECTION 3.4(A), AND SUBMIT SUCH TECHNICAL DATA TO THE
17 FLOODPLAIN ADMINISTRATOR AND TO FEMA. THE ANALYSES
18 SHALL BE PREPARED BY A LICENSED PROFESSIONAL ENGINEER IN A
19 FORMAT REQUIRED BY MDE AND BY FEMA FOR A CONDITIONAL
20 LETTER OF MAP REVISION OR LETTER OF MAP REVISION.
21 SUBMITTAL REQUIREMENTS AND FEES SHALL BE THE
22 RESPONSIBILITY OF THE APPLICANT. ALTERATION OF A
23 WATERCOURSE MAY BE PERMITTED ONLY UPON SUBMISSION, BY
24 THE APPLICANT, OF THE FOLLOWING:
- 25 (A) A DESCRIPTION OF THE EXTENT TO WHICH THE
26 WATERCOURSE WILL BE ALTERED OR RELOCATED;
- 27 (B) A CERTIFICATION BY A LICENSED PROFESSIONAL ENGINEER
28 THAT THE FLOOD-CARRYING CAPACITY OF THE
29 WATERCOURSE WILL NOT BE DIMINISHED;
- 30 (C) EVIDENCE THAT ADJACENT COMMUNITIES, THE U.S. ARMY
31 CORPS OF ENGINEERS, AND MDE HAVE BEEN NOTIFIED OF
32 THE PROPOSAL, AND EVIDENCE THAT SUCH
33 NOTIFICATIONS HAVE BEEN SUBMITTED TO FEMA; AND

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(D) EVIDENCE THAT THE APPLICANT SHALL BE RESPONSIBLE FOR PROVIDING THE NECESSARY MAINTENANCE FOR THE ALTERED OR RELOCATED PORTION OF THE WATERCOURSE SO THAT THE FLOOD CARRYING CAPACITY WILL NOT BE DIMINISHED. THE FLOODPLAIN ADMINISTRATOR MAY REQUIRE THE APPLICANT TO ENTER INTO AN AGREEMENT WITH CHARLES COUNTY SPECIFYING THE MAINTENANCE RESPONSIBILITIES; IF AN AGREEMENT IS REQUIRED, THE PERMIT SHALL BE CONDITIONED TO REQUIRE THAT THE AGREEMENT BE RECORDED ON THE DEED OF THE PROPERTY WHICH SHALL BE BINDING ON FUTURE OWNERS.

(D) RESIDENTIAL STRUCTURES AND RESIDENTIAL PORTIONS OF MIXED USE STRUCTURES

(1) NEW RESIDENTIAL STRUCTURES AND RESIDENTIAL PORTIONS OF MIXED USE STRUCTURES, AND SUBSTANTIAL IMPROVEMENT (INCLUDING REPAIR OF SUBSTANTIAL DAMAGE) OF EXISTING RESIDENTIAL STRUCTURES AND RESIDENTIAL PORTIONS OF MIXED USE STRUCTURES SHALL COMPLY WITH THE APPLICABLE REQUIREMENTS OF SECTION 238-8 AND THIS SECTION. SEE SECTION 238-9 (F) FOR REQUIREMENTS FOR HORIZONTAL ADDITIONS.

(A) ELEVATION REQUIREMENTS

- (1) LOWEST FLOORS SHALL BE ELEVATED TO OR ABOVE THE FLOOD PROTECTION ELEVATION.
- (2) IN AREAS OF SHALLOW FLOODING (ZONE AO), THE LOWEST FLOOR (INCLUDING BASEMENT) SHALL BE ELEVATED AT LEAST AS HIGH ABOVE THE HIGHEST ADJACENT GRADE AS THE DEPTH NUMBER SPECIFIED IN FEET ON THE FIRM PLUS TWO (2) FEET, OR AT LEAST FOUR (4) FEET IF A DEPTH NUMBER IS NOT SPECIFIED.
- (3) ENCLOSURES BELOW THE LOWEST FLOOR SHALL MEET THE REQUIREMENTS OF PARAGRAPH (C).

(B) LIMITATIONS ON USE OF FILL TO ELEVATE STRUCTURES

1 UNLESS OTHERWISE RESTRICTED BY THESE REGULATIONS,
2 ESPECIALLY BY THE LIMITATIONS IN SECTION 238-9(C)(1),
3 SECTION 238-9(C)(2), AND SECTION 238-9(C)(3), FILL PLACED
4 FOR THE PURPOSE OF RAISING THE GROUND LEVEL TO
5 SUPPORT A BUILDING OR STRUCTURE SHALL:

- 6 (1) CONSIST OF EARTHEN SOIL OR ROCK MATERIALS ONLY.
- 7 (2) EXTEND Laterally FROM THE BUILDING FOOTPRINT
8 TO PROVIDE FOR ADEQUATE ACCESS AS A FUNCTION OF
9 USE; THE FLOODPLAIN ADMINISTRATOR MAY SEEK
10 ADVICE FROM THE STATE FIRE MARSHAL'S OFFICE
11 AND/OR THE LOCAL FIRE SERVICES AGENCY;
- 12 (3) COMPLY WITH THE REQUIREMENTS OF THE BUILDING
13 CODE AND BE PLACED AND COMPACTED TO PROVIDE
14 FOR STABILITY UNDER CONDITIONS OF RISING AND
15 FALLING FLOODWATERS AND RESISTANCE TO EROSION,
16 SCOUR, AND SETTLING;
- 17 (4) BE SLOPED NO STEEPER THAN ONE (1) VERTICAL TO
18 TWO (2) HORIZONTAL, UNLESS APPROVED BY THE
19 FLOODPLAIN ADMINISTRATOR;
- 20 (5) BE PROTECTED FROM EROSION ASSOCIATED WITH
21 EXPECTED VELOCITIES DURING THE OCCURRENCE OF
22 THE BASE FLOOD; UNLESS APPROVED BY
23 THE FLOODPLAIN ADMINISTRATOR, FILL SLOPES SHALL
24 BE PROTECTED BY VEGETATION IF THE EXPECTED
25 VELOCITY IS LESS THAN FIVE FEET PER SECOND, AND
26 BY OTHER MEANS IF THE EXPECTED VELOCITY IS FIVE
27 FEET PER SECOND OR MORE; AND
- 28 (6) BE DESIGNED WITH PROVISIONS FOR ADEQUATE
29 DRAINAGE AND NO ADVERSE EFFECT ON ADJACENT
30 PROPERTIES.

31 (C) ENCLOSURES BELOW THE LOWEST FLOOR

- 32 (1) ENCLOSURES BELOW THE LOWEST FLOOR SHALL BE
33 USED SOLELY FOR PARKING OF VEHICLES, BUILDING

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ACCESS, CRAWL/UNDERFLOOR SPACES, OR LIMITED STORAGE.

- (2) ENCLOSURES BELOW THE LOWEST FLOOR SHALL BE CONSTRUCTED USING FLOOD DAMAGE-RESISTANT MATERIALS.
- (3) ENCLOSURES BELOW THE LOWEST FLOOR SHALL BE PROVIDED WITH FLOOD OPENINGS WHICH SHALL MEET THE FOLLOWING CRITERIA: (NOTE: SEE NFIP TECHNICAL BULLETIN #1, "OPENINGS IN FOUNDATION WALLS AND WALLS OF ENCLOSURES BELOW ELEVATED BUILDINGS.")
 - (A) THERE SHALL BE A MINIMUM OF TWO FLOOD OPENINGS ON DIFFERENT SIDES OF EACH ENCLOSED AREA; IF A BUILDING HAS MORE THAN ONE ENCLOSURE BELOW THE LOWEST FLOOR, EACH SUCH ENCLOSURE SHALL HAVE FLOOD OPENINGS ON EXTERIOR WALLS.
 - (B) THE TOTAL NET AREA OF ALL FLOOD OPENINGS SHALL BE AT LEAST 1 SQUARE INCH FOR EACH SQUARE FOOT OF ENCLOSED AREA (NON-ENGINEERED FLOOD OPENINGS), OR THE FLOOD OPENINGS SHALL BE ENGINEERED FLOOD OPENINGS THAT ARE DESIGNED AND CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER TO AUTOMATICALLY ALLOW ENTRY AND EXIT OF FLOODWATERS; THE CERTIFICATION REQUIREMENT MAY BE SATISFIED BY AN INDIVIDUAL CERTIFICATION OR AN EVALUATION REPORT ISSUED BY THE ICC EVALUATION SERVICE, INC.
 - (C) THE BOTTOM OF EACH FLOOD OPENING SHALL BE ONE (1) FOOT OR LESS ABOVE THE HIGHER OF THE INTERIOR FLOOR OR GRADE, OR

1 THE EXTERIOR GRADE, IMMEDIATELY BELOW
2 THE OPENING.

3 (D) ANY LOUVERS, SCREENS OR OTHER COVERS FOR
4 THE FLOOD OPENINGS SHALL ALLOW THE
5 AUTOMATIC FLOW OF FLOODWATERS INTO AND
6 OUT OF THE ENCLOSED AREA.

7 (E) IF INSTALLED IN DOORS, FLOOD OPENINGS THAT
8 MEET REQUIREMENTS OF PARAGRAPHS (A)
9 THROUGH (D), ARE ACCEPTABLE; HOWEVER,
10 DOORS WITHOUT INSTALLED FLOOD OPENINGS
11 DO NOT MEET THE REQUIREMENTS OF THIS
12 SECTION.

13 (E) NONRESIDENTIAL STRUCTURES AND NONRESIDENTIAL PORTIONS OF
14 MIXED USE STRUCTURES. NEW NONRESIDENTIAL STRUCTURES AND
15 NONRESIDENTIAL PORTIONS OF MIXED USE STRUCTURES, AND
16 SUBSTANTIAL IMPROVEMENT (INCLUDING REPAIR OF SUBSTANTIAL
17 DAMAGE) OF EXISTING NONRESIDENTIAL STRUCTURES AND
18 NONRESIDENTIAL PORTIONS OF MIXED USE STRUCTURES SHALL
19 COMPLY WITH THE APPLICABLE REQUIREMENTS OF SECTION 238-8 AND
20 THE REQUIREMENTS OF THIS SECTION. SEE SECTION 238-9(E) FOR
21 REQUIREMENTS FOR HORIZONTAL ADDITIONS.

22 (A) ELEVATION REQUIREMENTS. ELEVATED STRUCTURES SHALL:

- 23 (1) HAVE THE LOWEST FLOOR (INCLUDING BASEMENT) ELEVATED
24 TO OR ABOVE THE FLOOD PROTECTION ELEVATION; OR
25 (2) IN AREAS OF SHALLOW FLOODING (ZONE AO), HAVE THE
26 LOWEST FLOOR (INCLUDING BASEMENT) ELEVATED AT LEAST
27 AS HIGH ABOVE THE HIGHEST ADJACENT GRADE AS THE
28 DEPTH NUMBER SPECIFIED IN FEET ON THE FIRM PLUS TWO
29 (2) FEET, OR AT LEAST FOUR (4) FEET IF A DEPTH NUMBER IS
30 NOT SPECIFIED; AND
31 (3) HAVE ENCLOSURES BELOW THE LOWEST FLOOR, IF ANY, THAT
32 COMPLY WITH THE REQUIREMENTS OF SECTION 238-9(D)(3);
33 OR

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- (4) IF PROPOSED TO BE ELEVATED ON FILL, MEET THE LIMITATIONS ON FILL IN SECTION 238-9(D)(2).
- (B) FLOODPROOFING REQUIREMENTS
 - (1) FLOODPROOFING OF NEW NONRESIDENTIAL BUILDINGS:
 - (A) IS NOT ALLOWED IN NONTIDAL WATERS OF THE STATE (COMAR 26.17.04.11(B)).
 - (B) IS NOT ALLOWED IN COASTAL A ZONES.
 - (2) FLOODPROOFING FOR SUBSTANTIAL IMPROVEMENT OF NONRESIDENTIAL BUILDINGS:
 - (A) IS ALLOWED IN NONTIDAL WATERS OF THE STATE.
 - (B) IS ALLOWED IN COASTAL A ZONES.
 - (3) IF FLOODPROOFING IS PROPOSED, STRUCTURES SHALL:
 - (A) BE DESIGNED TO BE DRY FLOODPROOFED SUCH THAT THE BUILDING OR STRUCTURE IS WATERTIGHT WITH WALLS AND FLOORS SUBSTANTIALLY IMPERMEABLE TO THE PASSAGE OF WATER TO THE LEVEL OF THE FLOOD PROTECTION ELEVATION PLUS ONE (1) FOOT, OR
 - (B) IF LOCATED IN AN AREA OF SHALLOW FLOODING (ZONE AO), BE DRY FLOODPROOFED AT LEAST AS HIGH ABOVE THE HIGHEST ADJACENT GRADE AS THE DEPTH NUMBER SPECIFIED ON THE FIRM PLUS THREE (3) FEET, OR AT LEAST FIVE (5) FEET IF A DEPTH NUMBER IS NOT SPECIFIED; AND
 - (C) HAVE STRUCTURAL COMPONENTS CAPABLE OF RESISTING HYDROSTATIC AND HYDRODYNAMIC LOADS AND EFFECTS OF BUOYANCY;
 - (D) HAVE FLOODPROOFING MEASURES THAT ARE DESIGNED TAKING INTO CONSIDERATION THE NATURE OF FLOOD-RELATED HAZARDS; FREQUENCY, DEPTH AND DURATION OF FLOODING; RATE OF RISE AND FALL OF FLOODWATER; SOIL CHARACTERISTICS; FLOOD-BORNE DEBRIS; AT LEAST 12 HOURS OF FLOOD

1 WARNING TIME FROM A CREDIBLE SOURCE; AND TIME
2 NECESSARY TO IMPLEMENT ANY MEASURES THAT
3 REQUIRE HUMAN INTERVENTION;

4 (E) HAVE AT LEAST ONE DOOR ABOVE THE APPLICABLE
5 FLOOD ELEVATION THAT ALLOWS HUMAN INGRESS AND
6 EGRESS DURING CONDITIONS OF FLOODING;

7 (F) HAVE AN OPERATIONS AND MAINTENANCE PLAN THAT
8 IS FILED WITH LOCAL EMERGENCY MANAGEMENT
9 OFFICIALS AND THAT SPECIFIES THE
10 OWNER/OCCUPANT'S RESPONSIBILITIES TO MONITOR
11 FLOOD POTENTIAL; THE LOCATION OF ANY SHIELDS,
12 DOORS, CLOSURES, TOOLS, OR OTHER GOODS THAT ARE
13 REQUIRED FOR IMPLEMENTATION; MAINTENANCE OF
14 SUCH GOODS; METHODS OF INSTALLATION; AND
15 PERIODIC INSPECTION; AND

16 (G) BE CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER
17 OR LICENSED ARCHITECT, THROUGH EXECUTION
18 OF A FLOODPROOFING CERTIFICATE THAT STATES
19 THAT THE DESIGN AND METHODS OF CONSTRUCTION
20 MEET THE REQUIREMENTS OF THIS SECTION. THE
21 FLOODPROOFING CERTIFICATE SHALL BE SUBMITTED
22 WITH THE CONSTRUCTION DRAWINGS AS REQUIRED IN
23 SECTION 238-7(E)(1)(M).

24 (F) HORIZONTAL ADDITIONS

25 (A) A HORIZONTAL ADDITION PROPOSED FOR A BUILDING OR
26 STRUCTURE THAT WAS CONSTRUCTED AFTER THE DATE
27 SPECIFIED IN SECTION 238-8(A) SHALL COMPLY WITH THE
28 APPLICABLE REQUIREMENTS OF SECTION 238-8 AND THIS SECTION.

29 (B) IN NONTIDAL WATERS OF THE STATE THAT ARE SUBJECT TO THE
30 REGULATORY AUTHORITY OF MDE, ALL HORIZONTAL ADDITIONS
31 SHALL COMPLY WITH THE APPLICABLE REQUIREMENTS OF SECTION
32 238-8 AND THIS SECTION AND:

33 (1) IF THE ADDITION IS STRUCTURALLY CONNECTED TO THE

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BASE BUILDING, THE REQUIREMENTS OF PARAGRAPH (C) APPLY.

(2) IF THE ADDITION HAS AN INDEPENDENT FOUNDATION AND IS NOT STRUCTURALLY CONNECTED TO THE BASE BUILDING AND THE COMMON WALL WITH THE BASE BUILDING IS MODIFIED BY NO MORE THAN A DOORWAY, THE BASE BUILDING IS NOT REQUIRED TO BE BROUGHT INTO COMPLIANCE.

(C) FOR HORIZONTAL ADDITIONS THAT ARE STRUCTURALLY CONNECTED TO THE BASE BUILDING:

(1) IF THE ADDITION COMBINED WITH OTHER PROPOSED REPAIRS, ALTERATIONS, OR MODIFICATIONS OF THE BASE BUILDING CONSTITUTES SUBSTANTIAL IMPROVEMENT, THE BASE BUILDING AND THE ADDITION SHALL COMPLY WITH THE APPLICABLE REQUIREMENTS OF SECTION 4.0 AND THIS SECTION.

(2) IF THE ADDITION CONSTITUTES SUBSTANTIAL IMPROVEMENT, THE BASE BUILDING AND THE ADDITION SHALL COMPLY WITH ALL OF THE APPLICABLE REQUIREMENTS OF SECTION 238-8 AND THIS SECTION.

(D) FOR HORIZONTAL ADDITIONS WITH INDEPENDENT FOUNDATIONS THAT ARE NOT STRUCTURALLY CONNECTED TO THE BASE BUILDING AND THE COMMON WALL WITH THE BASE BUILDING IS MODIFIED BY NO MORE THAN A DOORWAY, THE BASE BUILDING IS NOT REQUIRED TO BE BROUGHT INTO COMPLIANCE.

(G) ACCESSORY STRUCTURES

(1) ACCESSORY STRUCTURES SHALL BE LIMITED TO NO MORE THAN SIX HUNDRED (600) SQUARE FEET IN FLOOR AREA.

(2) ACCESSORY STRUCTURES SHALL COMPLY WITH THE ELEVATION REQUIREMENTS AND OTHER REQUIREMENTS OF SECTION 238-9(D), THE FLOODPROOFING REQUIREMENTS OF SECTION 238-9(E)(2), OR SHALL:

(A) BE USEABLE ONLY FOR PARKING OF VEHICLES OR LIMITED

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STORAGE;

- (B) BE CONSTRUCTED WITH FLOOD DAMAGE-RESISTANT MATERIALS BELOW THE BASE FLOOD ELEVATION;
- (C) BE CONSTRUCTED AND PLACED TO OFFER THE MINIMUM RESISTANCE TO THE FLOW OF FLOODWATERS;
- (D) BE ANCHORED TO PREVENT FLOTATION;
- (E) HAVE ELECTRICAL SERVICE AND MECHANICAL EQUIPMENT ELEVATED TO OR ABOVE THE BASE FLOOD ELEVATION; AND
- (F) HAVE FLOOD OPENINGS THAT MEET THE REQUIREMENTS OF SECTION 238-9(D)(3).

(H) DEVELOPMENT IN UNMAPPED FLOODPLAIN ZONES

- (1) UNLESS APPROVED OTHERWISE BY THE FLOODPLAIN ADMINISTRATOR FLOODPLAIN STUDIES ARE REQUIRED WHEN ANY DEVELOPMENT IS PROPOSED WITHIN 250' OF AN UNMAPPED LOW OR STREAM WITH A CONTRIBUTING DRAINAGE AREA OF 50 (FIFTY) ACRES OR GREATER WHICH IS NOT SHOWN AS A SPECIAL FLOOD HAZARD AREA ON THE FIRM.
- (2) THE METHOD OF CALCULATING THE 100-YEAR FLOODPLAIN IS LIMITED TO THOSE METHODS APPROVED IN ADVANCE BY THE COUNTY ENGINEER.
- (3) THE SPACING FOR THE PROPOSED SECTIONS MUST BE APPROVED IN ADVANCED BY THE COUNTY ENGINEER.
- (4) THE METHOD OF DETERMINING THE "N" (MANNINGS ROUGHNESS COEFFICIENTS) ASSOCIATED WITH THE STREAM AND THE OVERBANK SHALL BE THOSE APPROVED IN ADVANCE BY THE COUNTY ENGINEER.
- (5) RUNOFF DATA SHALL BE OBTAINED FROM THE LATEST EDITION OF "POINT PRECIPITATION FREQUENCY ESTIMATES" FROM NOAA ATLAS 14 FOR THE SITE LOCATION.
- (6) THE LIMITS AND ELEVATIONS OF THE CALCULATED 100-YEAR FLOODPLAIN SHALL BE CLEARLY SHOWN FOR ALL SECTIONS ON THE APPLICABLE PLAN.
- (7) THE SCALE OF THE DRAINAGE AREA MAPS SHALL BE AS APPROVED

1 IN ADVANCE BY THE COUNTY ENGINEER.

- 2 (8) THE DEVELOPMENT RESTRICTIONS IN THE UNMAPPED FLOODPLAIN
3 ZONE SHALL BE THE SAME REQUIREMENTS AS THOSE IN
4 NONTIDAL WATERS.

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6 **SECTION 238-10. REQUIREMENTS IN COASTAL HIGH HAZARD AREAS (V**
7 **ZONES) AND COASTAL A ZONES**

8 (A) GENERAL REQUIREMENTS. IN ADDITION TO THE GENERAL REQUIREMENTS
9 OF SECTION 238-8, THE REQUIREMENTS OF THIS SECTION SHALL:

- 10 (1) APPLY IN FLOOD HAZARD AREAS THAT ARE IDENTIFIED AS
11 COASTAL HIGH HAZARD AREAS (V ZONES) AND COASTAL A ZONES
12 (IF DELINEATED).
- 13 (2) APPLY TO ALL DEVELOPMENT, NEW CONSTRUCTION, SUBSTANTIAL
14 IMPROVEMENTS (INCLUDING REPAIR OF SUBSTANTIAL DAMAGE),
15 AND PLACEMENT, REPLACEMENT, AND SUBSTANTIAL
16 IMPROVEMENT (INCLUDING REPAIR OF SUBSTANTIAL DAMAGE) OF
17 MANUFACTURED HOMES. EXCEPTION: IN COASTAL A ZONES, THE
18 REQUIREMENTS OF SECTION 238-9 SHALL APPLY TO
19 SUBSTANTIAL IMPROVEMENTS (INCLUDING REPAIR OF
20 SUBSTANTIAL DAMAGE), AND SUBSTANTIAL IMPROVEMENT OF
21 MANUFACTURED HOMES (INCLUDING REPAIR OF SUBSTANTIAL
22 DAMAGE) AND REPLACEMENT MANUFACTURED HOMES. NOTE: SEE
23 COASTAL CONSTRUCTION MANUAL (FEMA 55).

24 (B) LOCATION AND SITE PREPARATION

- 25 (1) THE PLACEMENT OF STRUCTURAL FILL FOR THE PURPOSE OF
26 ELEVATING BUILDINGS IS PROHIBITED.
- 27 (2) BUILDINGS SHALL BE LOCATED LANDWARD OF THE REACH OF
28 MEAN HIGH TIDE.
- 29 (3) MINOR GRADING, AND THE PLACEMENT OF MINOR QUANTITIES OF
30 FILL, SHALL BE PERMITTED FOR LANDSCAPING AND FOR DRAINAGE
31 PURPOSES UNDER AND AROUND BUILDINGS AND FOR
32 SUPPORT OF PARKING SLABS, POOL DECKS, PATIOS AND
33 WALKWAYS.

- 1 (4) SITE PREPARATIONS SHALL NOT ALTER SAND DUNES UNLESS AN
2 ENGINEERING ANALYSIS DEMONSTRATES THAT THE POTENTIAL
3 FOR FLOOD DAMAGE IS NOT INCREASED.
- 4 (C) RESIDENTIAL AND NONRESIDENTIAL STRUCTURES. NEW STRUCTURES
5 AND SUBSTANTIAL IMPROVEMENT (INCLUDING REPAIR OF SUBSTANTIAL
6 DAMAGE) OF EXISTING STRUCTURES SHALL COMPLY WITH THE
7 APPLICABLE REQUIREMENTS OF SECTION 4.0 AND THE REQUIREMENTS OF
8 THIS SECTION.
- 9 (1) FOUNDATIONS
- 10 (A) STRUCTURES SHALL BE SUPPORTED ON PILINGS OR COLUMNS
11 AND SHALL BE ADEQUATELY ANCHORED TO SUCH PILINGS OR
12 COLUMNS. PILINGS SHALL HAVE ADEQUATE SOIL
13 PENETRATIONS TO RESIST THE COMBINED WAVE AND WIND
14 LOADS (LATERAL AND UPLIFT). WATER LOADING VALUES USED
15 SHALL BE THOSE ASSOCIATED WITH THE BASE FLOOD. WIND
16 LOADING VALUES SHALL BE THOSE REQUIRED BY APPLICABLE
17 BUILDING CODES. PILE EMBEDMENT SHALL INCLUDE
18 CONSIDERATION OF DECREASED RESISTANCE CAPACITY CAUSED
19 BY SCOUR OF SOIL STRATA SURROUNDING THE PILING.
- 20 (B) SLABS, POOLS, POOL DECKS AND WALKWAYS SHALL BE
21 LOCATED AND CONSTRUCTED TO BE STRUCTURALLY
22 INDEPENDENT OF STRUCTURES AND THEIR FOUNDATIONS TO
23 PREVENT TRANSFER OF FLOOD LOADS TO THE STRUCTURES
24 DURING CONDITIONS OF FLOODING, SCOUR, OR EROSION FROM
25 WAVE-VELOCITY FLOW CONDITIONS, AND SHALL BE DESIGNED
26 TO MINIMIZE DEBRIS IMPACTS TO ADJACENT PROPERTIES AND
27 PUBLIC INFRASTRUCTURE.
- 28 (2) ELEVATION REQUIREMENTS
- 29 (A) THE BOTTOM OF THE LOWEST HORIZONTAL STRUCTURAL
30 MEMBER THAT SUPPORTS THE LOWEST FLOOR SHALL BE
31 LOCATED AT OR ABOVE THE FLOOD PROTECTION ELEVATION.
- 32 (B) BASEMENT FLOORS THAT ARE BELOW GRADE ON ALL SIDES
33 ARE PROHIBITED.

1 (C) THE SPACE BELOW AN ELEVATED BUILDING SHALL EITHER BE
2 FREE-OF-OBSTRUCTION OR, IF ENCLOSED BY WALLS,
3 SHALL MEET THE REQUIREMENTS OF PARAGRAPH (D). NOTE:
4 SEE NFIP TECHNICAL BULLETIN #5, "FREE-OF-OBSTRUCTION
5 REQUIREMENTS."

6 (3) CERTIFICATION OF DESIGN.

7 AS REQUIRED IN SECTION 238-7(E)(1)(M), THE APPLICANT SHALL
8 INCLUDE IN THE APPLICATION A CERTIFICATION PREPARED BY
9 A LICENSED PROFESSIONAL ENGINEER OR A LICENSED ARCHITECT
10 THAT THE DESIGN AND METHODS OF CONSTRUCTION TO BE USED
11 MEET THE REQUIREMENTS OF PARAGRAPH (A), PARAGRAPH (B),
12 PARAGRAPH (D), AND THE BUILDING CODE.

13 (4) ENCLOSURES BELOW THE LOWEST FLOOR

14 (A) ENCLOSURES BELOW THE LOWEST FLOOR SHALL BE USED
15 SOLELY FOR PARKING OF VEHICLES, BUILDING ACCESS OR
16 LIMITED STORAGE.

17 (B) ENCLOSURES BELOW THE LOWEST FLOOR SHALL BE LESS
18 THAN 299 SQUARE FEET IN AREA (EXTERIOR MEASUREMENT).

19 (C) WALLS AND PARTITIONS ARE PERMITTED BELOW THE
20 ELEVATED FLOOR, PROVIDED THAT SUCH WALLS AND
21 PARTITIONS ARE DESIGNED TO BREAK AWAY UNDER FLOOD
22 LOADS AND ARE NOT PART OF THE STRUCTURAL SUPPORT OF
23 THE BUILDING OR STRUCTURE. NOTE: SEE NFIP TECHNICAL
24 BULLETIN #9, "DESIGN AND CONSTRUCTION GUIDANCE FOR
25 BREAKAWAY WALLS."

26 (D) ELECTRICAL, MECHANICAL, AND PLUMBING SYSTEM
27 COMPONENTS SHALL NOT BE MOUNTED ON OR PENETRATE
28 THROUGH WALLS THAT ARE DESIGNED TO BREAK AWAY
29 UNDER FLOOD LOADS.

30 (E) WALLS INTENDED TO BREAK AWAY UNDER FLOOD LOADS
31 SHALL BE CONSTRUCTED WITH INSECT SCREENING OR OPEN
32 LATTICE, OR SHALL BE DESIGNED TO BREAK AWAY OR
33 COLLAPSE WITHOUT CAUSING COLLAPSE, DISPLACEMENT OR

1 OTHER STRUCTURAL DAMAGE TO THE ELEVATED PORTION OF
2 THE BUILDING OR SUPPORTING FOUNDATION SYSTEM. SUCH
3 WALLS, FRAMING AND CONNECTIONS SHALL HAVE A DESIGN
4 SAFE LOADING RESISTANCE OF NOT LESS THAN 10 POUNDS
5 PER SQUARE FOOT AND NO MORE THAN 20 POUNDS PER
6 SQUARE FOOT; OR

7 (E) WHERE WIND LOADING VALUES OF THE BUILDING CODE
8 EXCEED 20 POUNDS PER SQUARE FOOT, THE APPLICANT
9 SHALL SUBMIT A CERTIFICATION PREPARED AND SEALED
10 BY A LICENSED PROFESSIONAL ENGINEER OR LICENSED
11 ARCHITECT THAT:

12 (1) THE WALLS AND PARTITIONS BELOW THE LOWEST
13 FLOOR HAVE BEEN DESIGNED TO COLLAPSE FROM A
14 WATER LOAD LESS THAN THAT WHICH WOULD OCCUR
15 DURING THE BASE FLOOD.

16 (2) THE ELEVATED PORTION OF THE BUILDING AND
17 SUPPORTING FOUNDATION SYSTEM HAVE BEEN
18 DESIGNED TO WITHSTAND THE EFFECTS OF WIND AND
19 FLOOD LOADS ACTING SIMULTANEOUSLY ON ALL
20 BUILDING COMPONENTS (STRUCTURAL AND
21 NONSTRUCTURAL). WATER LOADING VALUES USED
22 SHALL BE THOSE ASSOCIATED WITH THE BASE
23 FLOOD; WIND LOADING VALUES USED SHALL BE
24 THOSE REQUIRED BY THE BUILDING CODE.

25 (3) IN COASTAL A ZONES, IN ADDITION TO THE
26 REQUIREMENTS OF THIS SECTION, WALLS BELOW
27 THE LOWEST FLOOR SHALL HAVE FLOOD OPENINGS
28 THAT MEET THE REQUIREMENTS OF SECTION
29 238-9(D)(3)(C).

30 (D) HORIZONTAL ADDITIONS TO STRUCTURES

31 (1) A HORIZONTAL ADDITION PROPOSED FOR A BUILDING OR
32 STRUCTURE THAT WAS CONSTRUCTED AFTER THE DATE
33 SPECIFIED IN SECTION 238-5(A) SHALL COMPLY WITH THE

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APPLICABLE REQUIREMENTS OF SECTION 238-8 AND THIS SECTION.

(2) FOR HORIZONTAL ADDITIONS, WHETHER STRUCTURALLY CONNECTED OR NOT STRUCTURALLY CONNECTED, TO THE BASE BUILDING:

(A) IF THE ADDITION COMBINED WITH OTHER PROPOSED REPAIRS, ALTERATIONS, OR MODIFICATIONS OF THE BASE BUILDING CONSTITUTES SUBSTANTIAL IMPROVEMENT, THE BASE BUILDING AND THE ADDITION SHALL COMPLY WITH THE APPLICABLE REQUIREMENTS OF SECTION 238-8 AND THIS SECTION.

(B) IF THE ADDITION CONSTITUTES SUBSTANTIAL IMPROVEMENT, THE BASE BUILDING AND THE ADDITION SHALL COMPLY WITH ALL OF THE APPLICABLE REQUIREMENTS OF SECTION 238-8 AND THIS SECTION. NOTE: THE BASE BUILDING IS REQUIRED TO COMPLY OTHERWISE IT IS AN OBSTRUCTION THAT DOES NOT COMPLY WITH THE FREE-OF-OBSTRUCTION REQUIREMENT THAT APPLIES TO THE ELEVATED ADDITION, SEE SECTION 238-10(C)(2)(C).

(C) IF THE ADDITION ALONE OR COMBINED WITH OTHER PROPOSED REPAIRS, ALTERATIONS, OR MODIFICATIONS OF THE BASE BUILDING DOES NOT CONSTITUTE A SUBSTANTIAL IMPROVEMENT THEN THE ADDITION MUST BE ELEVATED TO ONE (1) FOOT ABOVE THE BASE FLOOD ELEVATION.

(E) ACCESSORY STRUCTURES

(1) ACCESSORY STRUCTURES SHALL BE LIMITED TO NO MORE THAN THREE HUNDRED (300) SQUARE FEET IN FLOOR AREA.

(2) ACCESSORY STRUCTURES SHALL COMPLY WITH THE ELEVATION REQUIREMENTS AND OTHER REQUIREMENTS OF SECTION 238-10(C) OR, IF NOT ELEVATED, SHALL:

(A) BE USEABLE ONLY FOR PARKING OF VEHICLES OR LIMITED STORAGE;

(B) BE CONSTRUCTED WITH FLOOD DAMAGE-RESISTANT MATERIALS BELOW THE BASE FLOOD ELEVATION;

- 1 (C) BE CONSTRUCTED AND PLACED TO OFFER THE MINIMUM
- 2 RESISTANCE TO THE FLOW OF FLOODWATERS;
- 3 (D) BE ANCHORED TO PREVENT FLOTATION;
- 4 (E) HAVE ELECTRICAL SERVICE AND MECHANICAL EQUIPMENT
- 5 ELEVATED TO OR ABOVE THE BASE FLOOD ELEVATION; AND
- 6 (F) IF LARGER THAN 100 SQUARE FEET IN SIZE, HAVE WALLS THAT
- 7 MEET THE REQUIREMENTS OF SECTION 238-10(C)(4)(C)
- 8 THROUGH (G), AS APPLICABLE FOR THE FLOOD ZONE; AND IF
- 9 LOCATED IN COASTAL A ZONES, WALLS SHALL HAVE FLOOD
- 10 OPENINGS THAT MEET THE REQUIREMENTS OF SECTION
- 11 238-9(D)(3)(C).

12 (F) OTHER STRUCTURES AND DEVELOPMENT

13 (1) DECKS AND PATIOS

14 IN ADDITION TO THE REQUIREMENTS OF THE BUILDING CODE OR

15 THE RESIDENTIAL CODE, IN COASTAL HIGH HAZARD AREAS (V

16 ZONES), DECKS AND PATIOS SHALL BE LOCATED, DESIGNED,

17 AND CONSTRUCTED IN COMPLIANCE WITH THE FOLLOWING:

18 (A) A DECK THAT IS STRUCTURALLY ATTACHED TO A BUILDING

19 OR STRUCTURE SHALL HAVE THE BOTTOM OF THE LOWEST

20 HORIZONTAL STRUCTURAL MEMBER AT OR ABOVE THE

21 FLOOD PROTECTION ELEVATION AND ANY SUPPORTING

22 MEMBERS THAT EXTEND BELOW THE DESIGN FLOOD

23 ELEVATION SHALL COMPLY WITH THE FOUNDATION

24 REQUIREMENTS THAT APPLY TO THE BUILDING OR

25 STRUCTURE, WHICH SHALL BE DESIGNED TO

26 ACCOMMODATE ANY INCREASED LOADS RESULTING FROM

27 THE ATTACHED DECK.

28 (B) A DECK OR PATIO THAT IS LOCATED BELOW THE FLOOD

29 PROTECTION ELEVATION SHALL BE STRUCTURALLY

30 INDEPENDENT FROM STRUCTURES AND THEIR FOUNDATION

31 SYSTEMS, AND SHALL BE DESIGNED AND CONSTRUCTED

32 EITHER TO REMAIN INTACT AND IN PLACE DURING BASE

33 FLOOD CONDITIONS OR TO BREAK APART INTO SMALL PIECES

1 THAT WILL NOT CAUSE STRUCTURAL DAMAGE TO ADJACENT
2 ELEVATED STRUCTURES.

3 (C) A DECK OR PATIO THAT HAS A VERTICAL THICKNESS OF MORE
4 THAN 12 INCHES OR THAT IS CONSTRUCTED WITH MORE
5 THAN THE MINIMUM AMOUNT OF FILL THAT IS NECESSARY
6 FOR SITE DRAINAGE SHALL NOT BE APPROVED UNLESS AN
7 ANALYSIS DEMONSTRATES NO HARMFUL DIVERSION OF
8 FLOODWATERS OR WAVE RUNUP AND WAVE REFLECTION THAT
9 WOULD INCREASE DAMAGE TO ADJACENT ELEVATED
10 STRUCTURES.

11 (D) A DECK OR PATIO THAT HAS A VERTICAL THICKNESS OF 12
12 INCHES OR LESS AND THAT IS AT NATURAL GRADE OR ON
13 FILL MATERIAL THAT IS SIMILAR TO AND COMPATIBLE WITH
14 LOCAL SOILS AND IS THE MINIMUM AMOUNT NECESSARY FOR
15 SITE DRAINAGE MAY BE APPROVED WITHOUT REQUIRING
16 ANALYSIS OF THE IMPACT ON DIVERSION OF
17 FLOODWATERS OR WAVE RUNUP AND WAVE REFLECTION.

18 (2) OTHER DEVELOPMENT

19 OTHER DEVELOPMENT ACTIVITIES SHALL BE PERMITTED ONLY IF
20 LOCATED OUTSIDE THE FOOTPRINT OF, AND NOT STRUCTURALLY
21 ATTACHED TO, STRUCTURES, AND ONLY IF AN ANALYSIS
22 DEMONSTRATES NO HARMFUL DIVERSION OF FLOODWATERS OR
23 WAVE RUNUP AND WAVE REFLECTION ONTO ADJACENT ELEVATED
24 STRUCTURES. OTHER DEVELOPMENT INCLUDES BUT IS NOT
25 LIMITED TO:

26 (A) BULKHEADS, SEAWALLS, RETAINING WALLS, REVETMENTS,
27 AND SIMILAR EROSION CONTROL STRUCTURES;

28 (B) SOLID FENCES, PRIVACY WALLS, AND FENCES PRONE TO
29 TRAPPING DEBRIS, UNLESS DESIGNED AND CONSTRUCTED TO
30 FAIL UNDER BASE FLOOD CONDITIONS; AND

31 (C) MOUNDED SEPTIC SYSTEMS.
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33 **SECTION 238-11. VARIANCES**

1 (A) GENERAL

- 2 (1) THE DIRECTOR SHALL HAVE THE POWER TO CONSIDER AND
3 AUTHORIZE OR DENY VARIANCES FROM THE STRICT APPLICATION
4 OF THE REQUIREMENTS OF THESE REGULATIONS PROVIDED THAT
5 THOSE VARIANCES ARE OF A NON TECHNICAL NATURE REQUIRING
6 ENGINEERING JUDGMENT. A VARIANCE SHALL BE APPROVED ONLY
7 IF IT IS DETERMINED TO NOT BE CONTRARY TO THE PUBLIC
8 INTEREST AND WHERE, OWING TO SPECIAL CONDITIONS OF THE LOT
9 OR PARCEL, A LITERAL ENFORCEMENT OF THE PROVISIONS OF
10 THESE REGULATIONS, AN UNNECESSARY HARDSHIP WOULD RESULT.
11 (2) UPON CONSIDERATION OF THE PURPOSES OF THESE REGULATIONS,
12 THE INDIVIDUAL CIRCUMSTANCES, AND THE CONSIDERATIONS AND
13 LIMITATIONS OF THIS SECTION, THE DIRECTOR MAY ATTACH SUCH
14 CONDITIONS TO VARIANCES AS IT DEEMS NECESSARY TO FURTHER
15 THE PURPOSES OF THESE REGULATIONS.
16 (3) THE DIRECTOR SHALL NOTIFY, IN WRITING, ANY APPLICANT TO
17 WHOM A VARIANCE IS GRANTED TO CONSTRUCT OR
18 SUBSTANTIALLY IMPROVE A BUILDING OR STRUCTURE WITH ITS
19 LOWEST FLOOR BELOW THE ELEVATION REQUIRED BY THESE
20 REGULATIONS THAT THE VARIANCE IS TO THE FLOODPLAIN
21 MANAGEMENT REQUIREMENTS OF THESE REGULATIONS ONLY, AND
22 THAT THE COST OF FEDERAL FLOOD INSURANCE WILL BE
23 COMMENSURATE WITH THE INCREASED RISK, WITH RATES UP TO \$25
24 PER \$100 OF INSURANCE COVERAGE.
25 (4) A RECORD OF ALL VARIANCE ACTIONS, INCLUDING JUSTIFICATION
26 FOR ISSUANCE SHALL BE MAINTAINED PURSUANT TO SECTION
27 3.2(K) OF THESE REGULATIONS.

28 (B) APPLICATION FOR A VARIANCE

- 29 (1) THE OWNER OF PROPERTY, OR THE OWNER'S AUTHORIZED AGENT,
30 FOR WHICH A VARIANCE IS SOUGHT SHALL SUBMIT AN
31 APPLICATION FOR A VARIANCE TO THE FLOODPLAIN
32 ADMINISTRATOR.
33 (2) AT A MINIMUM, THE APPLICATION SHALL CONTAIN THE FOLLOWING

1 INFORMATION: NAME, ADDRESS, AND TELEPHONE NUMBER OF
2 THE APPLICANT AND PROPERTY OWNER; LEGAL DESCRIPTION OF
3 THE PROPERTY; PARCEL MAP; DESCRIPTION OF THE EXISTING USE;
4 DESCRIPTION OF THE PROPOSED USE; SITE MAP SHOWING THE
5 LOCATION OF FLOOD HAZARD AREAS, DESIGNATED FLOODWAY
6 BOUNDARIES, FLOOD ZONES, BASE FLOOD ELEVATIONS, AND
7 FLOOD PROTECTION SETBACKS; DESCRIPTION OF THE VARIANCE
8 SOUGHT; AND REASON FOR THE VARIANCE REQUEST. VARIANCE
9 APPLICATIONS SHALL SPECIFICALLY ADDRESS EACH OF THE
10 CONSIDERATIONS IN SECTION 238-11(C).

11 (3) IF THE APPLICATION IS FOR A VARIANCE TO ALLOW THE LOWEST
12 FLOOR (A ZONES) OR BOTTOM OF THE LOWEST HORIZONTAL
13 STRUCTURAL MEMBER (V ZONES AND COASTAL A ZONES) OF A
14 BUILDING OR STRUCTURE BELOW THE APPLICABLE MINIMUM
15 ELEVATION REQUIRED BY THESE REGULATIONS, THE
16 APPLICATION SHALL INCLUDE A STATEMENT SIGNED BY THE OWNER
17 THAT, IF GRANTED, THE CONDITIONS OF THE VARIANCE SHALL
18 BE RECORDED ON THE DEED OF THE PROPERTY.

19 (4) IF THE APPLICATION IS FOR A VARIANCE FOR A HISTORIC
20 STRUCTURE PURSUANT TO SECTION 238-8(F) OF THESE
21 REGULATIONS, THE APPLICATION SHALL CONTAIN DOCUMENTATION
22 THAT THE PROPOSED WORK DOES NOT PRECLUDE THE
23 STRUCTURE'S CONTINUED ELIGIBILITY AND DESIGNATION AS A
24 HISTORIC STRUCTURE. THE DOCUMENTATION SHALL BE OBTAINED
25 FROM A SOURCE THAT IS AUTHORIZED TO MAKE SUCH
26 DETERMINATIONS (SEE DEFINITION OF "HISTORIC STRUCTURE").

27 (C) CONSIDERATIONS FOR VARIANCES

28 (1) THE FLOODPLAIN ADMINISTRATOR SHALL REQUEST COMMENTS ON
29 VARIANCE APPLICATIONS FROM MDE (NFIP STATE COORDINATOR)
30 AND SHALL PROVIDE SUCH COMMENTS TO THE DIRECTOR.

31 (2) IN CONSIDERING VARIANCE APPLICATIONS, THE DIRECTOR SHALL
32 CONSIDER AND MAKE FINDINGS OF FACT ON ALL EVALUATIONS, ALL
33 RELEVANT FACTORS, REQUIREMENTS SPECIFIED IN OTHER

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- SECTIONS OF THESE REGULATIONS, AND THE FOLLOWING FACTORS:
- (A) THE DANGER THAT MATERIALS MAY BE SWEEPED ONTO OTHER LANDS TO THE INJURY OF OTHERS.
 - (B) THE DANGER TO LIFE AND PROPERTY DUE TO FLOODING OR EROSION DAMAGE.
 - (C) THE SUSCEPTIBILITY OF THE PROPOSED DEVELOPMENT AND ITS CONTENTS (IF APPLICABLE) TO FLOOD DAMAGE AND THE EFFECT OF SUCH DAMAGE ON THE INDIVIDUAL OWNER.
 - (D) THE IMPORTANCE OF THE SERVICES TO CHARLES COUNTY PROVIDED BY THE PROPOSED DEVELOPMENT.
 - (E) THE AVAILABILITY OF ALTERNATIVE LOCATIONS FOR THE PROPOSED USE WHICH ARE NOT SUBJECT TO, OR ARE SUBJECT TO LESS, FLOODING OR EROSION DAMAGE.
 - (F) THE NECESSITY TO THE FACILITY OF A WATERFRONT LOCATION, WHERE APPLICABLE, OR IF THE FACILITY IS A FUNCTIONALLY DEPENDENT USE.
 - (G) THE COMPATIBILITY OF THE PROPOSED USE WITH EXISTING AND ANTICIPATED DEVELOPMENT.
 - (H) THE RELATIONSHIP OF THE PROPOSED USE TO THE COMPREHENSIVE PLAN FOR THAT AREA.
 - (I) THE SAFETY OF ACCESS TO THE PROPERTY IN TIMES OF FLOOD FOR PASSENGER VEHICLES AND EMERGENCY VEHICLES.
 - (J) THE EXPECTED HEIGHTS, VELOCITY, DURATION, RATE OF RISE, AND SEDIMENT TRANSPORT OF THE FLOODWATERS AND THE EFFECTS OF WAVE ACTION, IF APPLICABLE, EXPECTED AT THE SITE.
 - (K) THE COSTS OF PROVIDING GOVERNMENT SERVICES DURING AND AFTER FLOOD CONDITIONS, INCLUDING MAINTENANCE AND REPAIR OF PUBLIC UTILITIES AND FACILITIES SUCH AS SEWER, GAS, ELECTRICAL, AND WATER SYSTEMS, AND STREETS AND BRIDGES.
 - (L) THE COMMENTS PROVIDED BY MDE (NFIP STATE

COORDINATOR).

(D) LIMITATIONS FOR GRANTING VARIANCES. THE DIRECTOR SHALL MAKE AN AFFIRMATIVE DECISION ON A VARIANCE REQUEST ONLY UPON:

- (1) A SHOWING OF GOOD AND SUFFICIENT CAUSE.
- (2) A DETERMINATION THAT FAILURE TO GRANT THE VARIANCE WOULD RESULT IN EXCEPTIONAL HARDSHIP DUE TO THE PHYSICAL CHARACTERISTICS OF THE PROPERTY. INCREASED COST OR INCONVENIENCE OF MEETING THE REQUIREMENTS OF THESE REGULATIONS DOES NOT CONSTITUTE AN EXCEPTIONAL HARDSHIP TO THE APPLICANT.
- (3) A DETERMINATION THAT THE GRANTING OF A VARIANCE FOR DEVELOPMENT WITHIN ANY DESIGNATED FLOODWAY, OR FLOOD HAZARD AREA WITH BASE FLOOD ELEVATIONS BUT NO DESIGNATED FLOODWAY, WILL NOT RESULT IN INCREASED FLOOD HEIGHTS BEYOND THAT WHICH IS ALLOWED IN THESE REGULATIONS.
- (4) A DETERMINATION THAT THE GRANTING OF A VARIANCE WILL NOT RESULT IN ADDITIONAL THREATS TO PUBLIC SAFETY; EXTRAORDINARY PUBLIC EXPENSE, NUISANCES, FRAUD OR VICTIMIZATION OF THE PUBLIC, OR CONFLICT WITH EXISTING LOCAL LAWS.
- (5) A DETERMINATION THAT THE BUILDING, STRUCTURE OR OTHER DEVELOPMENT IS PROTECTED BY METHODS TO MINIMIZE FLOOD DAMAGES.
- (6) A DETERMINATION THAT THE VARIANCE IS THE MINIMUM NECESSARY TO AFFORD RELIEF, CONSIDERING THE FLOOD HAZARD.

SECTION 238-12. ENFORCEMENT

(A) COMPLIANCE REQUIRED

- (1) NO BUILDING, STRUCTURE OR DEVELOPMENT SHALL HEREAFTER BE LOCATED, ERECTED, CONSTRUCTED, RECONSTRUCTED, IMPROVED, REPAIRED, EXTENDED, CONVERTED, ENLARGED OR ALTERED WITHOUT FULL COMPLIANCE WITH THESE REGULATIONS AND ALL

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OTHER APPLICABLE REGULATIONS.

- (2) FAILURE TO OBTAIN A PERMIT SHALL BE A VIOLATION OF THESE REGULATIONS AND SHALL BE SUBJECT TO PENALTIES IN ACCORDANCE WITH SECTION 238-12(C).
- (3) PERMITS ISSUED ON THE BASIS OF PLANS AND APPLICATIONS APPROVED BY THE FLOODPLAIN ADMINISTRATOR AUTHORIZE ONLY THE SPECIFIC ACTIVITIES SET FORTH IN SUCH APPROVED PLANS AND APPLICATIONS OR AMENDMENTS THERETO. USE, ARRANGEMENT, OR CONSTRUCTION OF SUCH SPECIFIC ACTIVITIES THAT ARE CONTRARY TO THAT AUTHORIZATION SHALL BE DEEMED A VIOLATION OF THESE REGULATIONS.

(B) NOTICE OF VIOLATION AND STOP WORK ORDER. IF THE FLOODPLAIN ADMINISTRATOR DETERMINES THAT THERE HAS BEEN A VIOLATION OF ANY PROVISION OF THESE REGULATIONS, THE FLOODPLAIN ADMINISTRATOR SHALL GIVE NOTICE OF SUCH VIOLATION TO THE OWNER, THE OWNER'S AUTHORIZED AGENT, AND THE PERSON RESPONSIBLE FOR SUCH VIOLATION, AND MAY ISSUE A STOP WORK ORDER. THE NOTICE OF VIOLATION OR STOP WORK ORDER SHALL BE IN WRITING AND SHALL:

- (1) INCLUDE A LIST OF VIOLATIONS, REFERRING TO THE SECTION OR SECTIONS OF THESE REGULATIONS THAT HAVE BEEN VIOLATED;
- (2) ORDER REMEDIAL ACTION WHICH, IF TAKEN, WILL EFFECT COMPLIANCE WITH THE PROVISIONS OF THESE REGULATIONS;
- (3) SPECIFY A REASONABLE PERIOD OF TIME TO CORRECT THE VIOLATION;
- (4) ADVISE THE RECIPIENTS OF THE RIGHT TO APPEAL; AND
- (5) BE SERVED IN PERSON; OR
- (6) BE POSTED IN A CONSPICUOUS PLACE IN OR ON THE PROPERTY AND SENT BY REGISTERED OR CERTIFIED MAIL TO THE LAST KNOWN MAILING ADDRESS, RESIDENCE, OR PLACE OF BUSINESS OF THE RECIPIENTS.

(C) VIOLATIONS AND PENALTIES
VIOLATIONS OF THESE REGULATIONS OR FAILURE TO COMPLY WITH THE

1 REQUIREMENTS OF THESE REGULATIONS OR ANY CONDITIONS ATTACHED
2 TO A PERMIT OR VARIANCE SHALL CONSTITUTE A MISDEMEANOR. ANY
3 PERSON RESPONSIBLE FOR A VIOLATION SHALL COMPLY WITH THE
4 NOTICE OF VIOLATION OR STOP WORK ORDER. FAILURE TO COMPLY SHALL
5 BE SUBJECT TO PENALTY AND VIOLATION FEES SET FORTH BY COUNTY
6 FEES & CHARGES AS ENACTED BY THE COUNTY COMMISSIONERS. EACH
7 DAY A VIOLATION CONTINUES SHALL BE CONSIDERED A SEPARATE
8 OFFENSE. NOTHING HEREIN CONTAINED SHALL PREVENT THE CHARLES
9 COUNTY FROM TAKING SUCH OTHER LAWFUL ACTION AS IS NECESSARY
10 TO PREVENT OR REMEDY ANY VIOLATION.

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12 **SECTION 238-13. SUBSEQUENT AMENDMENTS**

- 13 (A) ALL ORDINANCES OR PARTS OF ORDINANCES THAT ARE INCONSISTENT
14 WITH THE PROVISIONS OF THIS ORDINANCE ARE HEREBY REPEALED TO
15 THE EXTENT OF SUCH INCONSISTENCY. THIS ORDINANCE SHALL BE
16 AMENDED AS REQUIRED BY THE FEMA, 44 CODE OF FEDERAL
17 REGULATIONS. ALL SUBSEQUENT AMENDMENTS TO THIS ORDINANCE ARE
18 SUBJECT TO THE APPROVAL OF THE FEMA AND THE MDE.
- 19 (B) THE REQUIREMENTS ESTABLISHED IN THIS ORDINANCE SHALL NOT APPLY
20 TO ANY BUILDING PERMIT APPLICATION RECEIVED PRIOR TO THE
21 EFFECTIVE DATE OF THIS ORDINANCE PROVIDED THOSE PERMITS ARE
22 ISSUED WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THIS ORDINANCE
23 AND PROVIDED CONSTRUCTION BEGINS WITHIN 180 DAYS OF THE PERMIT
24 ISSUANCE DATE. FURTHERMORE, THE REQUIREMENTS OF THIS
25 ORDINANCE SHALL NOT APPLY TO ANY PENDING INFRASTRUCTURE
26 PERMIT APPLICATION RECEIVED PRIOR TO THE EFFECTIVE DATE OF THIS
27 ORDINANCE PROVIDED THE PERMIT IS ISSUED AND CONSTRUCTION
28 BEGINS WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THIS ORDINANCE.

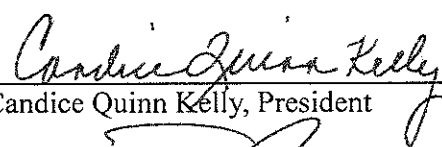
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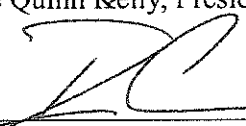
SECTION 2. BE IT FURTHER ENACTED, that an emergency is hereby declared to exist affecting the public health, safety or welfare of the citizens of Charles County, said emergency being the need to meet FEMA deadline to approve new requirements in order for flood insurance protection to be available to County residents.

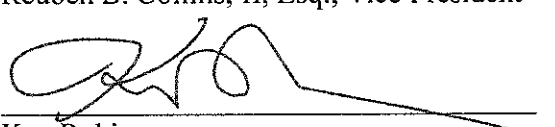
SECTION 3. BE IT FURTHER ENACTED, that this Act shall take effect on the day it becomes law.


ADOPTED THIS 10th DAY OF JULY, 2013.


COUNTY COMMISSIONERS
CHARLES COUNTY, MARYLAND

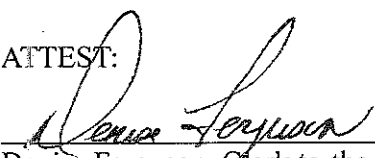

Candice Quinn Kelly, President


Reuben B. Collins, II, Esq., Vice President


Ken Robinson


Debra M. Davis, Esq.


Bobby Rucci

ATTEST:

Denise Ferguson, Clerk to the Commissioners