

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2015 Legislative Session
Legislative Day # ____

BILL NO. 2015-01

Introduced by: Charles County Planning and Growth Management

Flood Damage Control

Date introduced: 02 / 10 / 2015

Public Hearing: 02 / 24 / 2015 @ 6:00 p.m.

Commissioners Action: 02 / 24 / 2015

Commissioner Votes: PM: Y, KR: Y, DD: Y, AS: Y, BR: Y

Pass/Fail: Pass

Effective Date: 05 / 04 / 2015

Remarks: _____

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[Brackets] indicate matter deleted from existing law.

1 **COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

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4 **2015 Legislative Session**

5
6 Bill No.: 2015-01

7 Chapter. No.: 238

8 Introduced by: Board of Charles County Commissioners

9 Date of Introduction: February 10, 2015

10
11 **BILL**

12 AN ACT concerning

13 **FLOOD DAMAGE CONTROL**

14
15 FOR the purpose of

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

19
20 BY repealing and reenacting, with amendments:

21 Chapter 238, Article II– Floodplain Management

22 Sections 238-5 through 238-11

23 Code of Charles County, Maryland

24 (2013 Edition)

25
26 **SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF**
27 **CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as**
28 **follows:**

29
30 **CHAPTER 238**

31 **ARTICLE II – FLOODPLAIN MANAGEMENT ORDINANCE**

32 **Section 238-5. General Provisions.**

33 (A) Findings. The federal emergency management agency (FEMA) has identified special

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1 flood hazard areas within the boundaries of Charles County, Maryland. special flood
2 hazard areas are subject to periodic inundation which may result in loss of life and
3 property, health and safety hazards, disruption of commerce and governmental services,
4 extraordinary public expenditures for flood protection and relief, and impairment
5 of the tax base, all of which adversely affect the public health, safety and general welfare.
6 structures that are inadequately elevated, improperly floodproofed, or otherwise
7 unprotected from flood damage also contribute to flood losses.

8 (B) Charles county, Maryland, by resolution, agreed to meet the requirements of the national
9 flood insurance program and was accepted for participation in the program on June 5,
10 1985. As of that date or as of June 5, 1985, the initial effective date of the Charles
11 County, Maryland flood insurance rate map, all development and new construction as
12 defined herein, are to be compliant with these regulations.

13 (C) Statutory authorization. the Maryland general assembly, in the land use article of the
14 annotated code of Maryland, section 4-101, et seq., has established, as policy of the state,
15 that the orderly development and use of land and structures requires comprehensive
16 regulation through the implementation of planning and zoning control, and that
17 planning and zoning controls shall be implemented by local government in order to,
18 among other purposes, secure the public safety, promote health and general welfare, and
19 promote the conservation of natural resources. Therefore, the commissioners of Charles
20 County, Maryland do hereby adopt the following floodplain management regulations.

21 (D) Statement of purpose. It is the purpose of these regulations to promote the public health,
22 safety and general welfare, and to:

- 23 (1) Protect human life, health and welfare;
- 24 (2) Encourage the utilization of appropriate construction practices in order to prevent
25 or minimize flood damage in the future;
- 26 (3) Minimize flooding of water supply and sanitary sewage disposal systems;
- 27 (4) Maintain natural drainage;
- 28 (5) Reduce financial burdens imposed on Charles County, its governmental units, and
29 its residents, by discouraging unwise design and construction of development in
30 areas subject to flooding;
- 31 (6) Minimize the need for rescue and relief efforts associated with flooding and
32 generally undertaken at the expense of the general public;
- 33 (7) Minimize prolonged business interruptions;

- (8) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (9) Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;
- (10) Minimize the impact of development on adjacent properties within and near flood-prone areas;
- (11) Provide that the flood storage and conveyance functions of floodplains are maintained;
- (12) Minimize the impact of development on the natural and beneficial functions of floodplains;
- (13) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (14) Meet community participation requirements of the National Flood Insurance Program (NFIP) as set forth in the Code of Federal Regulations at 44 [C.F.R.] 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 BFEs.

- (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, AND MAY 4, 2015 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 retained on file and available to the public at the Charles County government building.

* * * * *

Section 238-6. Definitions.

* * * * *

Coastal A Zone - An area within a special flood hazard area, landward of a coastal high-hazard area (V Zone) or landward of a shoreline without a mapped coastal high-hazard area, in which the principal source(s) of flooding is astronomical tides and storm surges, and in which, during base flood conditions, the potential exists for breaking waves with heights greater than or equal

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1 to 1.5 feet. The inland limit of the Coastal A Zone may be delineated on FIRMs as the "limit of
2 moderate wave action (LIMWA)."

3 * * * * *
4 Elevation Certificate - FEMA Form [81-31], on which surveyed elevations and other data
5 pertinent to a property and a building are identified and which shall be completed by a licensed
6 professional land surveyor [or], a licensed professional engineer, OR A LICENSED
7 ARCHITECT, WHO IS AUTHORIZED BY LAW TO CERTIFY ELEVATION
8 INFORMATION, as specified by the floodplain administrator. When used to document the
9 height above grade of buildings in special flood hazard areas for which base flood elevation data
10 are not available, the elevation certificate shall be completed in accordance with the instructions
11 issued by FEMA. Note: FEMA Form [81-31] 86-0-33 and instructions are available online at
12 <http://www.fema.gov/library/viewrecord.do?id=1383>[.]

13 * * * * *
14 Flood Opening -A flood opening (nonengineered) is an opening that is used to meet the
15 prescriptive requirement of one square inch of net open area for every square foot of enclosed
16 area. An engineered flood opening is an opening that is designed and certified by a licensed
17 professional engineer or licensed architect as meeting certain performance characteristics,
18 including providing automatic entry and exit of floodwaters; [the] THIS certification requirement
19 may be satisfied by an individual certification FOR A SPECIFIC STRUCTURE or issuance of
20 an evaluation report by the ICC Evaluation Service, Inc. (Note: See NFIP Technical Bulletin #1,
21 Openings in Foundation Walls and Walls of Enclosures.)

22 * * * * *
23 Floodproofing Certificate - FEMA Form [81-65] that is to be completed, signed and sealed by a
24 licensed professional engineer or licensed architect to certify that the design of floodproofing and
25 proposed methods of construction are in accordance with the applicable requirements of § 238-
26 9E(2) of these regulations. (NOTE: FEMA FORM 86-0-34 IS AVAILABLE ONLINE AT
27 <HTTP://WWW.FEMA.GOV/LIBRARY/VIEWRECORD.DO?ID=1600>)

28 * * * * *
29 Historic Structure - Any structure that is:
30 A. Individually listed in the National Register of Historic Places (a listing maintained by the
31 U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior
32 as meeting the requirements for individual listing on the National Register;

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- 1 B. Certified or preliminarily determined by the Secretary of the Interior as contributing to
- 2 the historical significance of a registered historic district or a district preliminarily
- 3 determined by the Secretary to qualify as a registered historic district;
- 4 C. Individually listed on the Maryland [Inventory of Historic Properties maintained by the
- 5 Maryland Historic Trust] REGISTER OF HISTORIC PLACES; or
- 6 D. Individually listed on the Inventory of Historic Places maintained by Charles County,
- 7 Maryland, whose historic preservation program has been certified by the Maryland
- 8 Historic Trust or the Secretary of the Interior.

9 * * * * *

10 Letter of Map Change (LOMC) - An official FEMA determination, by letter, that amends or

11 revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of map change

12 include:

- 13 A. Letter of Map Amendment (LOMA) - An amendment based on technical data showing
- 14 that a property was incorrectly included in a designated special flood hazard area. A
- 15 LOMA amends the currently effective Flood Insurance Rate Map and establishes that a
- 16 specific property or structure is not located in a special flood hazard area.
- 17 B. Letter of Map Revision(LOMR) - A revision based on technical data that may show
- 18 changes to flood zones, flood elevations, floodplain and floodway delineations, and
- 19 planimetric features. A letter of map revision based on fill (LOMR-F) is a determination
- 20 that a structure or parcel of land has been elevated by fill above the base flood elevation
- 21 and is, therefore, no longer exposed to flooding associated with the base flood. In order to
- 22 qualify for this determination, the fill must have been permitted and placed in accordance
- 23 with Charles County's floodplain management regulations.
- 24 C. Conditional Letter of Map Revision (CLOMR) - A formal review and comment as to
- 25 whether a proposed flood protection project or other project complies with the minimum
- 26 NFIP requirements for such projects with respect to delineation of special flood hazard
- 27 areas. A CONDITIONAL LETTER OF MAP REVISION BASED ON FILL (CLOMR-
- 28 F) IS A DETERMINATION THAT A PARCEL OF LAND OR PROPOSED
- 29 STRUCTURE THAT WILL BE ELEVATED BY FILL WOULD NOT BE
- 30 INUNDATED BY THE BASE FLOOD IF FILL IS PLACED ON THE PARCEL AS
- 31 PROPOSED OR THE STRUCTURE IS BUILT AS PROPOSED. A CLOMR does not
- 32 revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon

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1 submission and approval of certified as-built documentation, a letter of map revision may
2 be issued by FEMA to revise the effective FIRM.

3
4 Licensed - Professionals who are authorized to practice in the State of Maryland by issuance of
5 licenses by the Maryland Board of Architects, Maryland Board of Professional Engineers,
6 Maryland Board of Professional Land Surveyors, and the Maryland Real Estate Appraisers and
7 Home Inspectors Commission.

8 LIMIT OF MODERATE WAVE ACTION (LIMWA) - INLAND LIMIT OF THE AREA
9 AFFECTED BY WAVES GREATER THAN 1.5 FEET DURING THE BASE FLOOD. BASE
10 FLOOD CONDITIONS BETWEEN THE VE ZONE AND THE LIMWA WILL BE SIMILAR
11 TO, BUT LESS SEVERE THAN THOSE IN THE VE ZONE

12 * * * * *
13 Maryland Department of the Environment (MDE) - A principal department of the State of
14 Maryland that is charged with, among other responsibilities, the coordination of the National
15 Flood Insurance Program in Maryland (NFIP State Coordinator) and the administration of
16 regulatory programs for development and construction that occur within the waters of the state,
17 including nontidal wetlands, nontidal waters and floodplains, and state and private tidal wetlands
18 (tidal wetlands). Unless otherwise specified, "MDE" refers to the Department's Wetlands and
19 Waterways Program.

20 MIXED-USE STRUCTURE – ANY STRUCTURE THAT IS USED OR INTENDED FOR
21 USE FOR A MIXTURE OF NONRESIDENTIAL AND RESIDENTIAL USES IN THE SAME
22 STRUCTURE.

23 * * * * *
24 Substantial Improvement - Any reconstruction, rehabilitation, addition, or other improvement of
25 a building or structure TAKING PLACE DURING THE LIFE OF THE STRUCTURE, the cost
26 of which equals or exceeds 50% of the market value of the building or structure before the start
27 of construction of the improvement. The term includes structures which have incurred substantial
28 damage, regardless of the actual repair work performed. The term does not, however, include
29 either:

- 30 A. Any project for improvement of a building or structure to correct existing violations of
31 state or local health, sanitary, or safety code specifications which have been identified by
32 the local code enforcement official prior to submission of an application for a permit and
33 which are the minimum necessary to assure safe living conditions; or

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1 B. Any alteration of an historic structure, provided that the alteration will not preclude the
2 structure's continued designation as an historic structure.

3 NOTE: SEE "SUBSTANTIAL IMPROVEMENT/SUBSTANTIAL DAMAGE DESK
4 REFERENCE" FEMA P-758.

5 * * * * *

6 **Section 238-7. Administration.**

7 A. Designation of the floodplain administrator. The Chief is hereby appointed to administer
8 and implement these regulations and is referred to herein as the "floodplain
9 administrator." The floodplain administrator may:

- 10 (1) Delegate duties and responsibilities set forth in these regulations to qualified
11 technical personnel, plan examiners, inspectors, and other employees.
12 (2) Enter into a written agreement or written contract with a private-sector entity to
13 administer specific provisions of these regulations. Administration of any part of
14 these regulations by another entity shall not relieve Charles County of its
15 responsibilities pursuant to the participation requirements of the National Flood
16 Insurance Program (NFIP) as set forth in the Code of Federal Regulations
17 at 44[CFR] C-F-R SECTION 59.22.

18 B. Duties and responsibilities of the floodplain administrator. The duties and responsibilities
19 of the floodplain administrator shall include, but are not limited to:

- 20 (1) Review applications for permits to determine whether proposed activities will be
21 located in flood hazard areas.
22 (2) Interpret floodplain boundaries and provide available base flood elevation and
23 flood hazard information.
24 (3) Review applications to determine whether proposed activities will be reasonably
25 safe from flooding and require new construction and substantial improvements to
26 meet the requirements of these regulations.
27 (4) Review applications to determine whether all necessary permits have been
28 obtained from the federal, state or local agencies from which prior or concurrent
29 approval is required; in particular, permits from MDE for any construction,
30 reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction
31 (including bridges, culverts, structures), any alteration of a watercourse, or any
32 change of the course, current, or cross section of a stream or body of water,

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1 including any change to the one-hundred-year-frequency floodplain or free-
2 flowing nontidal waters of the state.

- 3 (5) Verify that applicants proposing an alteration of a watercourse have notified
4 adjacent communities and MDE (NFIP State Coordinator), and have submitted
5 copies of such notifications to FEMA.
- 6 (6) Advise applicants for new construction or substantial improvement of structures
7 that are located within an area of the coastal barrier resources system established
8 by the Coastal Barrier Resources Act that federal flood insurance is not available
9 on such structures; areas subject to this limitation are shown on Flood Insurance
10 Rate Maps as coastal barrier resource system areas (CBRS) or otherwise protected
11 areas (OPA).
- 12 (7) Approve applications and issue permits to develop in flood hazard areas if the
13 provisions of these regulations have been met, or disapprove applications if the
14 provisions of these regulations have not been met.
- 15 (8) Inspect, or cause to be inspected, buildings, structures, and other development for
16 which permits have been issued to determine compliance with these regulations or
17 to determine if noncompliance has occurred or violations have been committed.
- 18 (9) Review elevation certificates and require incomplete or deficient certificates to be
19 corrected.
- 20 (10) Submit to FEMA, or require applicants to submit to FEMA, data and information
21 necessary to maintain FIRMs, including hydrologic and hydraulic engineering
22 analyses prepared by or for Charles County, Maryland, within six months after
23 such data and information become available if the analysis indicated in base flood
24 elevations OR BOUNDARIES.
- 25 (11) Maintain and permanently keep records that are necessary for the administration
26 of these regulations, including:
- 27 (a) Flood Insurance Studies, Flood Insurance Rate Maps (including historic
28 studies and maps and currently effective studies and maps) and letters of
29 map change; and
- 30 (b) Documentation supporting issuance and denial of permits, elevation
31 certificates, documentation of the elevation (in relation to the datum on the
32 FIRM) to which structures have been floodproofed, other required design

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1 certifications, variances, and records of enforcement actions taken to
2 correct violations of these regulations.

- 3 (12) Enforce the provisions of these regulations, investigate violations, issue notices of
4 violations or stop-work orders, and require permit holders to take corrective
5 action.
- 6 (13) Advise the Director regarding the intent of these regulations and, for each
7 application for a variance, prepare a staff report and recommendation.
- 8 (14) Administer the requirements related to proposed work on existing buildings:
9 (a) Make determinations as to whether buildings and structures that are
10 located in flood hazard areas and that are damaged by any cause have been
11 substantially damaged.
- 12 (b) Make reasonable efforts to notify owners of substantially damaged
13 structures of the need to obtain a permit to repair, rehabilitate, or
14 reconstruct, and prohibit the noncompliant repair of substantially damaged
15 buildings except for temporary emergency protective measures necessary
16 to secure a property or stabilize a building or structure to prevent
17 additional damage.
- 18 (15) Undertake, as determined appropriate by the floodplain administrator due to the
19 circumstances, other actions which may include, but are not limited to, issuing
20 press releases, public service announcements, and other public information
21 materials related to permit requests and repair of damaged structures; coordinating
22 with other federal, state, and local agencies to assist with substantial damage
23 determinations; providing owners of damaged structures information related to
24 the proper repair of damaged structures in special flood hazard areas; and
25 assisting property owners with documentation necessary to file claims for
26 [i]Increased [c]Cost of [c]Compliance (ICC) coverage under NFIP flood
27 insurance policies.
- 28 (16) Notify FEMA when the corporate boundaries of Charles County, Maryland have
29 been modified and:
30 (a) Provide a map that clearly delineates the new corporate boundaries or the
31 new area for which the authority to regulate pursuant to these regulations
32 has either been assumed or relinquished through annexation; and

1 (b) If the FIRM for any annexed area includes special flood hazard areas that
2 have flood zones that have regulatory requirements that are not set forth in
3 these regulations, prepare amendments to these regulations to adopt the
4 FIRM and appropriate requirements, and submit the amendments to the
5 governing body for adoption; such adoption shall take place within six
6 months of the date of annexation and a copy of the amended regulations
7 shall be provided to MDE (NFIP State Coordinator) and FEMA.

8 (17) Upon the request of FEMA, complete and submit a report concerning
9 participation in the NFIP, which may request information regarding the number of
10 buildings in the SFHA, number of permits issued for development in the SFHA,
11 and number of variances issued for development in the SFHA.

12 C. Use and interpretation of FIRMs. The floodplain administrator shall make interpretations,
13 where needed, as to the exact location of special flood hazard areas, floodplain
14 boundaries, and floodway boundaries. The following shall apply to the use and
15 interpretation of FIRMs and data:

16 (1) Where field-surveyed topography indicates that ground elevations:

17 (a) Are below the base flood elevation, even in areas not delineated as a
18 special flood hazard area on a FIRM, the area shall be considered as a
19 special flood hazard area and subject to the requirements of these
20 regulations.

21 (b) Are above the base flood elevation, the area shall be regulated as a special
22 flood hazard area unless the applicant obtains a letter of map change that
23 removes the area from the special flood hazard area.

24 (2) In FEMA-identified special flood hazard areas where base flood elevation and
25 floodway data have not been identified and in areas where FEMA has not
26 identified special flood hazard areas, any other flood hazard data available from a
27 federal, state, or other source shall be reviewed and reasonably used.

28 (3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs
29 shall take precedence over base flood elevations and floodway boundaries by any
30 other sources if such sources show reduced floodway widths and/or lower base
31 flood elevations.

- 1 (4) Other sources of data shall be reasonably used if such sources show increased
2 base flood elevations and/or larger floodway areas than are shown on FIRMs and
3 in FISs.
- 4 (5) If a preliminary Flood Insurance Rate Map and/or a preliminary Flood Insurance
5 Study has been provided by FEMA:
- 6 (a) Upon the issuance of a letter of final determination by FEMA, IF the
7 preliminary flood hazard data IS MORE RESTRICTIVE THAN THE
8 EFFECTIVE DATA, IT shall be used and shall replace the flood hazard
9 data previously provided from FEMA for the purposes of administering
10 these regulations.
- 11 (b) Prior to the issuance of a letter of final determination by FEMA, the use of
12 preliminary flood hazard data shall be deemed the best available data
13 pursuant to § 238-5F(3) and used where no base flood elevations and/or
14 floodway areas are provided on the effective FIRM.
- 15 (c) Prior to issuance of a letter of final determination by FEMA, the use of
16 preliminary flood hazard data is permitted where the preliminary base
17 flood elevations, FLOODPLAIN or floodway BOUNDARIES [areas]
18 exceed the base flood elevations and/or designated floodway widths in
19 existing flood hazard data provided by FEMA. Such preliminary data may
20 be subject to change and/or appeal to FEMA.

21 D. Permits required and expiration.

- 22 (1) It shall be unlawful for any person to begin any development or construction
23 which is wholly within, partially within, or in contact with any flood hazard area
24 established in § 238-5F, including but not limited to, filling; grading; construction
25 of new structures; the substantial improvement of buildings or structures,
26 including repair of substantial damage; placement or replacement of
27 manufactured homes, including substantial improvement or repair of substantial
28 damage of manufactured homes; erecting or installing a temporary structure, or
29 alteration of a watercourse, until a permit is obtained from Charles County. No
30 such permit shall be issued until the requirements of these regulations have been
31 met.
- 32 (2) In addition to the permits required in Subsection D(1), applicants for permits in
33 nontidal waters of the state are advised to contact MDE unless waived by MDE,

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1 pursuant to COMAR 26.17.04, Construction on Nontidal Waters and Floodplains;
2 MDE regulates the "one-hundred-year-frequency floodplain of free-flowing
3 waters," also referred to as "nontidal waters of the state." To determine the one-
4 hundred-year-frequency floodplain, hydrologic calculations are based on the
5 ultimate development of the watershed; assuming existing zoning the resulting
6 flood hazard areas delineated using the results of such calculations may be
7 different than the special flood hazard areas established in § 238-5F of these
8 regulations.

9 (3) A permit is valid provided the actual start of work is within 180 days of the date
10 of permit issuance. Requests for extensions shall be submitted in writing and
11 justifiable cause demonstrated. The floodplain administrator may grant, in
12 writing, one or more extensions of time, for additional periods not exceeding 90
13 days each, and provided there has been no amendment or revision to the basis for
14 establishing special flood hazard areas and BFEs set forth in § 238-[8]5F.

15 (4) Permits for incremental improvements and additions shall be tracked by the
16 Department, and if cumulative improvements constitute substantial improvement,
17 no further permits may be issued unless the structure conforms to the provisions
18 of this article.

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

22 (1) Application contents. At a minimum, applications shall include:

23 (a) Site plans drawn to scale showing the nature, location, dimensions, and
24 existing and proposed topography of the area in question, and the location
25 of existing and proposed structures, excavation, filling, storage of
26 materials, drainage facilities, and other proposed activities.

27 (b) Elevation of the existing natural ground where buildings or structures are
28 proposed, referenced to the datum on the FIRM.

29 (c) Delineation of flood hazard areas, designated floodway boundaries, flood
30 zones, base flood elevations, and flood protection setbacks. Base flood
31 elevations shall be used to delineate the boundary of flood hazard areas
32 and such delineations shall prevail over the boundary of SFHAs shown on
33 FIRMs.

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- 1 (d) Where floodways are not delineated or base flood elevations are not
2 shown on the FIRMs, the floodplain administrator has the authority to
3 require the applicant to use information provided by the floodplain
4 administrator, information that is available from federal, state, or other
5 sources, or to determine such information using accepted engineering
6 practices or methods approved by the floodplain administrator. Note: See
7 "Managing Floodplain Development in Approximate Zone A Areas: A
8 Guide for Obtaining and Developing Base (100-Year) Flood Elevations"
9 (FEMA 265).
- 10 (e) Determination of the base flood elevations, for development proposals and
11 subdivision proposals, each with at least five lots or at least five acres,
12 whichever is the lesser, in special flood hazard areas where base flood
13 elevations are not shown on the FIRM; if hydrologic and hydraulic
14 engineering analyses are submitted, such analyses shall be performed in
15 accordance with the requirements and specifications of MDE and FEMA.
- 16 (f) Hydrologic and hydraulic engineering analyses for proposals in special
17 flood hazard areas where FEMA has provided base flood elevations but
18 has not delineated a floodway; such analyses shall demonstrate that the
19 cumulative effect of proposed development, when combined with all other
20 existing and anticipated development, will not increase the water surface
21 elevation of the base flood by more than one foot or a lower increase if
22 required by MDE.
- 23 (g) For encroachments in floodways, an evaluation of alternatives to such
24 encroachments, including different uses of the site or portion of the site
25 within the floodway, and minimization of such encroachment.
- 26 (h) If fill is proposed to be placed for a purpose other than to elevate
27 structures, the applicant shall indicate the intended purpose for the fill.
- 28 (i) For proposed buildings and structures, including substantial improvement
29 and repair of substantial damage, and placement and replacement of
30 manufactured homes, including substantial improvement and repair of
31 substantial damage:

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- (1) The proposed elevation of the lowest floor, including basement, referenced to the datum on the FIRM and a signed agreement to submit an elevation certificate.
 - (2) The signed declaration of land restriction (nonconversion agreement), which shall be recorded on the property deed prior to issuance of the certificate of use and occupancy, if the application includes an enclosure below the lowest floor or a crawl/underfloor space that is more than four feet in height.
 - (3) A written evaluation of alternative methods considered to elevate structures and manufactured homes, if the location is in nontidal waters of the state and fill is proposed to achieve the elevation required in § 238-9D(1) or § 238-9E(1).
- (j) For accessory structures that are 300 square feet or larger in area (footprint) AND that are below the base flood elevation, A VARIANCE IS REQUIRED AS SET FORTH IN SECTION 238-11. IF A VARIANCE IS GRANTED, a SIGNED declaration of land restriction (nonconversion agreement) shall be recorded on the property deed prior to issuance of the certificate of use and occupancy.
- (k) For temporary structures and temporary storage, specification of the duration of the temporary use.
- (l) For proposed work on existing buildings, structures, and manufactured homes, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes substantial improvement or repair of substantial damage, including, but not limited to:
- (1) If the existing building or structure was constructed after June 5, 1985, evidence that the work will not alter any aspect of the building or structure that was required for compliance with the floodplain management requirements in effect at the time the building or structure was permitted.
 - (2) If the proposed work is a horizontal addition, a description of the addition and whether it will be independently supported or

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1 structurally connected to the base building and the nature of all
2 other modifications to the base building, if any.

3 (3) Documentation of the market value of the building or structure
4 before the improvement or, if the work is repair of damage, before
5 the damage occurred.

6 (4) Documentation of the actual cash value of all proposed work,
7 including the actual cash value of all work necessary to repair and
8 restore damage to the before-damaged condition, regardless of the
9 amount of work that will be performed. The value of work
10 performed by the owner or volunteers shall be valued at market
11 labor rates; the value of donated or discounted materials shall be
12 valued at market rates.

13 (m) Certifications and/or technical analyses prepared or conducted by a
14 licensed professional engineer, or licensed architect, as appropriate,
15 including:

16 (1) The determination of the base flood elevations or hydrologic and
17 hydraulic engineering analyses prepared by a licensed professional
18 engineer that are required by the floodplain administrator or are
19 required by these regulations in:

20 (a) Section 238-8B for certain subdivisions and development;

21 (b) Section 238-9C(1) for development in designated
22 floodways;

23 (c) Section 238-9C(3) for development in flood hazard areas
24 with base flood elevations but no designated floodways;
25 and

26 (d) Section 238-9[D]C(5) for deliberate alteration or relocation
27 of watercourses.

28 (2) The floodproofing certificate for nonresidential structures that are
29 floodproofed as required in § 238-9E(2).

30 (3) Certification that engineered flood openings are designed to meet
31 the minimum requirements of § 238-9D(3)(c) to automatically
32 equalize hydrostatic flood forces.

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- (4) Certification that the proposed elevation, structural design, specifications and plans, and the methods of construction to be used for structures in coastal high-hazard areas (V Zones) and Coastal A Zones, are in accordance with accepted standards of practice and meet the requirements of § 238-10C(3).
- (n) For nonresidential structures that are proposed with floodproofing, an operations and maintenance plan as specified in § 238-9[E(2)(c)] E(2)(C)(6).
- (o) Such other material and information as may be requested by the floodplain administrator and necessary to determine conformance with these regulations.
- (2) New technical data.
 - (a) The applicant may seek a letter of map change by submitting new technical data to FEMA, such as base maps, topography, and engineering analyses to support revision of floodplain and floodway boundaries and/or base flood elevations. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant. A copy of the submittal shall be attached to the application for a permit.
 - (b) If the applicant submits new technical data to support any change in floodplain and designated floodway boundaries and/or base flood elevations but has not sought a letter of map change from FEMA, the applicant shall submit such data to FEMA as soon as practicable, but not later than six months after the date such information becomes available. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant.
- F. Review of application. The floodplain administrator shall:
 - (1) Review applications for development in special flood hazard areas to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information that is required to support the application.
 - (2) Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and other state and federal authorities, may be required.

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- 1 (3) Review all permit applications to assure that all necessary permits have been
2 received from the federal, state or local governmental agencies from which prior
3 approval is required. The applicant shall be responsible for obtaining such
4 permits, including permits issued by:
- 5 (a) The U.S. Army Corps of Engineers under Section 10 of the Rivers and
6 Harbors Act and Section 404 of the Clean Water Act;
 - 7 (b) MDE pursuant to COMAR 26.23 (Nontidal Wetlands) and Section 401 of
8 the Clean Water Act;
 - 9 (c) MDE for construction on nontidal waters of the state pursuant to COMAR
10 26.17.04; and
 - 11 (d) MDE pursuant to COMAR 26.24 (Tidal Wetlands).
- 12 (4) Review applications for compliance with these regulations after all information
13 required in Subsection B of this section or identified and required by the
14 floodplain administrator has been received.

15 G. Inspections. The floodplain administrator shall make periodic inspections of development
16 permitted in special flood hazard areas, at appropriate times throughout the period of
17 construction, in order to monitor compliance. Such inspections may include:

- 18 (1) Stake-out inspection, to determine location on the site relative to the flood hazard
19 area and designated floodway.
- 20 (2) Foundation inspection, upon placement of the lowest floor and prior to further
21 vertical construction, to collect information or certification of the elevation of the
22 lowest floor.
- 23 (3) Inspection of enclosures below the lowest floor, including crawl/underfloor
24 spaces, to determine compliance with applicable provisions.
- 25 (4) Utility inspection, upon installation of specified equipment and appliances, to
26 determine appropriate location with respect to the base flood elevation.
- 27 (5) Final inspection prior to issuance of the certificate of use and occupancy.

28 H. Submissions required prior to final inspection. Pursuant to the agreement to submit an
29 elevation certificate submitted with the application as required in Subsection
30 E(1)(h)(I)(1), the permittee shall have an elevation certificate prepared and submitted
31 prior to final inspection and issuance of a certificate of use and occupancy for elevated
32 structures and manufactured homes, including new structures and manufactured homes,

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1 substantially improved structures and manufactured homes, and additions to structures
2 and manufactured homes.

3 **Section 238-8. Requirements in flood hazard areas.**

- 4 * * * * *
- 5 D. Buildings and structures. New buildings and structures (including the placement and
6 replacement of manufactured homes) and substantial improvement of existing structures
7 (including manufactured homes) that are located, in whole or in part, in any special flood
8 hazard area shall:
- 9 (1) Be designed (or modified) and constructed to safely support flood loads. The
10 construction shall provide a complete load path capable of transferring all loads
11 from their point of origin through the load-resisting elements to the foundation.
12 Structures shall be designed, connected and anchored to resist flotation, collapse
13 or permanent lateral movement due to structural loads and stresses, including
14 hydrodynamic and hydrostatic loads and the effects of buoyancy, from flooding
15 equal to the flood protection elevation or the elevation required by these
16 regulations or the Building Code, whichever is higher.
 - 17 (2) Be constructed by methods and practices that minimize flood damage.
 - 18 (3) Use flood-damage-resistant materials below the elevation of the lowest floor
19 required in § 238-[9E(1)] 9D(3) (for RESIDENTIAL A Zones), or
20 FLOODPROOFING REQUIRED IN SECTION 238-9E(2) (FOR
21 NONRESIDENTIAL A ZONES), OR THE REQUIREMENTS OF Section
22 § 238-10C[(2)] (for V Zones and Coastal A Zones).
 - 23 (4) Have electrical systems, equipment and components, and mechanical, heating,
24 ventilating, air-conditioning, and plumbing appliances, plumbing fixtures, duct
25 systems, and other service equipment located at or above the elevation of the
26 lowest floor required in § 238-9[E]D(1) FOR RESIDENTIAL STRUCTURES
27 OR SECTION 238-9E(1) FOR NON-RESIDENTIAL STRUCTURES (A Zones)
28 or § 238-10C (V Zones AND COASTAL A ZONES). Electrical wiring systems
29 are permitted to be located below the elevation of the lowest floor, provided they
30 conform to the provisions of the electrical part of the Building Code for wet
31 locations. If replaced as part of a substantial improvement, electrical systems,
32 equipment and components, and heating, ventilation, air-conditioning; and

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1 plumbing appliances, plumbing fixtures, duct systems, and other service
2 equipment shall meet the requirements of this section.

- 3 (5) As an alternative to Subsection D(4), electrical systems, equipment and
4 components, and heating, ventilating, air-conditioning, and plumbing appliances,
5 plumbing fixtures, duct systems, and other service equipment are permitted to be
6 located below the elevation of the lowest floor, provided they are designed and
7 installed to prevent water from entering or accumulating within the components
8 and to resist hydrostatic and hydrodynamic loads and stresses, including the
9 effects of buoyancy, during the occurrence of the base flood.
- 10 (6) Have the electric panel board elevated at least three feet above the BFE.
- 11 (7) Comply with the specific requirements of § 238-9 if located in flood hazard areas
12 (A Zones) that are not identified as Coastal A Zones and coastal high-hazard areas
13 (V Zones).
- 14 (8) Comply with the specific requirements of § 238-9 or § 238-10, if applicable, if
15 located in Coastal A Zones.
- 16 (9) Comply with the specific requirements of § 238-10 if located in coastal high-
17 hazard areas (V Zones).
- 18 (10) Comply with the requirements of the most restrictive designation if located on a
19 site that has more than one flood zone designation (A Zone, designated floodway,
20 Coastal A Zone, V Zone).

21 E. Placement of fill.

- 22 (1) Disposal of fill, including but not limited to earthen soils, rock, rubble,
23 construction debris, woody debris, and trash, shall not be permitted in special
24 flood hazard areas.
- 25 (2) Fill shall not be placed in Coastal A Zones or coastal high-hazard areas (V Zones)
26 except as provided in § 238-10B.
- 27 (3) Fill proposed to be placed to elevate structures in flood hazard areas (A Zones)
28 that are not Coastal A Zones or coastal high-hazard areas (V Zones) shall comply
29 with the limitations in § 238-9 and the requirements of § 238-9D(2).

30 F. Historic structures. Repair, alteration, addition, rehabilitation, or other improvement of
31 historic structures shall be subject to the requirements of these regulations if the proposed
32 work is determined to be a substantial improvement, unless a determination is made that
33 the proposed work will not preclude the structure's continued designation as an historic

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1 structure. The floodplain administrator may require documentation of a structure's
2 continued eligibility and designation as an historic structure.

3 G. Manufactured homes.

- 4 (1) New manufactured homes shall not be placed or installed in floodways or coastal
5 high-hazard areas (V Zones) OR COASTAL A ZONES. EXCEPTION:
6 REPLACEMENT OF MANUFACTURED HOMES ARE PERMITTED
7 WITHIN COASTAL A ZONES IF REPLACED WITHIN 12 MONTHS.
- 8 (2) For the purpose of these regulations, the lowest floor of a manufactured home is
9 the bottom of the lowest horizontal supporting member (longitudinal chassis
10 frame beam).
- 11 (3) New manufactured homes located outside of floodways and coastal high-hazard
12 areas (V Zones) AND COASTAL A ZONES, replacement manufactured homes
13 in any flood hazard areas, and substantial improvement (including repair of
14 substantial damage) of existing manufactured homes in all flood hazard area shall:
- 15 (a) Be elevated on a permanent, reinforced foundation in accordance with
16 § 238-9 or § 238-10, as applicable to the flood zone;
- 17 (b) Be installed in accordance with the anchor and tie-down requirements of
18 the Building Code or the manufacturer's written installation instructions
19 and specifications; and
- 20 (c) Have enclosures below the lowest floor of the elevated manufactured
21 home, if any, including enclosures that are surrounded by rigid skirting or
22 other material that is attached to the frame or foundation, that comply with
23 the requirements of § 238-9 or § 238-10, as applicable to the flood zone.

24 Note: See “Protecting Manufactured Homes from Floods and Other Hazards: A Multi-
25 Hazard Foundation and Installation Guide” (FEMA 85)

26 H. Recreational vehicles. Recreational vehicles shall:

- 27 (1) Meet the requirements for manufactured homes in Subsection G; or
28 (2) Be fully licensed and ready for highway use; or
29 (3) Be on a site for less than 180 consecutive days.

30 I. Critical and essential facilities. Critical and essential facilities shall:

- 31 (1) Not be located in coastal high-hazard areas (V Zones), COASTAL A ZONES OR
32 FLOODWAYS[.]; OR

1 (2) If located in flood hazard areas other than coastal high-hazard areas, COASTAL
2 A ZONES AND FLOODWAYS, be elevated to the higher of the elevation
3 required by these regulations plus one foot, the elevation required by the Building
4 Code, or the elevation of the 0.2-percent chance (500-year) flood.

5 * * * * *

6 **Section 238-9. Requirements in flood hazard areas (A Zones) that are not coastal high**
7 **hazard or Coastal A Zones**

8 * * * * *

9 C. Development that affects the flood-carrying capacity of nontidal waters of the state.

10 (1) Development in designated floodways. For proposed development that will
11 encroach into a designated floodway, § 238-7E(1)(g) requires the applicant to
12 submit an evaluation of alternatives to such encroachment, including different
13 uses of the site or the portion of the site within the floodway, and minimization of
14 such encroachment. This requirement does not apply to fences that do not block
15 the flow of floodwaters or trap debris. Proposed development in a designated
16 floodway may be permitted only if:

- 17 (a) The applicant has been issued a permit by MDE; and
- 18 (b) The applicant has developed hydrologic and hydraulic engineering
19 analyses and technical data prepared by a licensed professional engineer
20 reflecting such changes, and the analyses, which shall be submitted to the
21 floodplain administrator, demonstrate that the proposed activity will not
22 result in any increase in the base flood elevation; or
- 23 (c) If the analyses demonstrate that the proposed activities will result in an
24 increase in the base flood elevation, the applicant has obtained a
25 conditional letter of map revision [or] AND A letter of map revision from
26 FEMA UPON COMPLETION OF THE PROJECT. Submittal
27 requirements and fees shall be the responsibility of the applicant.

28 (2) Development that includes the placement of fill in nontidal waters of the state. For
29 proposed development that includes the placement of fill in nontidal waters of the
30 state, other than development that is subject to Subsection D, a hydraulically
31 equivalent volume of excavation is required. Such excavations shall be designed
32 to drain freely.

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- 1 (3) Development in areas with base flood elevations but no designated floodways.
2 For development in special flood hazard areas of nontidal waters of the state with
3 base flood elevations but no designated floodways:
- 4 (a) The applicant shall develop hydrologic and hydraulic engineering analyses
5 and technical data reflecting the proposed activity and shall submit such
6 technical data to the floodplain administrator as required in § 238-7[D] E
7 (1). The analyses shall be prepared by a licensed professional engineer in a
8 format required by FEMA for a conditional letter of map revision [or]
9 AND A letter of map revision UPON COMPLETION OF THE
10 PROJECT. Submittal requirements and fees shall be the responsibility of
11 the applicant.
- 12 (b) The proposed development may be permitted if the applicant has received
13 a permit by MDE and if the analyses demonstrate that the cumulative
14 effect of the proposed development, when combined with all other
15 existing and potential flood hazard area encroachments, will not increase
16 the base flood elevation more than one foot at any point.
- 17 (4) Construction of roads, bridges, culverts, dams and in-stream ponds. Construction
18 of roads, bridges, culverts, dams, and in-stream ponds in nontidal waters of the
19 state shall not be approved unless it complies with this section and the applicant
20 has received a permit from MDE.
- 21 (5) Alteration of a watercourse for any proposed development that involves alteration
22 of a watercourse not subject to Subsection C. Unless waived by MDE, the
23 applicant shall develop hydrologic and hydraulic engineering analyses and
24 technical data reflecting such changes, including the floodway analysis required
25 in § 238-7E(1), and submit such technical data to the floodplain administrator and
26 to FEMA. The analyses shall be prepared by a licensed professional engineer in a
27 format required by MDE and by FEMA for a conditional letter of map revision
28 [or] AND A letter of map revision UPON COMPLETION OF THE PROJECT.
29 Submittal requirements and fees shall be the responsibility of the applicant.
30 Alteration of a watercourse may be permitted only upon submission, by the
31 applicant, of the following:
- 32 (a) A description of the extent to which the watercourse will be altered or
33 relocated;

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

14 D. Residential structures and residential portions of mixed-use structures. New residential
15 structures and residential portions of mixed-use structures, and substantial improvement
16 (including repair of substantial damage) of existing residential structures and residential
17 portions of mixed-use structures shall comply with the applicable requirements of § 238-
18 8 and this section. See Subsection F for requirements for horizontal additions.

19 (1) Elevation requirements.

- 20 (a) Lowest floors shall be elevated to or above the flood protection elevation.
- 21 (b) In areas of shallow flooding (Zone AO), the lowest floor (including
22 basement) shall be elevated at least as high above the highest adjacent
23 grade as the depth number specified in feet on the FIRM plus two feet, or
24 at least four feet if a depth number is not specified.
- 25 (c) Enclosures below the lowest floor shall meet the requirements of
26 [Subsection C] 3.

27 (2) Limitations on use of fill to elevate structures. Unless otherwise restricted by
28 these regulations, especially by the limitations in Subsection C(1), (2), and (3), fill
29 placed for the purpose of raising the ground level to support a building or
30 structure shall:

- 31 (a) Consist of earthen soil or rock materials only.

- 1 (b) Extend laterally from the building footprint to provide for adequate access
2 as a function of use; the floodplain administrator may seek advice from the
3 State Fire Marshal's office and/or the local fire services agency;
- 4 (c) Comply with the requirements of the Building Code and be placed and
5 compacted to provide for stability under conditions of rising and falling
6 floodwaters and resistance to erosion, scour, and settling;
- 7 (d) Be sloped no steeper than one vertical to two horizontal, unless approved
8 by the floodplain administrator;
- 9 (e) Be protected from erosion associated with expected velocities during the
10 occurrence of the base flood; unless approved by the floodplain
11 administrator, fill slopes shall be protected by vegetation if the expected
12 velocity is less than five feet per second, and by other means if the
13 expected velocity is five feet per second or more; and
- 14 (f) Be designed with provisions for adequate drainage and no adverse effect
15 on adjacent properties.
- 16 (3) Enclosures below the lowest floor.
- 17 (a) Enclosures below the lowest floor shall be used solely for parking of
18 vehicles, building access, crawl/underfloor spaces, or limited storage.
- 19 (b) Enclosures below the lowest floor shall be constructed using flood-
20 damage-resistant materials.
- 21 (c) Enclosures below the lowest floor shall be provided with flood openings
22 which shall meet the following criteria (Note: See NFIP Technical
23 Bulletin #1, Openings in Foundation Walls and Walls of Enclosures
24 Below Elevated Buildings.):
- 25 (1) There shall be a minimum of two flood openings on different sides
26 of each enclosed area; if a building has more than one enclosure
27 below the lowest floor, each such enclosure shall have flood
28 openings on exterior walls.
- 29 (2) The total net area of all flood openings shall be at least one square
30 inch for each square foot of enclosed area (nonengineered flood
31 openings), or the flood openings shall be engineered flood
32 openings that are designed and certified by a licensed professional
33 engineer to automatically allow entry and exit of floodwaters; the

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certification requirement may be satisfied by an individual certification or an evaluation report issued by the ICC Evaluation Service, Inc.

(3) The bottom of each flood opening shall be one foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.

(4) Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

(5) If installed in doors, flood openings that meet requirements of Subsections [A] 1 through [D] 4 are acceptable; however, doors without installed flood openings do not meet the requirements of this section.

* * * * *

G. Accessory structures.

(1) Accessory structures shall be limited to [no] NOT more than [600 square feet] in floor area **THREE HUNDRED (300) SQUARE FEET IN TOTAL FLOOR AREA.**

* * * * *

Section 238-10. Requirements in coastal high hazard areas (V zones) and Coastal A Zones

A. General requirements. In addition to the general requirements of § 238-8, the requirements of this section shall:

(1) Apply in flood hazard areas that are identified as coastal high-hazard areas (V Zones) and Coastal A Zones (if delineated).

(2) Apply to all development, new construction, substantial improvements (including repair of substantial damage), and placement, replacement, and substantial improvement (including repair of substantial damage) of manufactured homes. Exception: In Coastal A Zones, the requirements of § 238-9 shall apply to substantial improvements (including repair of substantial damage), and substantial improvement of manufactured homes (including repair of substantial damage) and replacement of manufactured homes. Note: See Coastal Construction Manual (FEMA P-55).

B. Location and site preparation.

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- 1 (1) The placement of structural fill for the purpose of elevating buildings is
2 prohibited.
- 3 (2) Buildings shall be located landward of the reach of mean high tide.
- 4 (3) Minor grading, and the placement of minor quantities of fill, shall be permitted
5 for landscaping and for drainage purposes under and around buildings and for
6 support of parking slabs, pool decks, patios and walkways.
- 7 (4) Site preparations shall not alter sand dunes unless an engineering analysis
8 demonstrates that the potential for flood damage is not increased.

9 C. Residential and nonresidential structures. New structures and substantial improvement
10 (including repair of substantial damage) of existing structures shall comply with the
11 applicable requirements of § 238-8 and the requirements of this section.

12 (1) Foundations.

13 (a) Structures shall be supported on pilings or columns and shall be
14 adequately anchored to such pilings or columns. Pilings shall have
15 adequate soil penetrations to resist the combined wave and wind loads
16 (lateral and uplift). Water loading values used shall be those associated
17 with the base flood. Wind loading values shall be those required
18 by applicable building codes. Pile embedment shall include consideration
19 of decreased resistance capacity caused by scour of soil strata surrounding
20 the piling.

21 (b) Slabs, pools, pool decks and walkways shall be located and constructed to
22 be structurally independent of structures and their foundations to prevent
23 transfer of flood loads to the structures during conditions of flooding,
24 scour, or erosion from wave-velocity flow conditions, and shall be
25 designed to minimize debris impacts to adjacent properties and public
26 infrastructure.

27 (2) Elevation requirements.

28 (a) The bottom of the lowest horizontal structural member that supports the
29 lowest floor shall be located at or above the flood protection elevation.

30 (b) Basement floors that are below grade on all sides are prohibited.

31 (c) The space below an elevated building shall either be free of obstruction or,
32 if enclosed by walls, shall meet the requirements of Subsection [D] 4.

33 Note: See NFIP Technical Bulletin #5, Free-of-Obstruction Requirements.

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- 1 (3) Certification of design. As required in § 238-7E(1)(m), the applicant shall include
2 in the application a certification prepared by a licensed professional engineer or a
3 licensed architect that the design and methods of construction to be used meet the
4 requirements of Subsections [A, B and D] 1, 2 and 4 and the Building Code.
- 5 (4) Enclosures below the lowest floor.
- 6 (a) Enclosures below the lowest floor shall be used solely for parking of
7 vehicles, building access or limited storage.
- 8 (b) Enclosures below the lowest floor shall be less than 299 square feet in area
9 (exterior measurement).
- 10 (c) Walls and partitions are permitted below the elevated floor, provided that
11 such walls and partitions are designed to break away under flood loads and
12 are not part of the structural support of the building or structure. Note: See
13 NFIP Technical Bulletin #9, Design and Construction Guidance for
14 Breakaway Walls.
- 15 (d) Electrical, mechanical, and plumbing system components shall not be
16 mounted on or penetrate through walls that are designed to break
17 away under flood loads.
- 18 (e) Walls intended to break away under flood loads shall be constructed with
19 insect screening or open lattice, or shall be designed to break away or
20 collapse without causing collapse, displacement or other structural damage
21 to the elevated portion of the building or supporting foundation system.
22 Such walls, framing and connections shall have a design-safe loading
23 resistance of not less than 10 pounds per square foot and no more than 20
24 pounds per square foot; or
- 25 (f) Where wind loading values of the building code exceed 20 pounds per
26 square foot, the applicant shall submit a certification prepared and sealed
27 by a licensed professional engineer or licensed architect that:
- 28 (1) The walls and partitions below the lowest floor have been designed
29 to collapse from a water load less than that which would occur
30 during the base flood.
- 31 (2) The elevated portion of the building and supporting foundation
32 system have been designed to withstand the effects of wind and
33 flood loads acting simultaneously on all building components

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(structural and nonstructural). Water loading values used shall be those associated with the base flood; wind loading values used shall be those required by the Building Code.

(3) In Coastal A Zones, in addition to the requirements of this section, walls below the lowest floor shall have flood openings that meet the requirements of § 238-9D(3)(c).

D. Horizontal additions to structures.

(1) A horizontal addition proposed for a building or structure that was constructed after the date specified in § 238-5B shall comply with the applicable requirements of § 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 § 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 § 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 Subsection 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 foot above the base flood elevation.

E. Accessory structures.

(1) Accessory structures shall be limited to [no] NOT more than 300 square feet in TOTAL floor area.

(2) Accessory structures shall comply with the elevation requirements and other requirements of Subsection C or, if not elevated, shall:

(a) Be usable only for parking of vehicles or limited storage;

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- (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) If larger than 100 square feet in size, have walls that meet the requirements of Subsection C(4)(c) through (f), as applicable for the flood zone; and if located in Coastal A Zones, walls shall have flood openings that meet the requirements of § 238-9D(3)(c).

* * * * *

Section 238-11. Variances.

A. General.

- (1) The Director shall have the power to consider and authorize or deny variances from the strict application of the requirements of these regulations, provided that those variances are of a nontechnical nature requiring engineering judgment. A variance shall be approved only if it is determined to not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in an unnecessary hardship.
- (2) Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Director may attach such conditions to variances as the Director deems necessary to further the purposes of these regulations.
- (3) The Director shall notify, in writing, any applicant to whom a variance is granted to construct or substantially improve a building or structure with its lowest floor below the elevation required by these regulations that the variance is to the floodplain management requirements of these regulations only, and that the cost of federal flood insurance will be commensurate with the increased risk, with rates up to \$25 per \$100 of insurance coverage.
- (4) A record of all variance actions, including justification for issuance, shall be maintained pursuant to § 238-7B(11) of these regulations.

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1 B. Application for a variance.

2 (1) The owner of property, or the owner's authorized agent, for which a variance is
3 sought shall submit an application for a variance to the floodplain administrator.

4 (2) At a minimum, the application shall contain the following information: name,
5 address, and telephone number of the applicant and property owner; legal
6 description of the property; parcel map; description of the existing use;
7 description of the proposed use; site map showing the location of flood hazard
8 areas, designated floodway boundaries, flood zones, base flood elevations, and
9 flood protection setbacks; description of the variance sought; and reason for the
10 variance request. Variance applications shall specifically address each of the
11 considerations in Subsection C.

12 (3) If the application is for a variance to allow the lowest floor (A Zones) or bottom
13 of the lowest horizontal structural member (V Zones and Coastal A Zones) of a
14 building or structure below the applicable minimum elevation required by these
15 regulations, the application shall include a statement signed by the owner that, if
16 granted, the conditions of the variance shall be recorded on the deed of the
17 property.

18 [(4) If the application is for a variance for an historic structure pursuant to § 238-8F of
19 these regulations, the application shall contain documentation that the proposed
20 work does not preclude the structure's continued eligibility and designation as an
21 historic structure. The documentation shall be obtained from a source that is
22 authorized to make such determinations (see definition of "historic structure").]

23 C. Considerations for variances.

24 (1) The floodplain administrator shall request comments on variance applications
25 from MDE (NFIP State Coordinator) and shall provide such comments to the
26 Director.

27 (2) In considering variance applications, the Director shall consider and make
28 findings of fact on all evaluations, all relevant factors, requirements specified in
29 other sections of these regulations, and the following factors:

30 (a) The danger that materials may be swept onto other lands to the injury of
31 others.

32 (b) The danger to life and property due to flooding or erosion damage.

1 inconvenience of meeting the requirements of these regulations does not
2 constitute an exceptional hardship to the applicant.

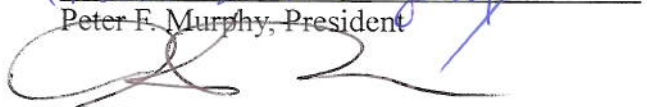
- 3 (3) A determination that the granting of a variance for development within any
4 designated floodway, or flood hazard area with base flood elevations but no
5 designated floodway, will not result in increased flood heights beyond that which
6 is allowed in these regulations.
- 7 (4) A determination that the granting of a variance will not result in additional threats
8 to public safety; extraordinary public expense, nuisances, fraud or victimization of
9 the public, or conflict with existing local laws.
- 10 (5) A determination that the building, structure or other development is protected by
11 methods to minimize flood damages.
- 12 (6) A determination that the variance is the minimum necessary to afford relief,
13 considering the flood hazard.


14 **SECTION 2. BE IT FURTHER ENACTED, THAT THIS ACT SHALL TAKE**
15 **EFFECT ON May 4, 2015.**

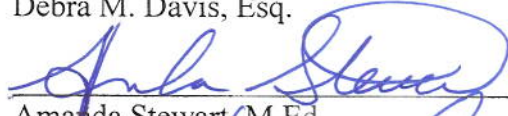
16 ADOPTED THIS February 24 DAY OF 2015.

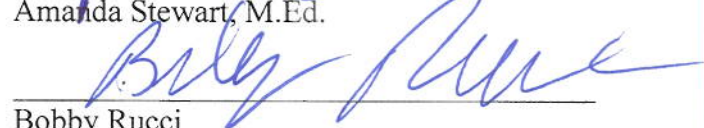
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18 COUNTY COMMISSIONERS
19 CHARLES COUNTY, MARYLAND

20 
21 Peter F. Murphy, President

22 
23 Ken Robinson, Vice President

24 
25 Debra M. Davis, Esq.

26 
27 Amanda Stewart, M.Ed.

28 
29 Bobby Rucci

30
31
32
33
34
35
36 ATTEST:

37 
38 Danielle Mitchell, Clerk to the Commissioners
39

NOTE: CAPITALS indicate language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** mean intervening code language remaining unchanged.