

**CITY OF BALTIMORE
COUNCIL BILL 11-0778
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of Planning)
Introduced and read first time: September 19, 2011
Assigned to: Land Use and Transportation Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Planning Commission, Department of Housing and Community Development, Commission on Sustainability

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Natural Resources – Floodplain Management**

3 FOR the purpose of modifying the statutes governing flood plain management to meet
4 requirements for eligibility in the National Flood Insurance Program and to otherwise
5 comply with the requirements of Federal and State law; defining and redefining certain
6 terms; updating references to various agencies; repealing redundant provisions; correcting,
7 clarifying, and conforming related language; providing for a special effective date; and
8 generally relating to the protection, maintenance, and enhancement of the public health,
9 safety, and welfare through floodplain management.

10 BY repealing and reordaining, without amendments

11 Article 7 - Natural Resources
12 Section(s) 1-1(b)
13 Baltimore City Code
14 (Edition 2000)

15 BY repealing and reordaining, with amendments

16 Article 7 - Natural Resources
17 Section(s) 1-1(f), (s)(1), and (ff), 1-3(b), 2-1, 2-2(b), (c)(1), (d)(1), and (e)(1),
18 2-3(a), 2-4(a) and (c), 2-6, 3-1, 3-3(a), 3-4(a), 3-5(a), 3-6(a), 3-10, 3-11,
19 3-13(b), (c), (d), (g), and (i), 3-15(c), 3-17(d) and (e), 3-23, 3-24(b), 3-26(a),
20 3-27(b)(3), 3-30, 3-31(b), 3-33(b)(2) and (4), (c)(2), and (d)(1), 4-1,
21 4-2(a)(5) and (7), (b)(1)(ii), and (c)(1), 4-3(a)(2) and (3) and (b)(2) and (5),
22 4-5(a)(1), 4-7, 4-8(b), 4-9(a), 5-3(4) and (5), 5-5(b)(1), 7-1, 7-2, and 7-5
23 Baltimore City Code
24 (Edition 2000)

25 BY repealing

26 Article 7 - Natural Resources
27 Section(s) 1-1(v), 2-2(g), and 3-30
28 Baltimore City Code
29 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 11-0778

1 BY adding
2 Article 7 - Natural Resources
3 Section(s) 1-1(b-1), (f-1), (m-1), (w-1), and (ff), 2-7, 3-19, 3-20, and 3-33(f) and (g)
4 Baltimore City Code
5 (Edition 2000)

6 BY repealing and reordaining, with amendments
7 Article - Zoning
8 Section(s) 2-201(g) and 8-201(c)
9 Baltimore City Revised Code
10 (Edition 2000)

11 BY repealing
12 Article - Zoning
13 Section(s) 8-203(f)
14 Baltimore City Revised Code
15 (Edition 2000)

16 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
17 Laws of Baltimore City read as follows:

18 **Baltimore City Code**

19 **Article 7. Natural Resources**

20 ***Division I. Floodplain Management***

21 **Subtitle 1. Definitions; General Provisions**

22 **§ 1-1. Definitions.**

23 (b) *Base flood.*

24 “Base flood” means the 100-year frequency flood event (as indicated in the Flood
25 Insurance Study, as amended), the elevation of which is used for regulatory purposes in
26 this Division I.

27 (B-1) *BASE FLOOD ELEVATION.*

28 (1) “BASE FLOOD ELEVATION” MEANS THE WATER SURFACE ELEVATION OF THE BASE
29 FLOOD IN RELATION TO THE DATUM SPECIFIED ON THE BALTIMORE CITY FLOOD
30 INSURANCE RATE MAP.

31 (2) IN AREAS OF SHALLOW FLOODING, “BASE FLOOD ELEVATION” MEANS THE HIGHEST
32 ADJACENT NATURAL GRADE ELEVATION PLUS:

33 (I) THE DEPTH NUMBER SPECIFIED IN FEET ON THE FLOOD INSURANCE RATE MAP;
34 OR

35 (II) 4 FEET IF THE DEPTH NUMBER IS NOT SPECIFIED.

Council Bill 11-0778

1 (f) *Elevation certificate.*

2 “Elevation certificate” means the official form as prepared and distributed by the Federal
3 Emergency Management Agency using Mean Sea Level as established by the [National
4 Geodetic Vertical Datum of 1929 (“NGVD” hereinafter)] NORTH AMERICAN VERTICAL
5 DATUM OF 1988 (“NAVD”).

6 (F-1) *FAIR MARKET VALUE.*

7 (1) “FAIR MARKET VALUE” MEANS THE PRICE AT WHICH PROPERTY WILL CHANGE HANDS
8 BETWEEN A WILLING BUYER AND A WILLING SELLER, NEITHER OF WHICH IS UNDER
9 COMPULSION TO BUY OR SELL AND BOTH OF WHICH HAVE REASONABLE KNOWLEDGE
10 OF RELEVANT FACTS.

11 (2) FOR PURPOSE OF THIS DIVISION I, THE FAIR MARKET VALUE OF A BUILDING IS
12 DETERMINED BY:

13 (I) A LICENSED REAL ESTATE APPRAISER; OR

14 (II) THE MOST RECENT, FULLY PHASED-IN ASSESSED VALUE OF THE BUILDING, AS
15 DETERMINED BY THE MARYLAND DEPARTMENT OF ASSESSMENTS AND
16 TAXATION.

17 (M-1) *FLOODWAY.*

18 (1) “FLOODWAY” MEANS THE CHANNEL OF A RIVER OR OTHER WATERCOURSE AND THE
19 ADJACENT LAND AREAS THAT ARE RESERVED TO PASS A BASE FLOOD DISCHARGE SO
20 THAT THE CUMULATIVE INCREASE IN THE WATER SURFACE ELEVATION OF THE BASE
21 FLOOD DISCHARGE IS NO MORE THAN A DESIGNATED HEIGHT.

22 (2) WHEN SHOWN ON A FIRM, THE FLOODWAY IS REFERRED TO AS THE “DESIGNATED
23 FLOODWAY”.

24 (s) *New construction.*

25 (1) “New construction” means structures for which a building permit has been issued on
26 or after [December 22, 1988] MARCH 15, 1978, so long as actual construction
27 commences within [360] 180 days of the permit date.

28 [(v) *100-year flood.*

29 “100-year flood” means a flood that has 1 chance in 100 or a 1% chance of being
30 equalled or exceeded in any given year.]

31 (W-1) *SPECIAL FLOOD HAZARD AREA.*

32 (1) “SPECIAL FLOOD HAZARD AREA” MEANS THE LAND IN A FLOODPLAIN SUBJECT TO A 1%
33 OR GREATER CHANCE OF FLOODING IN ANY GIVEN YEAR.

34 (2) “SPECIAL FLOOD HAZARD AREA” INCLUDES AREAS IDENTIFIED UNDER § 2-3(A)(2) OF
35 THIS DIVISION I.

Council Bill 11-0778

1 (3) SPECIAL FLOOD HAZARD AREAS ARE DESIGNATED BY THE FEDERAL EMERGENCY
2 MANAGEMENT AGENCY IN FLOOD INSURANCE STUDIES AND ON FLOOD INSURANCE
3 RATE MAPS AS ZONES A, AE, AND VE.

4 (FF) *WATER MANAGEMENT ADMINISTRATION.*

5 “WATER MANAGEMENT ADMINISTRATION” MEANS THE WATER MANAGEMENT
6 ADMINISTRATION OF THE MARYLAND DEPARTMENT OF THE ENVIRONMENT.

7 (GG) [(ff)] *Wetland.*

8 “Wetland” means any land [which] THAT is:

9 (1) considered “private wetland” or “State wetland” [pursuant to] UNDER Title 9
10 {”Wetlands and Riparian Rights”} of the State Natural Resources Article; or

11 (2) defined as “wetland” by the U.S. Fish and Wildlife Service Identification and
12 Classification Procedures.

13 **§ 1-3. Interpretation.**

14 (b) *Dispute resolution.*

15 [Should] IF a dispute [arise concerning] ARISES OVER the interpretation of this Division I,
16 the counsel of the Federal Emergency Management Agency, the Maryland Department of
17 [Natural Resources] THE ENVIRONMENT, or the Federal Emergency Management Agency,
18 44 Code of Federal Regulations, [shall prevail] PREVAILS.

19 **Subtitle 2. Floodplain District**

20 **§ 2-1. Establishment of district.**

21 (a) *City to establish.*

22 The City shall establish a floodplain district and an official floodplain map to include all
23 areas subject to inundation by the waters of [the 100-year] A BASE flood.

24 (b) *Basis.*

25 (1) The source of this delineation shall be at a minimum, data contained in the most
26 recent flood insurance study for Baltimore City, and illustrated in the “Flood
27 Insurance Rate and Flood Boundary Maps”. The Flood Insurance Rate Maps
28 (“FIRMS”) illustrate [both] the [100-year floodplain boundaries and the floodway
29 boundaries] SPECIAL FLOOD HAZARD AREAS.

30 (2) The [100-year] BASE flood elevation, as determined in the Flood Insurance Study, is
31 graphically delineated on the official floodplain maps. [The graphic delineation
32 should be used only as an approximate guide to actual field conditions. Where actual
33 field surveyed elevations disagree with map boundaries, the surveys prevail in issuing
34 permits.]

Council Bill 11-0778

1 (3) WHERE FIELD SURVEYED TOPOGRAPHY OR DIGITAL TOPOGRAPHY INDICATES THAT
2 GROUND ELEVATIONS ARE ABOVE THE BASE FLOOD ELEVATION IN A SPECIAL FLOOD
3 HAZARD AREA, THEN THE AREA IS CONSIDERED IN THE SPECIAL FLOOD HAZARD AREA
4 UNTIL FEMA ISSUES A LETTER OF MAP CHANGE.

5 (4) WHERE FIELD SURVEYED TOPOGRAPHY OR DIGITAL TOPOGRAPHY INDICATES THAT
6 GROUND ELEVATIONS ARE BELOW THE CLOSEST APPLICABLE BASE FLOOD ELEVATION,
7 EVEN IN AREAS NOT DELINEATED AS A SPECIAL FLOOD HAZARD ON THE FIRM, THE
8 AREA IS CONSIDERED A SPECIAL FLOOD HAZARD AREA.

9 (c) *District as overlay to zoning.*

10 The floodplain district and the official floodplain map are an overlay on any zoning
11 districts in the City, as provided in the Zoning [Ordinance] CODE of Baltimore City.

12 § 2-2. Subdistricts.

13 (b) *Floodway.*

14 Floodway (F1): that portion of the floodplain district required to carry and discharge the
15 waters of [the 100-year] A BASE flood without increasing the water surface elevation at
16 any point more than 1 foot above existing [100-year] BASE flood conditions.

17 (c) *Floodway Fringe.*

18 (1) Floodway Fringe (Zone A with Base Flood Elevation (F2)): those portions of land
19 within the floodplain district subject to inundation by [the 100-year] A BASE flood,
20 lying beyond the floodway (where a floodway has been determined) or in areas where
21 detailed study data, profiles, and [100-year] BASE flood elevations have been
22 established.

23 (d) *Approximate Floodplain.*

24 (1) Approximate Floodplain (F3): those portions of land within the floodplain district
25 subject to inundation by [the 100-year] A BASE flood, where a detailed study has not
26 been performed but where a [100-year] BASE floodplain boundary has been
27 approximated. A [100-year] BASE flood elevation shall be established after
28 consideration of any flood elevation and floodway data available from [federal]
29 FEDERAL, [state] STATE, or other sources.

30 (e) *Coastal Floodplain.*

31 (1) Coastal Floodplain (CFP): those portions of the floodplain district subject to coastal
32 or tidal flooding by a [100-year] BASE flood, where detailed study data are available.
33 These areas are flooded due to high tides, hurricanes, tropical storms, and steady
34 onshore winds.

Council Bill 11-0778

1 [(g) *Shallow Floodplain.*

2 Shallow Floodplain (SFP): those portions of land within the floodplain district with
3 100-year flood depths from 1 to 2 feet where a clearly defined channel does not exist,
4 where the path of flooding is unpredictable, and where velocity flow may be evident.]

5 **§ 2-3. Official maps.**

6 (a) *Floodplain map.*

7 (1) The official floodplain map shall be the most current “Flood Insurance Rate Maps” as
8 prepared by the Federal Emergency Management Agency.

9 (2) THE BASES FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS AND BASE FLOOD
10 ELEVATIONS ARE AS FOLLOWS:

11 (i) THE MINIMUM BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS AND
12 BASE FLOOD ELEVATIONS IS THE MOST RECENT REVISION OF THE FLOOD
13 INSURANCE STUDY (“FIS”) FOR THE CITY OF BALTIMORE, DATED FEBRUARY
14 2, 2012, AND THE ACCOMPANYING FLOOD INSURANCE RATE MAP(S)
15 (“FIRM(S)”) AND ALL SUBSEQUENT AMENDMENTS AND REVISIONS TO THE
16 FIRMS. THE FIS AND FIRMS ARE RETAINED ON FILE AND AVAILABLE TO THE
17 PUBLIC AT THE PLANNING DEPARTMENT.

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

23 (iii) TO ESTABLISH BASE FLOOD ELEVATIONS IN SPECIAL FLOOD HAZARD AREAS
24 THAT DO NOT HAVE THESE ELEVATIONS SHOWN ON THE FIRM, THE
25 FLOODPLAIN MANAGER MAY:

26 A. PROVIDE THE BEST AVAILABLE DATA FOR BASE FLOOD ELEVATIONS;

27 B. REQUIRE THE APPLICANT TO OBTAIN AVAILABLE INFORMATION FROM
28 FEDERAL, STATE, OR OTHER SOURCES; OR

29 C. REQUIRE THE APPLICANT TO ESTABLISH SPECIAL FLOOD HAZARD AREAS
30 AND BASE FLOOD ELEVATIONS AS SET FORTH IN § 2-4 OF THIS SUBTITLE.

31 **§ 2-4. Changes to District.**

32 (a) *When authorized.*

33 The delineation of the floodplain district may be revised, amended, and modified by
34 Baltimore City, in compliance with the National Flood Insurance Program and the
35 Maryland Department of [Natural Resources] THE ENVIRONMENT, when:

Council Bill 11-0778

1 (1) there are changes through natural or other causes to flood elevations and
2 boundaries; [and/or] OR

3 (2) changes are indicated by detailed hydrologic and hydraulic information and
4 studies.

5 (c) *Required [state and federal] FEDERAL AND STATE approvals.*

6 All such changes shall be subject to the review and approval of the Federal Emergency
7 Management Agency and the Maryland Department of [Natural Resources] THE
8 ENVIRONMENT.

9 **§ 2-6. Unmapped streams.**

10 (a) *Minimum flood protection setback.*

11 In cases in which development is proposed in the vicinity of unmapped streams, which
12 have no delineated [100-year] BASE floodplain, a minimum of 25-foot flood protection
13 setback from the bank of the stream may be used.

14 (b) *State permits.*

15 State permits may be required and applicants are advised to seek a determination from
16 the State Water [Resources] MANAGEMENT Administration.

17 (c) *Variiances.*

18 [Variance] VARIANCES may be applied for under Subtitle 5 {"Floodplain VariANCES"}.

19 **§ 2-7. FLOODPLAIN MANAGER.**

20 (A) *DUTIES OF PLANNING DEPARTMENT.*

21 THE PLANNING DEPARTMENT IS RESPONSIBLE TO ENSURE COMPLIANCE WITH THE
22 NATIONAL FLOOD INSURANCE PROGRAM.

23 (B) *DUTIES OF PLANNING DIRECTOR.*

24 THE PLANNING DIRECTOR IS RESPONSIBLE FOR APPOINTING STAFF TO CARRY OUT THE
25 DUTIES OF THE FLOODPLAIN MANAGER.

26 (C) *DUTIES OF FLOODPLAIN MANAGER.*

27 THE FLOODPLAIN MANAGER IS RESPONSIBLE FOR:

28 (1) OVERSEEING AND IMPLEMENTING THE CITY'S FLOODPLAIN PROGRAM;

29 (2) RESPONDING TO ALL REQUESTS AND INQUIRIES BY THE ADMINISTRATOR OF THE
30 NATIONAL FLOOD INSURANCE PROGRAM; AND

31 (3) KEEPING ALL FILES REQUIRED BY THE NATIONAL FLOOD INSURANCE PROGRAM.

Council Bill 11-0778

§ 3-5. Nonresidential structures.

(a) *In general.*

- (1) All new or substantially improved nonresidential structures shall either be elevated as set forth above for residential structures or shall be floodproofed.
- (2) Basements or the floodproofing option are prohibited for new nonresidential structures in nontidal floodplains.
- (3) ALL NEW OR SUBSTANTIALLY IMPROVED NONRESIDENTIAL STRUCTURES MUST MEET THE REQUIREMENTS OF § 3-14 OF THIS SUBTITLE.

§ 3-6. Less than substantial improvement.

(a) *In general.*

If the construction, reconstruction, [and/or] OR modification of any structure constitutes less than a substantial improvement:

- (1) the elevation of the lowest floor shall be at least 1 foot above the elevation of the [100-year] BASE flood; or
- (2) those parts of the improvement below the elevation of 1 foot above the [100-year] BASE flood shall be dry floodproofed, as specified by the U.S. Army Corps of Engineers in its Publication EP 1165 2 314, entitled Flood-Proofing Regulations.

§ 3-10. Electric and plumbing systems.

(a) *Electric.*

- (1) [All electric] ELECTRIC water heaters, electric furnaces, generators, heat pumps, air conditioners, and other permanent electrical installations [shall be] ARE permitted only at or above 1 foot above the elevation of the [100-year] BASE flood.
- (2) No electrical distribution panels [shall be] ARE permitted at an elevation less than 3 feet above the elevation of the [100-year] BASE flood.

(b) *Plumbing.*

Water heaters, furnaces, and other permanent mechanical installations [shall be] ARE permitted only at or above 1 foot above the level of the [100-year] BASE flood.

§ 3-11. Storage.

Materials that are buoyant, flammable, explosive, or that in times of flooding could be injurious to human, animal, or plant life [shall] MAY not be stored below 1 foot above the level of the [100-year] BASE flood.

Council Bill 11-0778

§ 3-13. Accessory or appurtenant structures.

(b) *Plans statement.*

A statement shall be placed on the building plans which shall read as follows:

“No enlargement or conversion of this area to habitable space is to occur unless the lowest floor is elevated to 1 foot above the [100-year] BASE flood elevation. At this site the [100-year] BASE flood elevation is _____.”.

(c) *Elevation.*

The floor elevation of the accessory structure [shall] DOES not qualify as a basement. [and] It must be constructed on or above grade AND MEET THE REQUIREMENTS OF § 3-14 OF THIS SUBTITLE.

(d) *Minimum resistance.*

The accessory structure [shall] MUST:

- (1) be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters; AND
- (2) MEET THE REQUIREMENTS OF § 3-14 OF THIS SUBTITLE.

(g) *Service facilities.*

The service facilities, such as electrical, plumbing, and heating equipment, shall be elevated to the applicable [100-year] BASE flood elevation or be floodproofed.

(i) *Insurance warning.*

The applicant shall be made aware that, if the accessory structure is built below the [100-year] BASE flood elevation and is not floodproofed, the [aforesaid] structure AND ITS CONTENTS may be susceptible to higher insurance premium rates [for the structure and its contents].

§ 3-14. Enclosures below lowest floor or flood-protection elevation.

New construction and substantial improvements of fully enclosed areas below the lowest floor, or below the [100-year] BASE flood-protection elevation, including but not limited to crawl spaces, solid footings, and continuous foundations, sheds and garages, shall be designed to meet or exceed the following minimum criteria:

...

Council Bill 11-0778

1 **§ 3-15. Watercourses.**

2 (c) *Required notices.*

3 Adjacent communities and property owners, FEMA, and the [Maryland] STATE Water
4 [Resources] MANAGEMENT Administration must be notified of any application.

5 **§ 3-17. Utilities and facilities.**

6 (d) *New storm drainage facilities.*

7 All new storm drainage facilities within and leading to or from the floodplain district
8 shall be adequately designed, floodproofed, and installed to eliminate or minimize
9 property damage resulting from the flood waters of [the 100-year] A BASE flood and to
10 minimize THE adverse environmental impacts of their installation and use.

11 (e) *Electric and plumbing systems.*

12 (1) [All electric] ELECTRIC water heaters, electric furnaces, generators, heat pumps, air
13 conditioners, and other permanent electrical installations [shall be] ARE permitted
14 only at or above 1 foot above the elevation of the [100-year] BASE flood.

15 (2) No electrical distribution panels [shall be] ARE permitted at an elevation less than 3
16 feet above the elevation of the [100-year] BASE flood.

17 (3) Water heaters, furnaces, toilets, showers, sinks, and other permanent mechanical
18 installations [shall be] ARE permitted only at or above one 1 foot above the level of
19 the [100-year] BASE flood.

20 **§ 3-19. AE ZONES WITHOUT DESIGNATED FLOODWAYS.**

21 NEW DEVELOPMENT IS NOT PERMITTED WITHIN AN AE ZONE WITHOUT A DESIGNATED
22 FLOODWAY, UNLESS IT IS DEMONSTRATED THAT THE CUMULATIVE EFFECT OF ALL PAST AND
23 PROJECTED DEVELOPMENT WILL NOT INCREASE THE BFE BY MORE THAN 1 FOOT.

24 **§ 3-20. RECREATIONAL VEHICLES.**

25 (A) *“RECREATIONAL VEHICLE” DEFINED.*

26 IN THIS SECTION, “RECREATIONAL VEHICLE” MEANS A VEHICLE THAT IS:

27 (1) BUILT ON A SINGLE CHASSIS;

28 (2) 400 SQUARE FEET OR LESS WHEN MEASURED AT THE LARGEST HORIZONTAL
29 PROJECTION;

30 (3) DESIGNED TO BE SELF-PROPELLED OR TO BE PERMANENTLY TOWABLE BY A LIGHT
31 DUTY TRUCK; AND

Council Bill 11-0778

1 (4) DESIGNED PRIMARILY NOT FOR USE AS A PERMANENT DWELLING, BUT AS
2 TEMPORARY LIVING QUARTERS FOR RECREATIONAL, CAMPING, TRAVEL, OR
3 SEASONAL USE.

4 (B) *TREATMENT OF RECREATIONAL VEHICLES.*

5 IN ALL AE ZONES, ALL RECREATIONAL VEHICLES PLACED ON A SITE MUST BE:

6 (1) ELEVATED AND ANCHORED;

7 (2) ON THE SITE FOR LESS THAN 180 CONSECUTIVE DAYS; OR

8 (3) FULLY LICENSED AND HIGHWAY READY.

9 **§ 3-23. Public development requires offset.**

10 Public development [shall] IS not [be] permitted [except where] unless:

11 (1) the effect of [such] THAT development on flood heights is fully offset by
12 accompanying stream modification; and

13 (2) the development is approved by all appropriate local authorities, the [Maryland]
14 STATE Water [Resources] MANAGEMENT Administration, and the U. S. Army Corps
15 of Engineers.

16 **§ 3-24. Engineering report.**

17 (b) *Basis.*

18 [The] AS THE BASIS OF ANALYSIS, THE report shall use the [100-year] BASE flood and
19 floodway data [as] prepared by the Federal Emergency Management Agency [and
20 adopted herein as the basis of analysis].

21 **§ 3-26. Map revision.**

22 (a) *When required.*

23 (1) Any development in the floodway which may result in any increase in water surface
24 elevations or change to the floodway must be submitted to the Federal Emergency
25 Management Agency for a [conditional letter of map revision] CONDITIONAL LETTER
26 OF MAP REVISION.

27 (2) Failure to receive this [letter shall be] LETTER IS grounds for [denial of] DENYING the
28 permit.

Council Bill 11-0778

1 **§ 3-27. Alternative analysis.**

2 (b) *Scope of analysis.*

3 Before a permit may be issued, the appropriate agency shall submit TO THE DEPARTMENT
4 OF PLANNING an alternative analysis [to the Department of Planning which] THAT
5 demonstrates that:

6

7 (3) the development will withstand [the 100-year] BASE flood without significant
8 damage; and

9

10 **§ 3-30. {RESERVED} [Use of data.]**

11 [The Department of Planning shall obtain, review, and reasonably utilize any 100-year flood
12 elevation and floodway data available from a federal, state, or other source, such as the U. S.
13 Army Corps of Engineers, the Soil Conservation Service, the Maryland Water Resources
14 Administration, or any regional planning organization, in the enforcement of this Division I.]

15 **§ 3-31. Approximate Floodplain (Zone A).**

16 (b) *Use of data.*

17 (1) [The] IN THE ENFORCEMENT OF THIS DIVISION I, THE Department of Planning shall
18 obtain, review, and reasonably utilize any [100-year] BASE flood elevation and
19 floodway data available from a [federal] FEDERAL, [state] STATE, or other source,
20 such as the U.S. Army Corps of Engineers, the Soil Conservation Service, the
21 [Maryland] STATE Water [Resources] MANAGEMENT Administration, or any regional
22 planning organization [in the enforcement of this Division I].

23 (2) When the [100-year] BASE flood elevation is not known, the Department of Planning
24 in consultation with the STATE Water [Resources] MANAGEMENT Administration
25 shall evaluate each site and establish an approximate [100-year] BASE flood elevation.

26 **§ 3-33. Coastal High Hazard Area (Zone V).**

27 (b) *Land below [100-year] BASE flood level.*

28 No land below the level of the [100-year] BASE flood may be developed unless [such]
29 THE new construction or substantial improvement:

30

31 (2) is elevated on adequately anchored pilings or columns to resist flotation, collapse,
32 and lateral movement due to the effects of the 100-year wind and water loads
33 acting simultaneously on all building components, and the bottom of the lowest
34 horizontal structural members of the lowest floor (excluding the pilings or
35 columns) is elevated to at least 1 foot above the 100-year flood elevation;

36

37 (4) has no basement and has the space below the lowest floor free of obstructions or
38 is constructed with break away walls intended to collapse under stress without
39 jeopardizing the structural support of the structure so that the impact on the
40 structure by abnormally high tides or wind-driven water is minimized. [Such]

Council Bill 11-0778

THIS temporarily enclosed space [shall] MAY not be used for human habitation; IT MAY BE USED SOLELY FOR PARKING, BUILDING ACCESS, OR STORAGE; and

....

(c) *Required showings.*

No new development in the coastal high hazard area shall be permitted unless the applicant demonstrates that:

....

(2) the development will withstand, WITHOUT DAMAGE, the [100-year] wind and water loads [without damage] ATTENDANT A BASE FLOOD;

....

(d) *Existing structures.*

Existing non-conforming uses [and/or] OR structures located on land below the level of the [100-year] BASE flood [shall] MAY not be expanded, vertically, horizontally, or otherwise, unless:

(1) the foundation system is certified by a professional engineer or architect as capable of supporting the existing building and the proposed improvements during [the 100-year storm] A BASE FLOOD; and

(F) *RECORD MANAGEMENT*

IN ALL V ZONES, THE FLOODPLAIN MANAGER WILL OBTAIN AND MAINTAIN THE ELEVATION OF THE BOTTOM OF THE LOWEST HORIZONTAL STRUCTURAL MEMBER OF THE LOWEST FLOOR OF ALL NEW AND SUBSTANTIALLY IMPROVED STRUCTURES.

(G) *RECREATIONAL VEHICLES*

(1) IN THIS SUBSECTION, "RECREATIONAL VEHICLE" HAS THE MEANING STATED IN § 3-20 OF THIS SUBTITLE.

(2) IN ALL V ZONES, ALL RECREATIONAL VEHICLES PLACED ON A SITE MUST BE:

(I) ELEVATED AND ANCHORED;

(II) ON THE SITE FOR LESS THAN 180 CONSECUTIVE DAYS; OR

(III) FULLY LICENSED AND HIGHWAY READY.

Subtitle 4. Development Permits

§ 4-1. Permit required.

A permit issued by the Department of Housing and Community Development:

(1) is required for all development (including, but not limited to, subdivision of land, construction of and/or substantial improvements to buildings and structures,

Council Bill 11-0778

1 placement of manufactured homes, fill, temporary development, new or replacement
2 infrastructure, or any combination thereof) in the floodplain district; and

3 (2) shall be granted only after necessary permits from the State [of Maryland,] Water
4 [Resources] MANAGEMENT Administration, and all other applicable FEDERAL, [state]
5 STATE, [and federal] and [local] CITY agencies have been obtained and verified by
6 the PLANNING Department [of Planning].

7 **§ 4-2. Applications.**

8 (a) *Required information.*

9 The application for the permit shall be submitted to the Department of Housing and
10 Community Development and shall contain information including, but not limited to, the
11 following:

12

13 (5) copies of the issued permit or a written statement from the issuing authority
14 indicating that a permit is not required from the U.S. Army Corps of Engineers,
15 [Maryland Department of Natural Resources, Wetlands Division, and/or
16 Maryland Department of Natural Resources, Watershed Permits Division, where
17 necessary] AND THE STATE WATER MANAGEMENT ADMINISTRATION;

18

19 (7) plans drawn to scale, showing the location, dimensions, and elevation in Mean
20 Sea Level/[NGVD] NAVD of the site in relation to the stream channel, shoreline,
21 [and/or] AND floodplain district; and

22

23 (b) *Conditional information.*

24 (1) Depending on the type of development [and/or] OR structure involved and for
25 structures to be elevated above the [100-year] BASE flood elevation, the following
26 information shall also be shown on THE plans submitted with the application:

27

28 (ii) the elevations of the proposed final grading and lowest floor[,] and the
29 existing ground and [100-year] BASE flood elevation, as certified by a
30 registered professional engineer, surveyor, or architect; and

31

32 (c) *Applications for variances.*

33 (1) If a variance is being applied for under [the provisions of] § 5-1(1) OF THIS DIVISION
34 I, certification by a registered professional engineer or architect that the structure will
35 be dry floodproofed TO 1 FOOT ABOVE THE BASE FLOOD ELEVATION, in accordance
36 with the specifications of the U.S. Army Corps of Engineers [to 1 foot above the
37 100-year flood elevation].

Council Bill 11-0778

§ 4-3. Plans for subdivisions or new development.

(a) *Plan drawing required.*

(2) If the [100-year] BASE FLOOD elevation has been determined by the Flood Insurance Study or other reliable source [approved by the Water Resources Administration], AS PROVIDED IN § 2-3 OF THIS DIVISION I, [such] THOSE flood elevation(s) shall be delineated on the proposed plan.

(3) If the proposal involves more than 50 lots or greater than 5 acres and the [100-year] BASE flood elevation has not been determined for the land area, the developer shall determine the [100-year] BASE flood elevation and delineate [such] THAT flood elevation on the proposed plan.

(b) *Certification and review.*

All plans shall be certified by a registered professional engineer and shall be reviewed by the [City agencies responsible for stormwater management and erosion control] DEPARTMENT OF PUBLIC WORKS to assure that:

....

(2) all necessary permits have been received from the State [of Maryland] Water [Resources] MANAGEMENT Administration and appropriate [federal] FEDERAL agencies;

....

(5) DURING A BASE FLOOD, at least 1 access point[, during the 100-year flood,] shall provide safe vehicular access to and egress from the subdivision [and/or] OR new development; and

....

§ 4-5. Alteration of watercourse.

(a) *Notices required.*

(1) When the proposed development includes the relocation or alteration of a watercourse, evidence shall be presented as part of the permit application that all adjacent communities and the STATE Water [Resources] MANAGEMENT Administration have been notified by certified mail and have approved of the proposed alteration or relocation.

§ 4-7. Inspections; permit revocation.

(a) *Inspections by City and State.*

(1) During the construction period, the Department of Housing and Community Development shall inspect the premises to determine that the work is progressing in compliance with the permit and with all applicable laws and ordinances.

(2) The premises shall also be subject to inspection by the State [of Maryland,] Water [Resources] MANAGEMENT Administration.

Council Bill 11-0778

1 (b) *Revocation of permit.*

2 [In the event that] If the Department of Housing and Community Development
3 determines that the work is not in compliance with the permit [or] AND all applicable
4 laws and ordinances, or that there has been a false statement or misrepresentation by the
5 applicant, the Department of Housing and Community Development, upon instruction[,]
6 from the Department of Planning, may revoke the permit and report [such] THAT fact to
7 the [Maryland] STATE Water [Resources] MANAGEMENT Administration.

8 **§ 4-8. Occupancy permit.**

9 (b) *Data to be used.*

10 The datum used on elevation certificates shall be Mean Sea Level as established by the
11 [National Geodetic Vertical Datum of 1929] NORTH AMERICAN VERTICAL DATUM OF
12 1988.

13 **§ 4-9. Record of permit actions.**

14 (a) *Required.*

15 A record of all permit actions in the floodplain [distinct] DISTRICT, INCLUDING ALL
16 PERMITS FROM APPLICABLE FEDERAL, STATE, AND CITY AGENCIES, shall be maintained
17 by the Department of Planning and shall be MADE available [upon] ON THE request [by]
18 OF the Federal Emergency Management Agency or [its authorized agent (the)] THE
19 STATE Water [Resources] MANAGEMENT Administration[)] during periodic
20 assessments of Baltimore City’s participation in the National Flood Insurance Program.

21 **Subtitle 5. Floodplain Variances**

22 **§ 5-3. Conditions.**

23 The granting of variances shall be subject to the following conditions:

- 24
25 (4) the stipulation that all residential structures will have the lowest floor elevated to
26 the greatest extent possible with respect to the [100-year] BASE flood elevation; and
27
28 (5) [granting of a variance from the Water Resources Administration,] favorable
29 comments from the State Coordinating Office of the [Water Resources
30 Administration,] NATIONAL FLOOD INSURANCE PROGRAM and compliance with
31 §§ 5-2 and 5-4 OF THIS SUBTITLE.

32 **§ 5-5. Applications.**

33 (b) *Notices to applicant.*

34 (1) The [applicant shall be notified in writing by the] Department of Planning shall
35 notify the applicant, in writing:

- 36 (i) of the increased premium rates for flood insurance; and

Council Bill 11-0778

(ii) that construction below the level of the [100-year] BASE flood increases risks to life and property.

Subtitle 7. Enforcement

§ 7-1. Noncomplying structures [abatable as public nuisance].

(A) *ABATABLE AS PUBLIC NUISANCE.*

Any BUILDING, structure, OR OTHER DEVELOPMENT constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this Division I is [hereby] declared to be a public nuisance and abatable as such.

(B) *NONCOMPLIANCE PRESUMED WITHOUT DOCUMENTATION.*

A BUILDING, STRUCTURE, OR OTHER DEVELOPMENT WITHOUT THE REQUIRED DESIGN CERTIFICATIONS, ELEVATION CERTIFICATE, OR OTHER EVIDENCE OF COMPLIANCE IS PRESUMED TO BE NONCOMPLIANT WITH AND IN VIOLATION OF THIS DIVISION I UNTIL THE REQUIRED DOCUMENTATION IS PROVIDED.

§ 7-2. Notice to [federal] FEDERAL agencies.

The Federal Insurance Administrator and the [Maryland] STATE Water [Resources] MANAGEMENT Administration shall be notified immediately in writing of any structure or property in violation of this Division I.

§ 7-5. Penalties.

(a) *In general.*

Any person who violates OR FAILS TO COMPLY WITH [a] ANY provision of this Division I, ANY PROVISION OF A RULE OR REGULATION ADOPTED UNDER THIS DIVISION I, or [fails to comply with any requirement thereof,] ANY TERM OR CONDITION OF A PERMIT ISSUED UNDER THIS DIVISION I [shall be held liable for such violation and] IS guilty of a misdemeanor[,] and, [upon] ON conviction [thereof], [shall be punishable by] IS SUBJECT TO a fine of not more than \$500[, except as provided hereinbelow,] for each violation.

(b) *Each day a separate offense.*

(1) Every day that a violation continues [shall be deemed] IS a separate offense[, and].

(2) [proof] PROOF that a violation exists on any date following the issuance of a notice of violation [shall constitute] CONSTITUTES prima facie evidence that the violation has continued throughout the intervening period of time.

(c) *Penalty not substitute for correcting noncompliance.*

(1) The imposition of a fine or penalty for [any] A violation [of] or noncompliance [with this Division I shall] DOES not excuse the violation or noncompliance nor permit it to continue[.].

Council Bill 11-0778

1 (2) [and all such] ALL offenders [shall be] ARE required to correct or remedy [such]
2 THE violation or noncompliance within a reasonable time.

3 **Baltimore City Revised Code**

4 **Article – Zoning**

5 **Title 2. Administration; Authorizations**

6 ***Subtitle 2. Zoning Districts; Maps and Profiles***

7 **§ 2-201. Establishment of districts.**

8 (g) *Flood Plain Overlay Districts.*

- 9 F1 Floodway
- 10 F2 Floodway Fringe
- 11 F3 Approximated Flood Plain
- 12 HFZ Harbor Flood Zone
- 13 [SFZ Shallow Flood Zone]
- 14 CHZ Coastal Hazard Zone

15 **Title 8. Overlay Districts**

16 ***Subtitle 2. Flood Plain Overlay District***

17 **§ 8-201. Definitions.**

18 (c) *Flood plain maps.*

19 “Flood plain maps” means the series of maps and profiles known as the FLOOD
20 INSURANCE RATE MAPS AND Flood Insurance Study FOR THE CITY OF BALTIMORE,
21 [effective March 15, 1978] DATED FEBRUARY 2, 2012, prepared for the [Department of
22 Housing and Urban Development, Federal Insurance Administration] FEDERAL
23 EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE ADMINISTRATOR, [as revised
24 effective March 16, 1983, for the Federal Emergency Management Agency, Flood
25 Insurance Administrator, and] as [later] revised or amended FROM TIME TO TIME.

26 **§ 8-203. Districts established.**

27 [(f) *Shallow Flood Zone.*

28 The Shallow Flood Zone is an area within the Flood Plain Overlay District in which:

- 29 (1) 100-year flood depths from 1 to 2 feet occur;
- 30 (2) a clearly defined channel does not exist;

Council Bill 11-0778

1 (3) the path of flooding is unpredictable; and

2 (4) velocity flow might be evident.]

3 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this
4 Ordinance are not law and may not be considered to have been enacted as a part of this or any
5 prior Ordinance.

6 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on February
7 2, 2012.