



## Legislation Text

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**File #:** 14-0303, **Version:** 0

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

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INTRODUCTORY\*

CITY OF BALTIMORE  
COUNCIL BILL

Introduced by: The Council President  
At the request of: The Administration (Department of Planning)

A BILL ENTITLED

AN ORDINANCE concerning  
**Floodplain Management Code - Revision**

FOR the purpose of modifying the City laws governing floodplain management to meet or exceed requirements for eligibility in the National Flood Insurance Program and other requirements of Federal and State law; incorporating certain flood-resistant design and construction standards adopted by the American Society of Civil Engineers; defining and redefining certain terms; repealing redundant, obsolete, or otherwise superfluous provisions; correcting and conforming certain obsolete nomenclature; providing for alternative enforcement procedures; providing for administrative and judicial reviews of administrative actions; providing for a special effective date; and generally relating to the protection, maintenance, and enhancement of the public health, safety, and welfare through floodplain management.

BY repealing and reordaining with amendments  
Article 7 - Natural Resources  
Division I - Floodplain Management  
Baltimore City Code  
(Edition 2000)

BY repealing and reordaining with amendments  
Article 1 - Mayor, City Council, and Municipal Agencies  
Section(s) 40-14(e).5a  
Baltimore City Code  
(Edition 2000)

BY repealing and reordaining with amendments  
Article 19 - Police Ordinances  
Section(s) 71-2(i).5  
Baltimore City Code

(Edition 2000)

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

Baltimore City Code

Article 7. Natural Resources

Division I. Floodplain Management

Subtitle 1. Definitions; General Provisions

§ 1□ Definitions - IN GENERAL.

IN THIS DIVISION I, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

§ 1-2. DEFINITIONS - “ACCESSORY STRUCTURE” TO “FLOODPLAIN DISTRICT”.

(a) Accessory[/appurtenant] structure.

“Accessory[/appurtenant] structure” means a DETACHED structure [which]:

- (1) THAT IS USABLE SOLELY FOR PARKING VEHICLES OR LIMITED STORAGE;
- (2) [(1)] THAT is on the same parcel of property as the principal structure;
- (3) [(2)] THAT is no [greater] LARGER than 300 square feet and 1 story; and
- (4) [(3)] the use of which is incidental to the use of the principal structure.

(B) ACTUAL START OF CONSTRUCTION.

SEE “NEW CONSTRUCTION”.

(C) ASCE 24.

“ASCE 24” MEANS ASCE/SEI 24, “FLOOD RESISTANT DESIGN AND CONSTRUCTION” (AMERICAN SOCIETY OF CIVIL ENGINEERS).

(D) [(b)] Base flood.

“Base flood” means a flood that has a 1% chance of being equaled or exceeded in any given year.

(E) [(b-1)] Base-flood elevation.

(1) IN GENERAL.

“Base-flood elevation” means the water surface elevation of the base flood in relation to the datum specified on the

[Baltimore City] Flood Insurance Rate Map.

(2) AREAS OF SHALLOW FLOODING.

In areas of shallow flooding, “base-flood elevation” means the highest [adjacent] natural [grade] elevation OF THE GROUND SURFACE, PRIOR TO CONSTRUCTION, THAT IS ADJACENT TO THE PROPOSED FOUNDATION OF A STRUCTURE; plus:

(i) the depth number specified in feet on the Flood Insurance Rate Map; or

(ii) [4 feet] if the depth number is not specified, 4 FEET.

(F) [(c)] Basement.

“Basement” means any area of a [building] STRUCTURE having its floor subgrade (below ground level) on all sides.

[(d) Break away wall.]

[(1) “Break away wall” means a wall that:

(i) is not part of the structural support of the building; and

(ii) is intended through its design and construction to collapse under specific lateral loading forces, without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.]

[(2) For the purposes of this definition, a break away wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Such enclosed space shall be no lower than grade and shall be usable solely for parking of vehicles, building access, or storage. If a separate storage area is provided at grade, such area shall not exceed 300 square feet.]

[(3) Break away walls which exceed the above stated safe loading resistance may be permitted only if a registered professional engineer or architect certifies that the wall shall collapse under a force less than that exerted by a 100 $\bar{y}$  year storm in this region without jeopardizing the structural integrity of the supporting foundation. When the design safe loading resistance exceeds 20 pounds per square foot, but is certified to collapse under a force less than that exerted by the 100 $\bar{y}$  year storm, the designed resistance must be stated clearly and certified independently on the building plans.]

[(4) The 100 $\bar{y}$  year storm means the storm which causes that level of flooding, water loads, wind speeds, duration, direction and forces which, when acting simultaneously, result in severe beach erosion and overwash and have a 1% chance of occurring each year.]

(G) DESIGN FLOOD.

“DESIGN FLOOD” IS THE GREATER OF THE FOLLOWING TWO FLOOD EVENTS:

(1) THE BASE FLOOD AFFECTING AREAS IDENTIFIED ON THE FLOOD INSURANCE RATE MAP AS SPECIAL FLOOD HAZARD AREAS; AND

(2) THE FLOOD CORRESPONDING TO THE FLOOD RESILIENCE AREA.

(H) DESIGN-FLOOD ELEVATION.

“DESIGN-FLOOD ELEVATION”, AS USED IN THIS DIVISION I AND AS USED IN ASCE 24 FOR APPLICATION TO THE CITY, MEANS THE ELEVATION OF THE DESIGN FLOOD, INCLUDING WAVE HEIGHT, RELATIVE TO THE DATUM SPECIFIED ON THE FIRM.

(I) [(e)] Development.

(1) IN GENERAL.

“Development” means:

(I) any manmade change to improved or unimproved real estate[,]; OR

(II) THE SUBDIVISION OF LAND.

(2) INCLUSIONS.

“DEVELOPMENT” [including] INCLUDES any construction, reconstruction, modification, extension, or expansion of [buildings or other] structures, placement of fill or concrete, construction of new or replacement infrastructure, TEMPORARY DEVELOPMENT, PLACEMENT OF MANUFACTURED HOMES OR BUILDINGS, dumping, mining, dredging, grading, paving, drilling operations, storage of materials, land excavation, land clearing, land improvement, land fill operation, or any combination [thereof] OF THESE.

[(2) This term shall also include the subdivision of land.]

(J) DRY FLOODPROOFING.

SEE “FLOODPROOFING”.

(K) [(f)] Elevation certificate.

(1) IN GENERAL.

“Elevation certificate” means A CERTIFICATION, IN the [official] form [prepared and distributed] AND CONTAINING THE INFORMATION REQUIRED by the Federal Emergency Management Agency, OF THE ELEVATIONS OF A STRUCTURE AND ITS IMPROVEMENTS.

(2) BY WHOM AND HOW PREPARED.

AN ELEVATION CERTIFICATE MAY ONLY BE PREPARED AND CERTIFIED BY A LICENSED LAND SURVEYOR, using Mean Sea Level as established by the North American Vertical Datum of 1988 (“NAVD”).

(L) [(f-1)] Fair market value.

(1) IN GENERAL.

“Fair market value” means the price at which property will change hands between a willing buyer and a willing seller, neither of which is under compulsion to buy or sell and both of which have reasonable knowledge of relevant facts.

(2) BY WHOM DETERMINED.

For purpose of this Division I, the fair market value of a [building] STRUCTURE is determined by:

(i) a licensed real estate appraiser; or

(ii) the most recent, fully phased-in assessed value of the [building] STRUCTURE, as determined by the Maryland Department of Assessments and Taxation.

(M) FEMA.

“FEMA” MEANS THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

(N) FIRM.

SEE “FLOOD INSURANCE RATE MAP”.

(O) FIS.

SEE “FLOOD INSURANCE STUDY”.

(P) [(g)] Flood.

“Flood” means a temporary inundation of normally dry land areas FROM:

(1) THE OVERFLOW OF INLAND OR TIDAL WATERS; OR

(2) THE UNUSUAL AND RAPID ACCUMULATION OR RUNOFF OF SURFACE WATERS FROM ANY SOURCE.

SEE ALSO “BASE FLOOD” AND “DESIGN FLOOD”.

(Q) FLOOD ELEVATION.

SEE “BASE-FLOOD ELEVATION”, “DESIGN-FLOOD ELEVATION”, AND “FLOOD-PROTECTION ELEVATION”.

(R) FLOOD HAZARD AREA.

SEE “REGULATED FLOOD HAZARD AREA” AND “SPECIAL FLOOD HAZARD AREA”.

(S) [(h)] Flood Insurance Rate Map; FIRM.

“Flood Insurance Rate Map [(FIRM)]” OR “FIRM” means [a] THE OFFICIAL map [which] THAT depicts the

[minimum special flood hazard area] REGULATED FLOOD HAZARD AREAS [to be regulated by] SUBJECT TO this Division I.

(T) [(i)] Flood Insurance Study; FIS.

“Flood Insurance Study” OR “FIS” means [an analysis of hydrologic and hydraulic conditions in streams and tributaries used to determine flood elevations and frequency] THE OFFICIAL REPORT IN WHICH THE FEDERAL EMERGENCY MANAGEMENT AGENCY HAS PROVIDED FLOOD PROFILES, FLOODWAY INFORMATION, AND WATER SURFACE ELEVATIONS.

(U) [(j)] Flood-protection elevation.

“Flood-protection elevation [(FPE)]” means the [elevation of the base flood] MINIMUM ELEVATION REQUIREMENTS OF ASCE 24, plus [1 foot] freeboard.

(V) [(k)] Floodplain.

“Floodplain” means:

- (1) a relatively flat or low land area adjoining a river, stream, or watercourse [which] THAT is subject to partial or complete inundation;
- (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source; or
- (3) an area subject to tidal surge or extreme tides.

(W) FLOODPLAIN DISTRICT.

“FLOODPLAIN DISTRICT” MEANS THE DISTRICT, AND ITS CONSTITUENT SUBDISTRICTS, ESTABLISHED UNDER SUBTITLE 2 {“FLOODPLAIN DISTRICT”} OF THIS ARTICLE.

§ 1-3. DEFINITIONS - “FLOODPROOFING” TO “WET FLOODPROOFING”.

(A) [(l)] Floodproofing.

(1) IN GENERAL.

“Floodproofing” means any combination of structural [and] OR nonstructural [additions, changes, or] adjustments, CHANGES, OR ACTIONS [of properties and structures which] THAT reduce or eliminate flood damage to [lands, water, and sanitary facilities, structures, and contents of buildings] A STRUCTURE, ITS CONTENTS, AND ITS ATTENDANT UTILITIES AND EQUIPMENT.

(2) METHODS OF FLOODPROOFING.

FOR PURPOSES OF THIS DIVISION I, THE TWO METHODS OF FLOODPROOFING ARE AS FOLLOWS:

(I) “DRY FLOODPROOFING”, WHICH IS THE FLOODPROOFING METHOD THAT, AS SPECIFIED IN ASCE 24, IS USED TO RENDER A STRUCTURE’S ENVELOPE SUBSTANTIALLY IMPERMEABLE TO THE ENTRANCE OF FLOODWATERS; AND

(II) “WET FLOODPROOFING” IS THE FLOODPROOFING METHOD THAT, AS SPECIFIED IN THE FOLLOWING FEMA TECHNICAL BULLETINS, RELIES ON FLOOD-DAMAGE-RESISTANT MATERIALS AND CONSTRUCTION TECHNIQUES TO MINIMIZE FLOOD DAMAGE TO AREAS BELOW THE DESIGN-FLOOD ELEVATION OF A STRUCTURE:

(A) FEMA TECHNICAL BULLETIN 2 {“FLOOD DAMAGE-RESISTANT MATERIAL REQUIREMENTS FOR BUILDINGS LOCATED IN SPECIAL FLOOD HAZARD AREAS IN ACCORDANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM”}; AND

(B) FEMA TECHNICAL BULLETIN 7 {“WET FLOODPROOFING REQUIREMENTS FOR STRUCTURES LOCATED IN SPECIAL FLOOD HAZARD AREAS IN ACCORDANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM”}.

(B) [(m)] Floodproofing certificate.

(1) IN GENERAL.

“Floodproofing certificate” means A CERTIFICATION, IN the form [supplied] AND CONTAINING THE INFORMATION REQUIRED by THE FEDERAL EMERGENCY MANAGEMENT AGENCY, [to certify] that a [building] STRUCTURE has been designed and constructed to be [structurally] DRY floodproofed to the flood-protection elevation.

(2) BY WHOM PREPARED.

A FLOODPROOFING CERTIFICATE MAY ONLY BE PREPARED AND CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER OR PROFESSIONAL ARCHITECT.

(C) FLOOD RESILIENCE AREA.

“FLOOD RESILIENCE AREA” MEANS THE AREA DESCRIBED IN § 2-2(G) {“SUBDISTRICTS: FLOOD RESILIENCE AREA”} OF THIS ARTICLE.

(D) [(m-1)] Floodway.

(1) IN GENERAL.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that are reserved to pass a base-flood discharge so that the cumulative increase in the water surface elevation of the base-flood discharge is no more than a designated height.

(2) HOW SHOWN ON FIRM.

When shown on a FIRM, the [floodway] FLOODWAY is referred to as the “designated floodway”.

(3) CONSIDERED HIGH-VELOCITY-FLOW AREA.

AN AREA SHOWN ON A FIRM AS A “DESIGNATED FLOODWAY” IS CONSIDERED AN AREA WITH “HIGH VELOCITY FLOW”, AS THAT TERM IS USED IN ASCE 24, § 1.2 {“DEFINITIONS”}.

(E) [(n)] Freeboard.

“Freeboard” means [an] A 2-FOOT increment of elevation added to the [base flood elevation to provide a factor of safety for uncertainties in calculations, wave actions, subsidence, or other unpredictable effects] MINIMUM ELEVATION SPECIFICATIONS OF ASCE 24.

(F) FUNCTIONALLY DEPENDENT USE.

(1) IN GENERAL.

“FUNCTIONALLY DEPENDENT USE” MEANS, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ANY OF THE FOLLOWING USES THAT CANNOT PERFORM THEIR INTENDED PURPOSES UNLESS LOCATED OR CARRIED OUT IN CLOSE PROXIMITY TO WATER:

(I) DOCKING FACILITIES THAT ARE NECESSARY FOR THE LOADING AND UNLOADING OF CARGO OR PASSENGERS; AND

(II) SHIP BUILDING AND SHIP REPAIR FACILITIES.

(2) EXCLUSIONS.

“FUNCTIONALLY DEPENDENT USE” DOES NOT INCLUDE LONG-TERM STORAGE OR RELATED MANUFACTURING FACILITIES.

(G) [(o)] Historic structure.

“Historic structure” means a structure THAT IS:

(1) [listed] individually LISTED [on] IN the National Register of Historic Places OR CERTIFIED OR PRELIMINARILY DETERMINED BY THE SECRETARY OF THE INTERIOR AS MEETING THE REQUIREMENTS FOR INDIVIDUAL LISTING IN THE REGISTER[.];

(2) INDIVIDUALLY LISTED IN the Maryland Inventory of Historic Properties[, a local inventory of historic places certified by the Maryland Historical Trust or the Secretary of the Interior,] or CERTIFIED OR preliminarily determined BY THE MARYLAND HISTORICAL TRUST as meeting the requirements for [such] INDIVIDUAL listing [by the Maryland Historical Trust or the Secretary of the Interior] IN THE INVENTORY[, or];

(3) INDIVIDUALLY LISTED IN THE BALTIMORE CITY LANDMARK LIST;

(4) CERTIFIED OR PRELIMINARILY determined BY THE SECRETARY OF THE INTERIOR as [contribution] CONTRIBUTING to the historic significance of [a] AN historic district registered with the Secretary [of the Interior]; OR

(5) CERTIFIED OR PRELIMINARILY DETERMINED BY THE BALTIMORE CITY COMMISSION FOR HISTORICAL AND ARCHITECTURAL PRESERVATION AS CONTRIBUTING TO THE SIGNIFICANCE OF AN HISTORICAL AND ARCHITECTURAL PRESERVATION DISTRICT.

(H) [(p)] Lowest floor.



(1) IN GENERAL.

“Lowest floor” means, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, the lowest floor of the lowest enclosed area, [(including basement)].

(2) EXCLUSIONS.

[An] “LOWEST FLOOR” DOES NOT INCLUDE ANY unfinished or flood-resistant enclosure THAT IS usable solely for parking [of] vehicles, building access, or LIMITED storage [in an area other than a basement area is not considered a building's lowest floor], [provided that such] AS LONG AS THE enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the Federal Emergency Management Agency, National Flood Insurance Program.

(I) [(q)] Manufactured home or building.

(1) IN GENERAL.

“Manufactured home or building” means a structure, transportable in 1 or more sections, [which] THAT is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

(2) INCLUSIONS.

For floodplain management purposes, [the term] “manufactured home or building” [also] includes ANY park [trailers] TRAILER, travel [trailers] TRAILER, and other similar [vehicles] VEHICLE placed on a site for more than 180 consecutive days.

[(r)] Manufactured-home park or subdivision.]

[“Manufactured home park or subdivision” means a parcel or contiguous parcels of land divided into 2 or more manufactured home lots for rent or sale.]

(J) [(s)] New construction.

(1) EXCLUSIONS.

“New construction” [means structures] DOES NOT INCLUDE ANY STRUCTURE for which [a] THE building permit [has been] WAS issued [on or after] BEFORE March 15, 1978, [so long as] AND THE actual START OF construction [commences] WAS within 180 days of the permit date.

(2) “ACTUAL START OF CONSTRUCTION”.

[The] AS USED IN PARAGRAPH (1) OF THIS SUBSECTION, “actual start of construction” means either:

(I) the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation[,]; or

(II) the placement of a manufactured home on a foundation.

(3) “Permanent construction”.

[Permanent] AS USED IN PARAGRAPH (2) OF THIS SUBSECTION, “PERMANENT construction” does not include:

- (I) land preparation, such as clearing, grading, and filling[.,];
- (II) the installation of streets [and/or] AND walkways[.,];
- (III) excavation for basements, footings, piers, OR foundations[.,]; [or]
- (IV) the erection of temporary forms; or
- (V) the installation on the property of accessory [buildings] STRUCTURES.
- (K) [(t) Nonconforming structures] NONCONFORMING STRUCTURE.

“[Nonconforming structures] NONCONFORMING STRUCTURE” means any lawfully existing [building or] structure [which] THAT does not comply with the applicable floodplain regulations of the subdistrict in which it is located.

(L) NONRESIDENTIAL STRUCTURE.

“NONRESIDENTIAL STRUCTURE” INCLUDES THE NONRESIDENTIAL PORTION OF A MIXED-USE STRUCTURE.

[(u) Occupancy permit.]

[“Occupancy permit” means an approved building permit which contains all required authorizations signifying compliance with City codes and which indicates official approval of a building or structure for its authorized use.]

[(v) {Reserved}]

(M) PLANNING DEPARTMENT.

“PLANNING DEPARTMENT” MEANS THE BALTIMORE CITY DEPARTMENT OF PLANNING.

(N) PLANNING DIRECTOR.

“PLANNING DIRECTOR” MEANS THE DIRECTOR OF THE BALTIMORE CITY DEPARTMENT OF PLANNING OR THE DIRECTOR’S DESIGNEE.

[(w) Principally above ground.]

[“Principally above ground” means a structure with at least 51% of the fair market value of the structure, less land value, above ground.]

(O) REGULATED FLOOD HAZARD AREA.

“REGULATED FLOOD HAZARD AREA” MEANS:

- (1) ANY FLOOD RESILIENCE AREA; AND
- (2) ANY SPECIAL FLOOD HAZARD AREA.

(P) RESIDENTIAL STRUCTURE.

“RESIDENTIAL STRUCTURE” INCLUDES THE RESIDENTIAL PORTION OF A MIXED-USE STRUCTURE.

(Q) [(w-1)] Special [flood hazard area] FLOOD HAZARD AREA.

- (1) IN GENERAL.

“Special [flood hazard area] FLOOD HAZARD AREA” means the land in a floodplain subject to a 1% or greater chance of flooding in any given year.

[(2) “Special flood hazard area” includes areas identified under § 2-3(a)(2) of this Division I.]

(2) [(3)] BY WHOM AND HOW DESIGNATED.

Special [flood hazard areas] FLOOD HAZARD AREAS are designated by the Federal Emergency Management Agency in THE Flood Insurance [Studies] STUDY and on THE Flood Insurance Rate [Maps] MAP as Zones A, AE, AO, V, and VE.

[(x) Start of construction.]

[(1) “Start of construction” means the date of issue of the building permit for any development, including new construction and substantial improvements, provided that the actual start of the construction or improvement was within 180 days of permit issuance.]

[(2) The actual start of construction is the placement of slab or footings, piles, columns.]

(R) [(y)] Structure.

(1) IN GENERAL.

“Structure” means [a walled and/or roofed] ANY building OR OTHER STRUCTURE[.,].

(2) INCLUSIONS.

“STRUCTURE” [including, but not limited to,] INCLUDES a gas or liquid storage tank[, a building foundation, platform, deck, swimming pool, bulkhead, or greenhouse that is principally above ground and affixed to a permanent site or location].

(S) [(z)] Subdivision.

(1) IN GENERAL.

“Subdivision” means the division or redivision BY ANY MEANS of A [lots] LOT, [tracts] TRACT, or [parcels] PARCEL of land [by any means] into 2 or more lots, tracts, parcels, or other divisions of land[.,].

(2) INCLUSIONS.

“SUBDIVISION” [including] INCLUDES a change in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership, building, or lot development.

(T) [(aa)] Substantial damage.

“Substantial damage” means damage of any origin sustained by a structure [whereby] WHERE the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

(U) (bb) Substantial improvement.

(1) IN GENERAL.

(I) “Substantial improvement” means, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, any COMBINATION OF [repair] REPAIRS, reconstruction, REHABILITATION, ADDITIONS, or [improvement] OTHER IMPROVEMENTS [of] TO a structure MADE DURING THE 6-YEAR PERIOD IMMEDIATELY PRECEDING A PERMIT APPLICATION, the AGGREGATE cost of which, TOGETHER WITH THE COST OF THE WORK PROPOSED BY THE LATEST PERMIT APPLICATION, equals or exceeds 50% of the fair market value of the structure [either: (i)] before the improvement [or repair] is started[; or (ii) if the structure has been damaged or substantially damaged, and is being restored, before the damage occurred].

(II) THE CALCULATION OF THESE COSTS MUST COMPLY WITH FEMA P-758 {“SUBSTANTIAL IMPROVEMENT / SUBSTANTIAL DAMAGE DESK REFERENCE”}.

(III) For [the purpose] PURPOSES of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the [building] STRUCTURE commences, whether or not that alteration affects the external dimensions of the structure.

(2) INCLUSIONS.

“SUBSTANTIAL IMPROVEMENT” INCLUDES IMPROVEMENTS TO A STRUCTURE THAT HAS BEEN SUBSTANTIALLY DAMAGED, REGARDLESS OF THE ACTUAL REPAIR WORK DONE.

(3) EXCLUSIONS.

[The term] “SUBSTANTIAL IMPROVEMENT” does not[, however,] include either:

(i) [any project for] AN improvement of a structure [to comply] THAT IS NEEDED TO SECURE SAFE LIVING CONDITIONS IN COMPLIANCE with [existing state or local] STATE OR CITY health, sanitary, or safety code specifications [which are solely necessary to assure safe living conditions]; or

(ii) [any] AN alteration of [a] AN HISTORIC structure [listed on the National Register of Historic Places, or the State Inventory of Historic Places, or the City Landmark List], [provided that] AS LONG AS the alteration will not preclude the structure's continued designation [on these lists] AS AN HISTORIC STRUCTURE.

[(cc) Temporary development.]

["Temporary development" means any building, construction, and/or assemblage of structures, such as construction sheds, seats, canopies, tents, and fences used in construction work or for temporary purposes, such as reviewing stands, fairs, carnivals, or flea markets, which are completely removed upon the expiration of 180 days or less as stated in the permit.]

[(dd) Temporary structure.]

["Temporary structure" means any structure completely removed within 360 days from issuance of the permit.]

[(ee) Variance.]

["Variance" means the grant of relief from the terms of this Division I.]

(V) [(ff)] Water Management Administration.

"Water Management Administration" means the Water Management Administration of the Maryland Department of the Environment.

(W) [(gg)] Wetland.

"Wetland" means any land that is:

- (1) considered A "private wetland" or A "State wetland" under Title 9 {"Wetlands and Riparian Rights"} of the State Natural Resources Article; or
- (2) defined as A "wetland" by the U.S. Fish and Wildlife Service Identification and Classification Procedures.

(X) WET FLOODPROOFING.

SEE "FLOODPROOFING".

§ 1-4. {RESERVED}

§ 1-5. RULES OF CONSTRUCTION.

(A) IN GENERAL.

IN INTERPRETING AND APPLYING THIS DIVISION I, THE FOLLOWING RULES OF CONSTRUCTION APPLY.

(B) CAPTIONS OR HEADINGS.

THE CAPTIONS OR HEADINGS OF THE VARIOUS SECTIONS AND SUBSECTIONS:

- (1) ARE FOR CONVENIENCE OF REFERENCE ONLY, INTENDED TO SUMMARIZE THE STATUTORY PROVISIONS THAT FOLLOW; AND

(2) ARE NOT LAW AND ARE NOT TO BE TAKEN AS AFFECTING THE MEANING OR EFFECT OF THE LAW.

(C) CONFLICTING PROVISIONS.

(1) DIVISION SETS MINIMUM REQUIREMENTS.

IN THEIR INTERPRETATION AND APPLICATION, THE PROVISIONS OF THIS DIVISION I MUST BE TAKEN TO BE THE MINIMUM REQUIREMENTS FOR THE PROMOTION OF THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE.

(2) MOST RESTRICTIVE PROVISION GOVERNS.

IF ANY CONDITION IMPOSED BY A PROVISION OF THIS DIVISION I IS EITHER MORE OR LESS RESTRICTIVE THAN A COMPARABLE CONDITION IMPOSED BY ANY OTHER PROVISION OF THIS DIVISION OR BY ANY OTHER LAW, RULE, OR REGULATION OF ANY KIND, THE CONDITION THAT IS THE MORE RESTRICTIVE GOVERNS.

(D) GENDER.

WORDS DENOTING ONE GENDER INCLUDE AND APPLY TO THE OTHER GENDERS AS WELL.

(E) INCLUDES; INCLUDING.

“INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF LIMITATION.

(F) MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.

(1) MANDATORY TERMS.

“MUST” AND “SHALL” ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT OR TO IMPOSE A DUTY.

(2) PROHIBITORY TERMS.

“MUST NOT”, “MAY NOT”, AND “NO ... MAY” ARE EACH MANDATORY NEGATIVE TERMS USED TO ESTABLISH A PROHIBITION.

(3) PERMISSIVE TERMS.

“MAY” IS PERMISSIVE.

(G) NUMBER.

THE SINGULAR INCLUDES THE PLURAL AND VICE VERSA.

(H) REFERENCES TO OTHER LAWS.

WHENEVER A PROVISION OF THIS DIVISION I REFERS TO ANY PART OF THE CITY CODE OR TO ANY OTHER LAW, THE REFERENCE APPLIES TO ANY SUBSEQUENT AMENDMENT OF THE LAW REFERRED TO, UNLESS THE REFERRING PROVISION EXPRESSLY PROVIDES OTHERWISE.

(I) SEVERABILITY.

ALL PROVISIONS OF THIS DIVISION I ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

(J) TIME COMPUTATIONS.

(1) COMPUTATION OF TIME AFTER AN ACT, EVENT, OR DEFAULT.

(I) IN COMPUTING ANY PERIOD OF TIME PRESCRIBED BY THIS DIVISION I, THE DAY OF THE ACT, EVENT, OR DEFAULT AFTER WHICH THE DESIGNATED PERIOD OF TIME BEGINS TO RUN IS NOT INCLUDED.

(II) IF THE PERIOD OF TIME ALLOWED IS MORE THAN 7 DAYS, INTERMEDIATE SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS ARE COUNTED.

(III) IF THE PERIOD OF TIME ALLOWED IS 7 DAYS OR LESS, INTERMEDIATE SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS ARE NOT COUNTED.

(IV) THE LAST DAY OF THE PERIOD SO COMPUTED IS INCLUDED UNLESS IT IS A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE PERIOD RUNS UNTIL THE END OF THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.

(2) COMPUTATION OF TIME BEFORE A DAY, ACT, OR EVENT.

(I) IN DETERMINING THE LATEST DAY FOR PERFORMING AN ACT THAT IS REQUIRED BY THIS DIVISION I TO BE PERFORMED A PRESCRIBED NUMBER OF DAYS BEFORE A CERTAIN DAY, ACT, OR EVENT, ALL DAYS PRECEDING THAT DAY, INCLUDING INTERVENING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, ARE COUNTED IN THE NUMBER OF DAYS SO PRESCRIBED.

(II) THE LATEST DAY IS INCLUDED IN THE DETERMINATION UNLESS IT IS A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE LATEST DAY IS THE FIRST PRECEDING DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.

§ 1-6. [§ 13.] Interpretation.

[(a) In general.]

In their interpretation and application, the provisions of this Division I [shall] ARE TO be:

(1) considered as minimum requirements;

- (2) liberally construed in favor of proper flood hazard management and Baltimore City; and
- (3) [deemed] CONSIDERED AS neither [to limit] REPEALING nor [repeal] LIMITING any [other] powers granted [under the Annotated Code of Maryland] BY STATE LAW.

[(b) Dispute resolution.]

[If a dispute arises over the interpretation of this Division I, the counsel of the Federal Emergency Management Agency, the Maryland Department of the Environment, or the Federal Emergency Management Agency, 44 Code of Federal Regulations, prevails.]

[(c) Conflicting provisions.]

[This Division I supersedes any other ordinance currently in effect in the floodplain district. However, any other ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.]

[(d) Severability.]

[If any section, subsection, paragraph, sentence, clause, or phrase of this Division I should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Division I which shall remain in full force and effect, and for this purpose, the provisions of this Division I are hereby declared to be severable.]

§§ 1-7 TO 18. {RESERVED}

§ 1-9. [§ 12.] Findings, intent, and design.

(a) Findings.

- (1) Certain areas of Baltimore City are subject to periodic inundation [which] THAT results in loss of life and property, risks to health and safety, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief.
- (2) Flood losses and associated losses are created by structures inappropriately located, inadequately elevated, or otherwise unprotected and vulnerable to floods or erosion or by development [which] THAT increases flood or erosion damage to other lands or development.
- (3) The biological values of floodplains, particularly tidal and nontidal wetlands, can be adversely affected by floodplain development.
- (4) Baltimore City has the responsibility under the Flood Hazard Management Act of 1976, Title 5, Subtitle 8 of the State Environment Article, to control floodplain development in order to protect persons and property from danger and destruction and to preserve the biological values and environmental quality of the watersheds or THE portions [thereof] OF WATERSHEDS under its jurisdiction.
- (5) Baltimore City has the responsibility under the National Flood Insurance Act of 1968[, as amended,] and the Flood Disaster Protection Act of 1973[, as amended,] to adopt and enforce floodplain management regulations [which] THAT meet the requirements of 44 Code of Federal Regulations Parts 5577 et seq., in order to participate in the National Flood Insurance Program and remain eligible for federally subsidized flood insurance, federal disaster relief, and [federal and state] FEDERAL AND STATE financial assistance.



(6) BALTIMORE CITY CONTAINS DENSELY DEVELOPED TIDAL SHORELINES THAT ARE AND WILL CONTINUE TO BE IN HIGH DEMAND. THE SCIENCE BEHIND CLIMATE CHANGE ACKNOWLEDGES THAT SEA-LEVEL RISE AND COASTAL FLOODING WILL IMPACT CURRENT AND FUTURE DEVELOPMENT ALONG THE SHORELINE. FLOODPLAIN REGULATIONS ARE MEANT TO PROTECT PEOPLE AND PROPERTY WHILE MAKING THE CITY MORE RESILIENT TO THE IMPACTS FROM NATURAL DISASTERS AND CLIMATE CHANGE.

(b) Intent.

It is, therefore, the intent of the Mayor and City Council by this Division I:

- (1) to protect human life and health;
- (2) to minimize public and private property damage;
- (3) to encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (4) to protect individuals from unwittingly buying lands and structures [which] THAT are unsuited for intended purposes because of the flood hazards;
- (5) to protect water supply, sanitary sewage disposal, and natural drainage;
- (6) to reduce financial burdens imposed on the community, its governmental units, and its residents by preventing the unwise design and construction of development in areas subject to flooding;
- (7) to provide for public awareness of the flooding potential; and
- (8) to provide for the biological and environmental quality of the watersheds or THE portions [thereof] OF WATERSHED located in Baltimore City.

(c) Design.

[The provisions of this] THIS Division I [provide] PROVIDES a unified comprehensive approach to floodplain management [which] THAT addresses THE requirements of the FOLLOWING [federal] FEDERAL and [state] STATE programs concerned with floodplain management[, namely]:

- (1) the National Flood Insurance Program and the President's Executive Order 11988 of May 27, 1977, on floodplain management;
- (2) the State Waterway Construction Permit Program;
- (3) the State Wetlands Permit Program;
- (4) the U.S. Army Corps of Engineers' Section 10 and Section 404 Permit Programs; and
- (5) the State Coastal Zone Management Program.

§ 1-10. [§ 14] Short title.

This Division I [shall hereafter] MAY be [referred to] CITED as the “Baltimore City Floodplain Management [Ordinance] CODE”.

Subtitle 2. Floodplain District

§ 21. Establishment of district.

(a) City to establish.

The City [shall] MUST establish a [floodplain district] FLOODPLAIN DISTRICT and an official floodplain map to include all areas subject to inundation by [the waters of a base flood] FLOODWATERS.

(b) [Basis] BASES.

(1) The [source] BASES of this delineation [shall] MUST be, at a minimum, THE data contained in the most recent [flood insurance study] FLOOD INSURANCE STUDY for Baltimore City, and illustrated in the [“]Flood Insurance Rate [and Flood Boundary Maps] MAP[”]. The Flood Insurance Rate [Maps (FIRM) illustrate] MAP ILLUSTRATES BOTH the [special flood hazard areas] SPECIAL FLOOD HAZARD AREAS AND THAT PART OF THE TIDAL FLOODPLAIN DESIGNATED AS “AREAS OF 0.2% ANNUAL CHANCE FLOOD”..

(2) The base-flood elevation, as determined in the Flood Insurance Study, is graphically delineated on the official floodplain [maps] MAP.

(3) Where field-surveyed topography or digital topography indicates that ground elevations are above the base-flood elevation in a [special flood hazard area] SPECIAL FLOOD HAZARD AREA, then the area is considered in the [special flood hazard area] SPECIAL FLOOD HAZARD AREA until FEMA issues a Letter of Map Change.

(4) Where field-surveyed topography or digital topography indicates that ground elevations are below the closest applicable [base] DESIGN-flood elevation, even in areas not delineated ON THE FIRM as a [special flood hazard] REGULATED FLOOD HAZARD AREA [on the FIRM], the area is considered TO BE a [special flood hazard area] REGULATED FLOOD HAZARD AREA.

(c) District as overlay to zoning.

The [floodplain district] FLOODPLAIN DISTRICT [and the official floodplain map are] IS an overlay [on any] zoning [districts] DISTRICT [in the City], as provided in the Zoning Code of Baltimore City.

§ 22. Subdistricts.

(a) In general.

The [floodplain district] FLOODPLAIN DISTRICT [shall be comprised of] COMPRISES the following subdistricts.

(b) Floodway.

[Floodway (F1)]: THE FLOODWAY IS that [portion] PART of the [floodplain district] FLOODPLAIN DISTRICT

THAT IS [required to carry and discharge the waters of a base flood without increasing the water surface elevation at any point more than 1 foot above existing base-flood conditions] RESERVED TO PASS A BASE-FLOOD DISCHARGE SO THAT THE CUMULATIVE INCREASE IN THE WATER SURFACE ELEVATION OF THE BASE-FLOOD DISCHARGE IS NO MORE THAN A DESIGNATED HEIGHT.

(c) Floodway Fringe.

(1) [Floodway Fringe (Zone A with Base-Flood Elevation (F2):] THE FLOODWAY FRINGE COMPRISES those [portions of land] LANDS within the [floodplain district] FLOODPLAIN DISTRICT THAT:

(I) ARE subject to inundation by a base flood[,]; AND

(II) [lying] LIE beyond the [floodway] FLOODWAY (where a floodway has been determined), or in areas where detailed study data, profiles, and base-flood elevations have been established.

(2) The [floodway fringe] FLOODWAY FRINGE appears on the [“Flood Boundary and Floodway Maps” and “] Flood Insurance Rate [Maps] MAP[”] AS ZONE AE.

(d) [Approximate] APPROXIMATED Floodplain.

(1) [Approximate Floodplain (F3):] THE APPROXIMATED FLOODPLAIN COMPRISES those [portions of land] LANDS within the [floodplain district] FLOODPLAIN DISTRICT THAT:

(I) ARE subject to inundation by a base flood[,]; AND

(II) LIE IN:

(A) AREAS [where] FOR WHICH a detailed study has not been performed, but [where] a base floodplain boundary has been approximated; OR

(B) AREAS THAT ARE SUBJECT TO SHALLOW FLOODING.

(2) A base-flood elevation [shall] MUST be established after consideration of any flood elevation and floodway data available from Federal, State, or other sources.

(3) [(2)] The [approximate floodplain] APPROXIMATED FLOODPLAIN appears on [both] the [“]Flood Insurance Rate [Maps] MAP[”] and “Flood Boundary and Floodway Maps” and may appear on all panels] as [Zone] ZONES A and AO.

(e) Coastal Floodplain.

(1) [Coastal Floodplain (CFP):] THE COASTAL FLOODPLAIN COMPRISES those [portions of] LANDS WITHIN the [floodplain district] FLOODPLAIN DISTRICT THAT:

(I) DUE TO HIGH TIDES, HURRICANES, TROPICAL STORMS, AND STEADY ONSHORE WINDS, ARE subject to coastal or tidal [flooding] INUNDATION by a base flood[,]; AND

(II) LIE IN AREAS where detailed study data are available. [These areas are flooded due to high tides, hurricanes, tropical storms, and steady onshore winds.]

(2) The [coastal floodplain] COASTAL FLOODPLAIN appears on the [“]Flood Insurance Rate [Maps] MAP[”] as Zones A[,] AND AE[, and A1 [A30]. (IN ZONE AE, A DESIGNATION ON THE FIRM INDICATING “LIMIT OF MODERATE WAVE ACTION” REFERS TO THE LANDWARD LIMIT OF WAVES OF 1.5 FEET OR MORE IN HEIGHT.)

(f) Coastal High Hazard Area.

(1) [Coastal High Hazard Area (CHHA):] THE COASTAL HIGH HAZARD AREA COMPRISES those [portions of land] LANDS within the [floodplain district] FLOODPLAIN DISTRICT THAT ARE subject to inundation by coastal or tidal flooding, with high velocity waters and wave action.

(2) The [coastal high hazard area] COASTAL HIGH HAZARD AREA appears on the [“]Flood Insurance Rate [Maps] MAP[”] as [Zone] ZONES V[,] AND VE[, and V1 [V30].

(G) FLOOD RESILIENCE AREA.

(1) THE FLOOD RESILIENCE AREA COMPRISES THOSE LANDS WITHIN A TIDAL FLOODPLAIN THAT:

(I) DUE TO HURRICANES, TROPICAL STORMS, AND THE RISING BAY ARE SUBJECT TO A 0.2% CHANCE OF FLOODING IN ANY GIVEN YEAR; AND

(II) LIE IN AREAS WHERE DETAILED STUDY DATA ARE AVAILABLE.

(2) THE FLOOD RESILIENCE AREA APPEARS:

(I) ON THE FLOOD INSURANCE RATE MAP, AS THAT PART OF THE TIDAL FLOODPLAIN THAT IS DESIGNATED ZONE X (“AREAS OF 0.2% ANNUAL CHANCE FLOOD”); AND

(II) IN THE FLOOD INSURANCE STUDY’S TABLE 4 {“TRANSECT DATA”}, UNDER THE COLUMN HEADING “0.2% ANNUAL CHANCE”.

§ 23. Official [maps] MAP.

(a) [Floodplain map] IN GENERAL.

(1) The official floodplain map [shall be] IS the most current [“]Flood Insurance Rate [Maps] MAP[”], as prepared by the Federal Emergency Management Agency.

(2) [(b) District and subdistrict lines.] The official floodplain map[, which reflects the boundaries of the floodplain district and its subdistricts, shall]:

(I) MUST be [prepared and] maintained by the PLANNING Department [of Planning,]; and

(II) IS incorporated by reference [herein] as part of this Division I.

(B) BASES.

(1) [(2)] The MINIMUM bases for establishing [special flood hazard areas] REGULATED FLOOD HAZARD

AREAS and [base-flood] THEIR RESPECTIVE DESIGN-FLOOD elevations are as follows:

[(i) The minimum basis for establishing special flood hazard areas and base-flood elevations is:]

(I) the most recent revision of the Flood Insurance Study [{"FIS"}] for the City of Baltimore, dated [February 2, 2012,] APRIL 2, 2014; [and]

(II) the accompanying Flood Insurance Rate [Map(s) ("FIRM(s)")] MAP; and

(III) [(C)] all subsequent amendments and revisions to the [FIRMs] FIRM.

[The FIS and FIRMs are retained on file and available to the public at the Planning Department.]

(C) AREAS WITH GROUND LEVELS BELOW CLOSEST DFE.

[(ii)] Where field-surveyed topography or digital topography indicates that ground elevations are below the closest applicable [base] DESIGN-flood elevation, even in areas not delineated ON THE FIRM as a [special flood hazard on the FIRM] REGULATED FLOOD HAZARD AREA, the area [shall be] IS considered to be a [special flood hazard area] REGULATED FLOOD HAZARD AREA.

§ 24. DESIGN-FLOOD ELEVATIONS.

(A) NONTIDAL FLOODPLAIN.

(1) REGULATED FLOOD HAZARD AREAS IN THE NONTIDAL FLOODPLAIN ARE DESIGNATED ON THE FIRM AS "SPECIAL FLOOD HAZARD AREAS".

(2) THE DESIGN-FLOOD ELEVATIONS FOR THESE AREAS CORRESPOND TO THE BASE-FLOOD ELEVATIONS SPECIFIED IN THE FLOOD INSURANCE STUDY.

(B) TIDAL FLOODPLAIN.

(1) REGULATED FLOOD HAZARD AREAS IN THE TIDAL FLOODPLAIN ARE DESIGNATED ON THE FIRM AS ZONES A, AE, V, VE, AND X.

(2) THE DESIGN-FLOOD ELEVATIONS FOR ZONES V AND VE ARE AS SHOWN IN THE FLOOD INSURANCE STUDY'S TABLE 4 {"TRANSECT DATA"}, UNDER THE COLUMN HEADING "ZONE DESIGNATION AND BFE".

(3) THE DESIGN-FLOOD ELEVATIONS FOR ZONE X ("AREAS OF 0.2% ANNUAL CHANCE FLOOD") AND FOR ZONES A AND AE ARE THOSE SHOWN IN THE FLOOD INSURANCE STUDY'S TABLE 4 {"TRANSECT DATA"}, UNDER THE COLUMN HEADING "0.2% ANNUAL CHANCE".

(D) NOT PROVIDED BY FIRM OR FIS.

[§ 2-3(a)(2)(iii)] To establish base-flood elevations [in special flood hazard areas] FOR REGULATED FLOOD HAZARD AREAS that do not have these elevations shown on the [FIRM] FLOOD INSURANCE RATE MAP or IN THE FLOOD INSURANCE STUDY, the Floodplain Manager may:

- (1) [A.] provide the best available data for [base] BASE-flood elevations;
- (2) [B.] require the applicant to obtain available information from Federal, State, or other sources; or
- (3) [C.] require the applicant to establish [special flood hazard areas] REGULATED FLOOD HAZARD AREAS and [base] DESIGN-flood elevations as set forth in [§ 2-4] § 2-5 {"CHANGES TO DISTRICT"} of this subtitle.

§ 25. [§ 24.] Changes to District.

- (a) When authorized.

The delineation of the [floodplain district] FLOODPLAIN DISTRICT AND ITS SUBDISTRICTS may be revised, amended, [and] OR modified by [Baltimore] THE City, in compliance with the REQUIREMENTS OF THE National Flood Insurance Program and the Maryland Department of the Environment, [when] IF:

- (1) there are changes through natural or other causes to flood elevations and boundaries; or
- (2) changes are indicated by detailed hydrologic and hydraulic information and studies.

- (b) Notice of changes.

As soon as practicable, but not later than 6 months after [the dates such information becomes available] CHANGES BECOME KNOWN, the [Department of] Planning DEPARTMENT [shall] MUST notify the Federal Insurance Administrator of the changes by submitting technical and scientific data in accordance with 44 Code of Federal Regulations, Part 65.

- (c) Required Federal and State approvals.

All [such] changes [shall be] ARE subject to the review and approval of the Federal Emergency Management Agency and the Maryland Department of the Environment.

[§ 25] Dispute resolution.]

- (a) Planning to make initial determination.

Should a dispute concerning any floodplain district boundary arise, an initial determination shall be made by the Department of Planning.]

- (b) Appeal to FEMA.

- (1) Any party aggrieved by this decision may appeal to the Federal Emergency Management Agency.
- (2) The burden of proof is on the appellant.]

§ 26. Unmapped streams.

- (a) Minimum flood protection setback.

[In cases in which] IF development is proposed in the vicinity of AN unmapped [streams, which] STREAM THAT [have] HAS no delineated base floodplain, a minimum of A 25foot flood protection setback from the STREAM'S bank [of the stream] may be used.

(b) State permits.

State permits may be required[.], [and applicants are advised to seek] APPLICANTS SHOULD REQUEST THE STATE WATER MANAGEMENT ADMINISTRATION FOR a determination [from the State Water Management Administration] OF WHETHER ITS PERMIT REQUIREMENTS APPLY.

(c) Variances.

Variances may be applied for under Subtitle 5 {"Floodplain Variances"} OF THIS DIVISION I.

§ 2-7. Floodplain Manager.

(a) Duties of Planning Department.

The Planning Department is responsible to ensure compliance with the National Flood Insurance Program.

(b) [Duties of] Planning Director TO APPOINT MANAGER.

The Planning Director is responsible for appointing staff to carry out the duties of the Floodplain Manager.

(c) Duties of Floodplain Manager.

The Floodplain Manager is responsible for:

- (1) overseeing and implementing the City's floodplain program;
- (2) responding to all requests and inquiries by the Administrator of the National Flood Insurance Program;
- (3) REVIEWING APPLICATIONS TO DETERMINE WHETHER THE PROPOSED USES AND OTHER ACTIVITIES WILL BE REASONABLY SAFE FROM FLOODING;
- (4) REVIEWING ELEVATION CERTIFICATES AND REQUIRING INCOMPLETE OR DEFICIENT CERTIFICATES TO BE CORRECTED; and
- (5) [(3)] keeping all files required by the National Flood Insurance Program.

Subtitle 3. Development Regulations

Part 1. In General

§ 3□ [Scope of subtitle] IN GENERAL.

(a) New construction and substantial improvements.

- (1) In order to prevent excessive damage to [buildings and] structures, [the following restrictions shall apply to] all new construction and substantial improvements to existing structures [occurring] in the [floodplain district]

FLOODPLAIN DISTRICT MUST COMPLY WITH:

- (I) THE REGULATIONS AND RESTRICTIONS OF THIS SUBTITLE; AND
- (II) EXCEPT AS OTHERWISE PROVIDED IN THIS DIVISION I, THE DESIGN AND CONSTRUCTION STANDARDS OF:
  - (A) ASCE 24 {"FLOOD RESISTANT DESIGN AND CONSTRUCTION"}; AND
  - (B) ASCE 7 {"MINIMUM DESIGN LOADS FOR BUILDINGS AND OTHER STRUCTURES"}, CHAPTER 5 {"FLOOD LOADS"}.
- (2) Where [Base Flood Elevation] BASE-FLOOD ELEVATION data are [utilized] USED, the APPLICANT MUST PROVIDE TO THE Planning Department [will obtain and maintain records of lowest floor and]:
  - (I) floodproofing elevations for ALL new construction [and] AND ALL substantial improvements TO AN EXISTING STRUCTURE; AND
  - (II) CORRESPONDING ELEVATION CERTIFICATES.
    - (b) Projects overlapping subdistricts or elevations.

If a proposed [building,] structure[,], or substantial improvement is sited in 2 different subdistricts or in a subdistrict with 2 different [base] DESIGN-flood elevations, the most restrictive regulation or higher flood elevation prevails.

(C) CLASSIFICATION OF STRUCTURES.

FOR THE PURPOSE OF APPLYING APPROPRIATE REQUIREMENTS, STRUCTURES ARE CLASSIFIED ACCORDING TO ASCE 24, TABLE 1-1 {"CLASSIFICATION OF STRUCTURES FOR FLOOD RESISTANT DESIGN AND CONSTRUCTION"}.

Part 2. Districtwide Regulations

§ 32. In general.

In the entire [floodplain district] FLOODPLAIN DISTRICT, the following regulations AND RESTRICTIONS [shall] apply.

§ 33. Conformance to programs, [and] plans, AND BFR CODES ARTICLE.

- (a) Permit programs.

[Any] THE APPROVAL OF ANY development [approved] must [be in conformance] CONFORM with the requirements of the permit programs of:

- (1) the State Water Management Administration;
- [(2) the Federal Emergency Management Agency;] and



(2) [(3)] all other applicable Federal, State, and City agencies.

(B) BUILDING, FIRE, AND RELATED CODES.

THE APPROVAL OF ANY DEVELOPMENT MUST CONFORM WITH ALL APPLICABLE REQUIREMENTS OF THE BALTIMORE CITY BUILDING, FIRE, AND RELATED CODES ARTICLE.

(C) [(b)] Management plans.

Where flood control and watershed management plans exist, all development [shall] MUST be consistent with [such] THOSE plans.

§ 34. Residential structures.

(a) Elevation.

(1) [All] EVERY new or substantially improved residential [structures] STRUCTURE, including A manufactured [homes] HOME, [shall] MUST have [the] ITS lowest floor elevated to at least [1 foot above] the [base] flood-PROTECTION elevation, AS SPECIFIED IN ASCE 24.

(2) The elevation of the lowest floor of the improvement [shall] MUST be certified [by a registered surveyor or professional engineer] on [the] AN elevation certificate[,] after the lowest floor is in place.

(3) [All] EVERY new or substantially improved residential [structures] STRUCTURE must meet the requirements of § 3-14 {“ENCLOSURES BELOW LOWEST FLOOR OR FLOODPROTECTION ELEVATION”} of this subtitle.

(b) Placement.

[All] EVERY proposed [structures] STRUCTURE must be placed on the lot so as to avoid location in the floodplain as much as possible.

(c) Basements.

Basements are not permitted.

(d) Enclosures below FLOOD-protection elevation.

Enclosures below the flood-protection elevation must [be constructed with water equalizing vents] MEET THE REQUIREMENTS OF § 3-14 {“ENCLOSURES BELOW LOWEST FLOOR OR FLOOD-PROTECTION ELEVATION”} OF THIS SUBTITLE.

(e) Expansions in nontidal floodplains.

In nontidal floodplains, ANY horizontal [expansions which increase] EXPANSION THAT INCREASES the footprint and that [are] IS less than substantial [shall] MUST also have the lowest floor elevated to [or above] AT LEAST the flood-protection elevation.

[(f) Less than substantial improvements in tidal floodplains.]

[Improvements in tidal floodplains which are less than substantial shall be constructed to minimize damage during flooding or shall be elevated to the greatest extent possible.]

§ 35. Nonresidential structures.

(a) In general.

(1) [All] EVERY new or substantially improved nonresidential [structures] STRUCTURE [shall] MUST [either] be EITHER:

(I) elevated TO AT LEAST THE FLOOD-PROTECTION ELEVATION, as [set forth above for residential structures] SPECIFIED IN ASCE 24; or

(II) [shall be] DRY floodproofed.

(2) Basements or the floodproofing option are prohibited for ANY new nonresidential [structures] STRUCTURE in nontidal floodplains.

(3) [All] EVERY new or substantially improved nonresidential [structures] STRUCTURE must meet the requirements of § 3-14 {"ENCLOSURES BELOW LOWEST FLOOR OR FLOODPROTECTION ELEVATION"} of this subtitle.

(4) THE ELEVATION OF THE LOWEST FLOOR OF THE IMPROVEMENT MUST BE CERTIFIED ON AN ELEVATION CERTIFICATE AFTER THE LOWEST FLOOR IS IN PLACE.

(b) Floodproofing option.

(1) Floodproofing designs for existing structures must insure that areas below the flood- protection elevation are watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(2) If the floodproofing option is chosen, a floodproofing certificate must be completed by a [registered] LICENSED professional engineer or PROFESSIONAL architect who [shall review] HAS REVIEWED the design and specifications and [certify] CERTIFIES that the nonresidential structure will meet this standard.

(c) Expansions in nontidal floodplains.

[Horizontal expansions] IN NONTIDAL FLOODPLAINS, ANY HORIZONTAL EXPANSION [in the nontidal floodplain which increase] THAT INCREASES the footprint and that [are] IS less than substantial [shall] MUST also have the lowest floor elevated to [or above] AT LEAST the flood-protection elevation.

§ 36. Less than substantial improvement.

(a) In general.

If the construction, reconstruction, 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 base flood]

REPLACEMENT OF ANY ELECTRIC, PLUMBING, OR MECHANICAL SYSTEMS MUST COMPLY WITH § 3-10 {"ELECTRIC, PLUMBING, AND MECHANICAL SYSTEMS"} OF THIS SUBTITLE; AND

(2) those parts of the improvement below the FLOOD-PROTECTION elevation [of 1 foot above the base flood shall] MUST:

(I) be [dry] floodproofed [as specified by the U.S. Army Corps of Engineers in its Publication EP 1165 2 314, entitled FloodProofing Regulations]; AND

(II) OTHERWISE COMPLY WITH THE DESIGN AND CONSTRUCTION STANDARDS OF ASCE 24.

(b) Exceptions.

Routine maintenance and repairs [shall be] ARE excepted FROM THE REQUIREMENTS OF THIS SECTION.

§ 37: Impacts on habitat.

All development [shall] MUST be undertaken in a manner [which] THAT minimizes adverse impacts on aquatic and terrestrial habitat and their related flora and fauna.

§ 38: Design, anchoring, and materials.

(A) IN GENERAL.

All [new] construction and [substantial] improvements [shall] MUST be:

(1) designed, constructed, [or modified and adequately] CONNECTED, AND anchored to prevent flotation, collapse, or lateral movement of the structure, IN ACCORDANCE WITH THE STANDARDS FOR NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS SPECIFIED IN ASCE 24, § 1.5.1 {"GENERAL"};

(2) constructed and placed on the lot so as to offer the minimum obstruction to the flow and height of [the flood water] FLOODWATERS;

(3) constructed with material and utility equipment resistant to flood damage; and

(4) constructed by methods and practices that minimize flood damage.

(B) MATERIALS BELOW FPE.

UNLESS THE STRUCTURE IS DRY FLOODPROOFED TO THE FLOOD-PROTECTION ELEVATION, MATERIALS USED BELOW THAT ELEVATION MUST BE RESISTANT TO FLOODWATER DAMAGE, AS SPECIFIED IN:

(1) FEMA TECHNICAL BULLETIN 2, "FLOOD DAMAGE-RESISTANT MATERIALS REQUIREMENTS FOR BUILDINGS LOCATED IN SPECIAL FLOOD HAZARD AREAS IN ACCORDANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM"; OR

(2) ASCE 24, § 5.0 {"MATERIALS"}.

(C) TANKS.

TANKS MUST BE DESIGNED AND INSTALLED AS SPECIFIED IN ASCE 24, § 7.4.1 {"TANKS"}.

§ 39. Landscape design.

(a) Ground cover.

Adequate ground cover [shall] MUST be provided for soil stabilization within the [floodplain district] FLOODPLAIN DISTRICT.

(b) Land contours and plant material.

[Design of land] LAND contours MUST BE DESIGNED and [choice of] plant material CHOSEN [shall] SO AS TO direct surface runoff away from structures and [shall] not increase surface runoff onto neighboring properties.

§ 310. Electric, [and] plumbing, AND MECHANICAL systems.

(a) [Electric] IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, [(1) Electric] ELECTRIC, PLUMBING, AND MECHANICAL SYSTEMS AND THEIR ATTENDANT COMPONENTS AND EQUIPMWNT, INCLUDING [water] heaters, [electric] furnaces, generators, heat pumps, air conditioners, DISTRIBUTION PANELS, TOILETS, SHOWERS, SINKS, DUCT WORK, and other permanent electrical, PLUMBING, OR MECHANICAL installations, are ONLY permitted [only] at or above [1 foot above the level of the base flood] THE FLOOD-PROTECTION ELEVATION.

[(2) No electrical distribution panels are permitted at an elevation less than 3 feet above the elevation of the base flood.]

[(b) Plumbing.]

[Water heaters, furnaces, toilets, showers, sinks, and other permanent mechanical installations are permitted only at or above 1 foot above the level of the base flood.]

(B) EXCEPTIONS.

(1) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A SYSTEM THAT IS DESIGNED AND INSTALLED, IN ACCORDANCE WITH ASC 24, TO PREVENT WATER FROM ENTERING OR ACCUMULATING WITHIN ITS COMPONENTS AND TO RESIST HYDROSTATIC AND HYDRODYNAMIC LOADS AND STRESSES, INCLUDING THE EFFECTS OF BUOYANCY, DURING THE OCCURRENCE OF FLOODING TO THE FLOOD-PROTECTION ELEVATION.

(2) IN ADDITION, ELECTRICAL WIRING SYSTEMS FOR 1- AND 2-FAMILY DWELLINGS MUST CONFORM TO THE REQUIREMENTS OF THE BALTIMORE CITY RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, PART VIII {"ELECTRICAL"}, FOR WET LOCATIONS.

§ 311. Storage.

Materials that are buoyant, flammable, OR explosive, or that in times of flooding could be injurious to human, animal, or plant life may not be stored below [1 foot] 2 FEET above the [level of the base flood] DESIGN-FLOOD ELEVATION .

§ 312. Fill.

(a) In general.

(1) IN THE COASTAL HIGH HAZARD AREA:

(I) FILL IS PROHIBITED FOR STRUCTURAL SUPPORT; BUT

(II) PLACEMENT OF NONSTRUCTURAL FILL IS ALLOWED TO THE EXTENT PROVIDED IN THIS SECTION AND IN ASCE 24, § 4.5.4 {"USE OF FILL"}.

(2) IN THE COASTAL FLOODPLAIN:

(I) [Where allowed,] fill material [shall] MUST meet the [following additional] requirements OF THIS SECTION; AND

(II) STRUCTURAL FILL MUST COMPLY WITH ALL APPLICABLE PROVISIONS OF ASCE 24.

(b) Maximum fill amount.

The placement of more than 600 cubic yards of fill per acre in the floodplain is prohibited except by variance.

(c) Required alternate consideration.

(1) Elevating [buildings] A STRUCTURE by other methods must be considered unless 600 cubic yards or less of fill are required.

(2) An applicant [shall] MUST demonstrate that:

(I) fill is the only alternative to raising the [building] STRUCTURE to at least the flood-protection elevation[,]; and

(II) [that] the amount of fill used will not affect the flood storage capacity or increase flooding onto neighboring properties.

(d) Affect on adjacent properties.

Fill [shall] MAY be used only to the extent to which it does not adversely affect adjacent properties.

(e) Materials.

(1) Fill [shall] MAY consist of soil or rock materials only.

(2) Landfills, dumps, and sanitary soil fills [shall] ARE not [be] permitted.

(f) Compacting standards.

Fill material [shall] MUST be compacted in accordance with the standard proctor test method issued by the American Society for Testing and Materials (ASTM Standard D698) to provide the necessary stability and resistance to erosion, scouring, or settling.

(g) Slopes.

Fill slopes [shall] MAY be no steeper than 1 vertical to 2 horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Department of Public Works.

(h) Hydrologic and hydraulic analyses.

[In the event buildings] IF STRUCTURES on adjacent properties are known or determined to be subject to flooding under current conditions, the [local permitting official] FLOODPLAIN MANAGER may require submission of hydrologic and hydraulic analyses to adequately demonstrate the effects of the proposed fill.

§ 313. Accessory [or appurtenant] structures.

(a) In general.

Due to their minimal investment, [detached garages, storage structures, and] accessory structures [containing less than 300 square feet shall be] ARE exempt from the elevation or dry floodproofing standards of this Division I [provided that] AS LONG AS all of the [following conditions] REQUIREMENTS OF THIS SECTION are met.

(b) Plans statement.

A statement [shall] MUST be placed on the building plans, [which shall] TO 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 base flood elevation. At this site, the base flood elevation is \_\_\_\_\_.”]

“THIS STRUCTURE MAY NOT BE CONVERTED TO ANY USE OTHER THAN FOR PARKING VEHICLES OR LIMITED STORAGE, NOR MAY IT BE ENLARGED BEYOND 300 SQUARE FEET OR 1 STORY, UNLESS THE STRUCTURE IS BROUGHT INTO COMPLIANCE WITH CITY CODE ARTICLE 7 {“NATURAL RESOURCES”}, DIVISION I {“FLOODPLAIN MANAGEMENT”}.

(c) Elevation.

The floor elevation of the accessory structure:

(1) does not qualify as a basement[.]; AND

(2) [It] must be constructed on or above grade and meet the requirements of § 3-14 {“ENCLOSURES BELOW LOWEST FLOOR OR FLOODPROTECTION ELEVATION”} of this subtitle.

(d) Minimum resistance.

The accessory structure 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 {‘ENCLOSURES BELOW LOWEST FLOOR OR FLOODPROTECTION ELEVATION’} of this subtitle.

(e) Firm anchorage.

The accessory structure [shall] MUST be firmly anchored to prevent flotation [which may] THAT MIGHT result in damage to other structures.

(f) Flood damage potential.

The accessory structure [shall] MUST be designed to have low flood damage potential, including provisions to allow free flow of water into and out of it to maintain equal pressure.

(g) Service facilities.

The service facilities, such as electrical, plumbing, and heating equipment, [shall] MUST be elevated to the applicable FLOOD-PROTECTION [base flood] elevation or be floodproofed.

[(h) Maximum size.]

[The accessory structure shall be comprised of no more than 300 square feet and no more than 1 story.]

[(i) Insurance warning.]

[The applicant shall be made aware that if the accessory structure is built below the base-flood elevation and is not floodproofed, the structure and its contents may be susceptible to higher insurance premium rates.]

(H) [(j)] Non-conversion agreement.

(1) A non-conversion agreement [shall] MUST be completed and signed by the property owner.

(2) The design and construction of the [building shall] STRUCTURE MUST follow the regulations stated in the agreement and be equipped with water equalizing vents as specified in §§ 34 {‘RESIDENTIAL STRUCTURES’} and 35 {‘NONRESIDENTIAL STRUCTURES’}.

§ 314. Enclosures below lowest floor or floodprotection elevation.

New construction and substantial improvements of fully enclosed areas below the lowest floor[,], or below the [base] flood-protection elevation[.]:

(1) [including but not] ARE limited to AREAS USABLE SOLELY FOR PARKING VEHICLES, LIMITED STORAGE, BUILDING ACCESS, AND crawl spaces[, solid footings, and continuous foundations, sheds, and garages,]; AND

(2) [shall] MUST be designed to meet or exceed the [following] minimum criteria OF ASCE 24[:], § 2.6

{“ENCLOSURES BELOW THE DESIGN FLOOD ELEVATION”}.

[(1) a minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided;]

[(2) the bottom of all openings shall be no higher than 1 foot above grade; and]

[(3) openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.]

§ 315. Watercourses.

(a) Variance required to alter.

In all floodplain zones [and/or] OR areas within 25 feet from a water course, any development [which] THAT proposes to alter a watercourse must obtain a variance [from Baltimore City] UNDER SUBTITLE 5 {“FLOODPLAIN VARIANCES”} OF THIS DIVISION I.

(b) Conditions for encroachment to be minimized.

All conditions for encroachment in the [floodway] FLOODWAY must be minimized.

(c) Required notices.

Adjacent communities and property owners, FEMA, and the State Water Management Administration must be notified of any application.

§ 316. Flood protection setback.

(a) Watercourse with floodplain.

(1) A minimum 25foot flood protection setback [shall] MUST be maintained from the edge of the banks of any watercourse delineated ON THE FLOODPLAIN MAP OR FIRM as having a floodplain [on the floodway map or FIRM].

(2) To prevent erosion, natural vegetation [shall] MUST be maintained in this area.

(3) Where natural vegetation does not exist along the water course[,] and conditions for replanting are suitable, high priority [shall] MUST be given to planting trees in the setback area to stabilize banks and to enhance aquatic resources.

(b) Stream with no floodplain.

(1) A minimum 25foot flood-protection setback [shall] MUST be maintained from the top of the bank of any stream [which] THAT has no designated floodplain.

(2) Natural vegetation [shall] MUST be maintained and, if needed, trees planted.

§ 317. Utilities and facilities.



(a) In general.

In the entire [floodplain district] FLOODPLAIN DISTRICT, the design, placement, and construction of all public and private utilities and facilities [shall] MUST meet:

- (1) the [following] requirements OF THIS SECTION; AND
- (2) ALL APPLICABLE REQUIREMENTS OF ASCE 24.

(b) Design and floodproofing.

(1) New or replacement water supply systems, ON-SITE DISPOSAL SYSTEMS, [and/or] OR sanitary sewage systems [shall] MUST be designed and floodproofed:

(I) to eliminate or minimize infiltration of [flood waters] FLOODWATERS into the systems and discharges from the systems into [flood waters] FLOODWATERS[,]; and

(II) to avoid impairment during flooding and [to] minimize flood damage.

(2) All gas, electrical, and other facility and utility systems [shall] MUST be located, constructed, and floodproofed to eliminate or minimize flood damage.

(c) Sewage systems.

(1) All pipes connected to sewage systems [shall] MUST be sealed to prevent leakage.

(2) Cesspools and seepage pits are prohibited.

(3) Septic tanks are permitted [provided] IF they are securely anchored to resist buoyant forces during inundation.

(d) New storm drainage facilities.

All new storm drainage facilities within [and] OR leading to or from the [floodplain district] FLOODPLAIN DISTRICT [shall] MUST be adequately designed, floodproofed, and installed to:

(I) eliminate or minimize property damage resulting from the [flood waters] FLOODWATERS of a base flood; and

(II) [to] minimize adverse environmental impacts of their installation and use.

[§ 318. Variances.]

[Any variances allowed under the provisions of this Division I shall meet the requirements specified in Subtitle 5.]

§ 3-18. [§ 3-19.] NONTIDAL AE Zones without designated floodways.

New development is not permitted within [an] A NONTIDAL AE Zone THAT IS without a designated floodway,

unless it is demonstrated that the cumulative effect of all past and projected development will not increase the [BFE] BASE-FLOOD ELEVATION by more than 1 foot.

§ 3-19. [§ 3-20.] Recreational vehicles.

(a) “Recreational vehicle” defined.

In this section, “recreational vehicle” means a vehicle that is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) designed to be self-propelled or to be permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

(b) Treatment of recreational vehicles.

[In all AE Zones, all] ALL recreational vehicles [placed on a site] IN THE FLOODPLAIN DISTRICT must be:

- (1) elevated and anchored as required [under] BY applicable State and Federal laws;  
[(2) on the site for less than 180 consecutive days;] or
- (2) [(3)] fully licensed and highway ready.

§ 3-20. TEMPORARY STRUCTURES OR STORAGE.

(A) “TEMPORARY STRUCTURE” DEFINED.

IN THIS SECTION, “TEMPORARY STRUCTURE” A STRUCTURE ERECTED, INSTALLED, AND USED FOR A PERIOD OF LESS THAN 180 DAYS.

(B) APPLICATION FOR PERMIT.

IN ADDITION TO THE REQUIREMENTS OF § 4-2 {“DEVELOPMENT PERMITS: APPLICATIONS”}, AN APPLICATION FOR THE PLACEMENT OR ERECTION OF A TEMPORARY STRUCTURE OR FOR THE TEMPORARY STORAGE OF ANY GOODS, MATERIALS, OR EQUIPMENT MUST SPECIFY THE DURATION OF THE TEMPORARY USE.

(C) STRUCTURES.

THE TEMPORARY STRUCTURE:

- (1) MUST BE DESIGNED AND CONSTRUCTED TO PREVENT FLOTATION, COLLAPSE, OR LATERAL MOVEMENT RESULTING FROM HYDRODYNAMIC LOADS AND HYDROSTATIC LOADS DURING CONDITIONS OF A BASE FLOOD;

(2) MUST HAVE ELECTRIC SERVICE INSTALLED IN COMPLIANCE WITH THE BALTIMORE CITY ELECTRIC CODE;

(3) MUST COMPLY WITH ALL OTHER REQUIREMENTS OF THE APPLICABLE STATE AND CITY PERMIT AUTHORITIES; AND

(4) IF IN A FLOODWAY, ALL NECESSARY FEDERAL AND STATE PERMITS MUST BE OBTAINED.

(D) STORAGE.

TEMPORARY STORAGE:

(1) MAY NOT INCLUDE ANY HAZARDOUS MATERIALS; AND

(2) IF IN A FLOODWAY, ALL NECESSARY FEDERAL AND STATE PERMITS MUST BE OBTAINED.

§§ 3-21 TO 3-22. {RESERVED}

### Part 3. Floodway Regulations

§ 323. [§ 321.] In general.

In the Floodway [(F1)], the following regulations AND RESTRICTIONS [shall] apply.

§ 324. [§ 322. Private development] NEW PRIVATE PRINCIPAL STRUCTURES prohibited.

[Private development including] NEW CONSTRUCTION OF PRIVATE PRINCIPAL STRUCTURES, WHETHER residential, commercial, [and] OR industrial [development], [shall be] ARE prohibited.

§ 325. [§ 323. Public] ALL development requires offset.

[Public] NO development is [not] permitted unless:

(1) THE DEVELOPMENT COMPLIES WITH ALL OTHERWISE APPLICABLE REQUIREMENTS OF THIS DIVISION I;

(2) [(1)] the effect of that development on flood heights is fully offset by accompanying stream modification; and

(3) [(2)] the development is approved by all appropriate local authorities, the State Water Management Administration, and the U.S. Army Corps of Engineers.

§ 326. [§ 324.] Engineering report.

(a) Report required.

[All proposals] ANY PROPOSAL to offset the effect of development in the [floodway] FLOODWAY by construction of stream modifications [shall] MUST be documented by an engineering report, prepared by a [registered] LICENSED professional engineer, [which] THAT fully evaluates the effects of [such] THE construction

and [which shall be] IS submitted with the application for a building permit.

(b) Basis.

As the basis of analysis, the report [shall] MUST use the base flood and floodway data prepared by the Federal Emergency Management Agency.

[§ 325. Compliance with districtwide regulations.]

[Any development shall meet the requirements of Part 2 of this subtitle.]

§ 327. [§ 326.] Map revision.

(a) [When required] SCOPE OF SECTION.

[(1)] [Any] THIS SECTION APPLIES TO ANY development in the [floodway] FLOODWAY [which may] THAT MIGHT result in [any] AN increase in water surface elevations or A change to the [floodway] FLOODWAY [must be submitted to the Federal Emergency Management Agency for a Conditional Letter of Map Revision].

[(2)] Failure to receive this Letter is grounds for denying the permit.]

(B) CONDITIONAL LETTER OF MAP REVISION.

(1) BEFORE A PERMIT MAY BE ISSUED FOR A PROPOSED DEVELOPMENT THAT IS SUBJECT TO THIS SECTION, THE APPLICANT MUST OBTAIN FROM FEMA A CONDITIONAL LETTER OF MAP REVISION.

(2) [(b) Required submissions.] TO OBTAIN THIS CONDITIONAL LETTER, THE APPLICANT MUST SUBMIT [Hydrologic] HYDROLOGIC and hydraulic analyses THAT ARE based on existing floodway models, [and] performed in accordance with standard engineering practices, and certified by a [registered] LICENSED professional engineer [must be submitted].

(C) LETTER OF MAP REVISION.

BEFORE AN OCCUPANCY PERMIT MAY BE ISSUED FOR THE DEVELOPMENT, THE DEVELOPER MUST OBTAIN FROM FEMA A LETTER OF MAP REVISION.

§ 328. [§ 327.] Alternative analysis.

(a) Required for permit.

[An] BEFORE A PERMIT MAY BE ISSUED FOR ANY PROPOSED DEVELOPMENT IN THE FLOODWAY, THE APPLICANT MUST PREPARE AND SUBMIT TO THE PLANNING DEPARTMENT AN alternative analysis [must be prepared for any development in the floodway before a permit may be issued] IN ACCORDANCE WITH THIS SECTION.

(b) Scope of analysis.

[Before a permit may be issued, the appropriate agency shall submit to the Department of Planning an] THE

alternative analysis [that demonstrates] MUST DEMONSTRATE that:

- (1) no reasonable alternative exists outside OF the [floodway] FLOODWAY;
- (2) THE encroachment in the [floodway] FLOODWAY is the minimum necessary;
- (3) the development will withstand a base flood without significant damage; and

(3) ON THE BASIS OF HYDROLOGIC AND HYDRAULIC ANALYSES, PREPARED BY A LICENSED PROFESSIONAL ENGINEER IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE MARYLAND DEPARTMENT OF THE ENVIRONMENT, THE DEVELOPMENT:

- (I) WILL NOT RESULT IN ANY INCREASE IN THE BASE-FLOOD ELEVATION; AND
- (II) [(4) the development] will [not] NEITHER increase downstream or upstream flooding or erosion[, or] NOR significantly contribute to debris[;].

§ 329. [§ 328.] Changes to existing structures.

(a) Substantial improvements.

(1) [Existing structures] AN EXISTING STRUCTURE in the [floodway] FLOODWAY [shall] MAY be substantially improved only:

- (i) by variance; [and]
- (ii) if [they] THE STRUCTURE can be brought into conformance with this Division I without increasing [the] ITS EXISTING footprint [of the existing structure]; AND

(III) IF ALL RESIDENTIAL USES OF THE STRUCTURE ARE PROVIDED EGRESS OUTSIDE OF THE BASE FLOOD.

(2) Substantial improvement of a [nonconforming] NONCONFORMING structure [and/or development], regardless of location, [shall] MAY ONLY be undertaken [only] in compliance with [the provisions of] this Division I and any other applicable law.

(b) Substantial damage or PROPOSED replacement.

(1) In the event of substantial damage or PROPOSED replacement, the [appropriate agency shall] APPLICANT MUST submit an alternative analysis to determine if the structure can be relocated to a less hazardous site.

(2) Where replacement structures cannot be relocated, they [shall] MUST be limited to the footprint of the previous structure.

(3) ANY REPLACEMENT STRUCTURE MUST MEET ALL APPLICABLE REQUIREMENTS OF THIS DIVISION I.

[(c) Minor additions.]

[(1) Minor additions (less than substantial) must be elevated to the flood protection elevation on pilings or columns.]

[(2) Permits for incremental improvements and additions shall be tracked by the local permitting official, and, if cumulative improvements constitute substantial improvement, no further permits may be issued unless the structure conforms to the provisions of this Division I.]

(C) [(d)] Elevation or floodproofing.

The modification, alteration, repair, reconstruction, or improvement of any [nonconforming] NONCONFORMING structure [and/or development] amounting to less than [50% of its fair market value shall] A SUBSTANTIAL IMPROVEMENT MUST be elevated [and/or] OR floodproofed to the greatest extent possible.

(D) [(e)] Nuisance to be eliminated.

Uses or THEIR adjuncts [thereof which] THAT are[,] or become[,] nuisances [shall] MAY not be permitted to continue.

§ 330. [§ 329.] Prohibited structures.

(a) Manufactured homes or buildings.

The placement of any manufactured homes or buildings [shall be] IS prohibited.

(b) Fences, enclosures, etc.

The following [shall] MAY not be placed or caused to be placed in the [floodway] FLOODWAY:

(1) fences, except 2-rail OR SINGLE-CABLE fences; and

(2) any enclosures or materials (including fill) [which may] THAT:

(I) MIGHT impede, retard, or change the direction of the flow of water[.]; [or]

(II) [that] will catch or collect debris carried by [such] water[.]; or

(III) [that] is placed where the natural flow of stream or [flood waters] FLOODWATERS would carry [the same] ENCLOSURES OR MATERIALS downstream to the damage or detriment of public or private property in or adjacent to the floodplain.

§§ 331 TO 3-32. [§ 330.] {Reserved}

#### Part 4. Other Subdistrict Regulations

§ 333. [§ 331.] [Approximate] APPROXIMATED Floodplain [(Zone A)].

(a) In general.

In the [Approximate] APPROXIMATED Floodplain [(Zone A)] (ZONES A AND AO), the following

ADDITIONAL regulations apply.

(b) Use of AVAILABLE data.

[(1)] In the enforcement of this Division I, the PLANNING Department [of Planning shall] MUST obtain, review, and reasonably [utilize] USE any base-flood elevation and floodway data available from [a] Federal, State, or other [source] SOURCES, such as the U.S. Army Corps of Engineers, the Soil Conservation Service, the State Water Management Administration, or any regional planning organization.

(C) WHEN DATA UNAVAILABLE.

[(2)] When the base-flood elevation is not known, the PLANNING Department [of Planning], in consultation with the State Water Management Administration, [shall] MUST evaluate each site and establish an approximate base-flood elevation.

[(c) Compliance with districtwide regulations.]

[The development regulations of Part 2 of this subtitle shall be applied.]

§ 334. [§ 332.] Coastal Floodplain AND FLOOD RESILIENCE AREA.

In the Coastal Floodplain AND THE FLOOD RESILIENCE AREA, the [development] regulations [for the Floodway Fringe cited in Part 2 of this subtitle] SPECIFIED IN ASCE 24, § 4.0 {"COASTAL HIGH HAZARD AREAS AND COASTAL A ZONES"} [shall] apply.

§ 335. [§ 333.] Coastal High Hazard Area [(Zone V)].

(a) In general.

In the Coastal High Hazard Area [(Zone V)] (ZONES V AND VE):

(1) the [following regulations [shall] OF THIS SECTION apply[, in addition to the development regulations cited in Part 2 of this subtitle]; AND

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS DIVISION I, THE REGULATIONS SPECIFIED IN ASCE 24, § 4.0 {"COASTAL HIGH HAZARD AREAS AND COASTAL A ZONES"} ALSO APPLY.

(b) Land below base flood level.

No land below the level of the base flood may be developed unless the new construction or substantial improvement:

(1) is located landward of the reach of mean high tide;

(2) is elevated on adequately anchored pilings or columns to resist flotation, collapse, [and] OR lateral movement due to the effects of base-flood wind and water loads acting simultaneously on all building components, and the bottom of the lowest horizontal structural members of the lowest floor (excluding the pilings or columns) is elevated to at least [1 foot above the base-flood elevation] THE FLOOD-PROTECTION ELEVATION;

(3) has been certified by a [registered] LICENSED professional engineer or PROFESSIONAL architect that it is securely anchored to adequately anchored pilings or columns [in order] SO AS to withstand velocity waters and hurricane wave wash and THAT IT will meet the requirements of [paragraph] ITEM (2) of this subsection;

(4) has no basement and has the space below the lowest floor free of obstructions (WHICH SPACE MAY NOT BE USED FOR HUMAN HABITATION, BUT MAY BE USED SOLELY FOR PARKING, BUILDING ACCESS, OR LIMITED STORAGE) or is constructed with [break away] BREAKAWAY walls, AS THAT TERM IS DEFINED IN ASCE 24, § 1.2 {"DEFINITIONS"} [intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or winddriven water is minimized. This temporarily enclosed space may not be used for human habitation; it may be used solely for parking, building access, or storage]; and

(5) does not utilize fill for structural support of [buildings or] structures.

(c) Required showings.

No new development in the [coastal high hazard area] COASTAL HIGH HAZARD AREA [shall] MAY be permitted unless the applicant demonstrates that:

(1) the encroachment into the [coastal high hazard] COASTAL HIGH HAZARD AREA is the minimum necessary;

(2) the development will withstand, without damage, the wind and water loads attendant a base flood; AND

(3) the development will not create an additional hazard to existing structures.

(d) Existing structures.

[Existing nonconforming] AN EXISTING NONCONFORMING [uses or structures] STRUCTURE located on land below the level of the base flood may not be expanded, vertically, horizontally, or otherwise, unless:

(1) the foundation system is certified by a LICENSED professional engineer or PROFESSIONAL architect as capable of supporting the existing [building] STRUCTURE and the proposed improvements during a base flood; and

(2) all construction is in full compliance with this and all other applicable [ordinances] LAWS.

(e) Manufactured homes or buildings.

The placement of manufactured homes or buildings is strictly prohibited.

(f) Record management.

[In all V Zones] FOR ALL NEW CONSTRUCTION AND EVERY SUBSTANTIALLY IMPROVED STRUCTURE IN THE COASTAL HIGH HAZARD AREA, the DEVELOPER MUST SUBMIT AND THE Floodplain Manager [will] MUST [obtain and] maintain ON FILE AN ELEVATION CERTIFICATE THAT CERTIFIES 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] § 3-19 {“RECREATIONAL VEHICLES”} of this subtitle.

(2) In [all V Zones] THE COASTAL HIGH HAZARD AREA, [all] recreational vehicles [placed on a site must be: (i) elevated and anchored as required under applicable State and Federal laws; (ii) on the site for less than 180 consecutive days; or (iii) fully licensed and highway ready] ARE PROHIBITED.

#### Subtitle 4. Development Permits

§ 41. Permit required.

A BUILDING permit issued by the [Department of Housing and Community Development] BUILDING OFFICIAL UNDER THE BALTIMORE CITY BUILDING CODE:

(1) is required for all development [(including, but not limited to, subdivision of land, construction of and/or substantial improvements to buildings and structures, placement of manufactured homes, fill, temporary development, new or replacement infrastructure, or any combination thereof)] in the [floodplain district] FLOODPLAIN DISTRICT; and

(2) [shall] MAY be granted only after necessary permits from the State Water Management Administration and all other applicable Federal, State, and City agencies have been obtained and verified by the Planning Department.

§ 42. Applications.

(a) [Required information] FROM AND TO WHOM SUBMITTED.

The application for the permit [shall] MUST be submitted BY THE OWNER OR AUTHORIZED AGENT OF THE OWNER to the [Department of Housing and Community Development] BUILDING OFFICIAL.

(B) REQUIRED INFORMATION.

[and shall] THE APPLICATION MUST contain, IN ADDITION TO THE INFORMATION OTHERWISE REQUIRED BY THE BUILDING OFFICIAL FOR A BUILDING PERMIT, THE FOLLOWING information [including, but not limited to, the following]:

(1) THE name and address of THE applicant[. The applicant must be the owner or an authorized agent of the owner];

(2) THE name and address of THE owner of land on which development is proposed;

(3) THE name and address of THE contractor;

(4) THE site location;

(5) [(6)] a plan of the site showing the size and location of the proposed development, as well as any existing [buildings or] structures;

(6) [(7)] plans, drawn to scale, [showing] THAT the location, dimensions, and NAVD elevation [in Mean Sea Level/NAVD] of the site in relation to the stream channel, shoreline, and [floodplain district] FLOODPLAIN DISTRICT; [and]

(7) [(8)] A summary description of THE proposed work and estimated cost[.]; AND

(8) [(5)] copies of [the issued permit] ALL NECESSARY PERMITS FROM THE STATE WATER MANAGEMENT ADMINISTRATION AND ALL OTHER APPLICABLE FEDERAL, STATE, AND CITY AGENCIES [or a written statement from the issuing authority indicating that a permit is not required from the U.S. Army Corps of Engineers and the State Water Management Administration];.

(C) [(b)] Conditional information.

(1) Depending on the type of development or structure involved [and for structures to be elevated above the base-flood elevation], THE FLOODPLAIN MANAGER MAY REQUIRE:

(I) THAT AN ELEVATION CERTIFICATE FOR THE PROPOSED DEVELOPMENT BE SUBMITTED WITH THE APPLICATION; AND

(II) THAT the following information [shall also] be shown on plans submitted with the application:

(A) [(i)] the size of [the] EACH proposed [structure(s)] STRUCTURE and [its] THE position on the lot where it is to be constructed;

(B) [(ii)] the elevations of the proposed final grading and lowest floor and the existing ground and base-flood elevation, as certified by a [registered professional engineer,] LICENSED LAND surveyor[, or architect]; and

(C) [(iii)] the method of elevating the proposed structure, including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, [etc.] AND THE LIKE.

(2) These plans [shall] MUST be prepared by a [registered] LICENSED professional engineer or PROFESSIONAL architect.

[(c) Applications for variances.]

[(1) If a variance is being applied for under § 5I(1) of this Division I, certification by a registered professional engineer or architect that the structure will be dry floodproofed to 1 foot above the base flood elevation, in accordance with the specifications of the U.S. Army Corps of Engineers.]

[(2) If a variance is being applied for under § 5I(2), appropriate building modifications shall be constructed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of floodwaters[, including:].

[(i) a minimum of 2 openings on separate sides of the structure having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided;]

[(ii)] the bottom of all openings shall be no higher than 1 foot above grade;]

[(iii) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they

permit the automatic entry and exit of floodwaters.]

(d) Appraisals for existing structures.

If substantial improvement to an existing structure is proposed, an appraisal [shall] MUST be submitted by a professional real estate appraiser of the fair market value of the existing structure, less land value [where a substantial improvement is proposed].

§ 43. Plans for subdivisions or new development.

(a) Plan drawing required.

(1) [All proposals] EVERY PROPOSAL for the subdivision of land [and/or] OR FOR new development [shall] MUST include a plan [drawing showing] THAT SHOWS the location of all existing and proposed public and private utilities, facilities, drainage structure, and road access.

(2) If the base-flood elevation has been determined by the Flood Insurance Study or other reliable source, as provided in § 2-3 {"OFFICIAL MAP"} of this Division I, [those] THAT flood [elevation(s)] ELEVATION [shall] MUST be delineated on the [proposed] plan.

(3) If the proposal involves more than [50] 5 lots or [greater] MORE than 5 acres and the base-flood elevation has not been determined for the land area, the developer [shall] MUST determine the base-flood elevation and delineate that flood elevation on the [proposed] plan. IF HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSES ARE SUBMITTED, THEY MUST BE CERTIFIED IN ACCORDANCE WITH THE REQUIREMENTS OF THE MARYLAND DEPARTMENT OF THE ENVIRONMENT AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

(b) Certification and review.

All plans [shall] MUST be certified by a [registered] LICENSED professional engineer OR PROFESSIONAL ARCHITECT and [shall be] reviewed by the Department of [Public Works] GENERAL SERVICES to assure that:

(1) all [such] proposals are consistent with the need to minimize flood damage;

(2) all necessary permits have been received from the State Water Management Administration and appropriate Federal agencies;

(3) all public and private utilities and facilities (including sewer, water, telephone, electric, gas, etc.) are located, constructed, and floodproofed to minimize or eliminate flood damage;

(4) adequate drainage is provided to reduce exposure to flood hazards;

(5) during a base flood, at least 1 access point [shall provide] PROVIDES safe vehicular access to and egress from the subdivision or new development; and

(6) adequate measures have been taken to minimize adverse environmental impacts of the proposed development.

§ 44. Conformance to codes required.

A permit [shall] MAY be granted only after it has been determined that the proposed work will be in conformance with the requirements of this and all other applicable [codes and ordinances] LAWS.

§ 45. Alteration of watercourse.

(a) Notices required.

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

(2) Copies of these notifications [shall] MUST then be forwarded to the Federal Emergency Management Agency, Federal Insurance Administration.

(b) Assurances of flood-carrying capacity.

In addition, the developer [shall] MUST assure the City, in writing, that the flood-carrying capacity within the altered or relocated portion of the watercourse in question will be [maintained] PRESERVED.

§ 46. Changes to application, permit, etc.

After the issuance of a building permit by the [Department of Housing and Community Development] BUILDING OFFICIAL, no changes of any kind [shall] MAY be made to the application, permit, or any of the plans, specifications, or other documents submitted with the application without the written consent or approval of the [Department of Housing and Community Development] BUILDING OFFICIAL.

§ 47. Inspections; permit revocation.

(a) Inspections by City and State.

(1) During the construction period, the [Department of Housing and Community Development] BUILDING OFFICIAL [shall] MUST 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] ARE also [be] subject to inspection by the State Water Management Administration.

(b) Revocation of permit.

If the [Department of Housing and Community Development] BUILDING OFFICIAL determines that the work is not in compliance with the permit and all applicable laws [and ordinances,] or that there has been a false statement or misrepresentation by the applicant, the [Department of Housing and Community Development] BUILDING OFFICIAL, [upon] ON instruction from the PLANNING Department [of Planning], may revoke the permit and report that fact to the State Water Management Administration.

§ 48. Occupancy permit.

[(a) Required.]

An occupancy permit ISSUED BY THE BUILDING OFFICIAL:

(1) [shall be] IS required for all NEW construction and substantial improvements in the [floodplain district] FLOODPLAIN DISTRICT; and

(2) [shall] MAY not be issued until the [Department of Housing and Community Development] BUILDING OFFICIAL has been provided with [a completed] AN elevation certificate[, prepared by a registered land surveyor or professional engineer,] certifying] THAT CERTIFIES the “asbuilt” [condition] ELEVATIONS of the [subject] NEW construction OR SUBSTANTIAL IMPROVEMENTS.

[(b) Data to be used.]

[The datum used on elevation certificates [shall] MUST be Mean Sea Level as established by the North American Vertical Datum of 1988.]

§ 49. Record of permit actions.

(a) Required.

A record of all permit actions in the [floodplain district] FLOODPLAIN DISTRICT, including all permits from applicable Federal, State, and City agencies, [shall] MUST be maintained by the PLANNING Department [of Planning] and [shall] MUST be made available on the request of the Federal Emergency Management Agency or the State Water Management Administration during periodic assessments of Baltimore City’s participation in the National Flood Insurance Program.

(b) Contents.

[Such] THIS record [shall] MUST include, at a minimum[,]:

- (1) the date the permit was issued;
- (2) the “asbuilt” lowest floor elevation of all new construction or substantial improvement;
- (3) [(4)] a copy of [the completed] ALL OTHER elevation [certificate] CERTIFICATES SUBMITTED UNDER THIS DIVISION I; [and]
- (4) [(3)] the issuance date of any occupancy permit; AND
- (5) any map amendments issued by the Federal Emergency Management Agency.

Subtitle 5. Floodplain Variances

§ 5. In general.

Applications for variances may be considered by the PLANNING Department [of Planning], after a review by the City agencies responsible for stormwater management and erosion control, for THE FOLLOWING:

[(1) new construction of or substantial improvements to nonresidential structures or portions thereof which will be floodproofed in a watertight fashion;]

[(2) new construction of or substantial improvements to detached and attached garages which are used solely for storage or parking of vehicles and designed to automatically equalize hydrostatic pressures on walls by allowing for the entry and exit of floodwater and meet the requirements of § 313;]

(1) [(3)] functionally dependent uses [which cannot perform their intended purpose unless they are located or carried out in close proximity to water. A functionally dependent use includes only docking facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities];

(2) [(4)] reconstruction, rehabilitation, or restoration of HISTORIC structures [listed in the National Register of Historic Places, or State Inventory of Historic Places, or the City Landmark List] AS PROVIDED IN § 5-8 {"HISTORIC STRUCTURES"} OF THIS SUBTITLE;

(3) [(5)] all necessary City utilities IN THE FLOODWAY OR THE COASTAL HIGH HAZARD AREA; AND

(4) SUBSTANTIAL IMPROVEMENTS TO AN EXISTING STRUCTURE IN THE FLOODWAY.

§ 52. Prohibited variances.

[Variances shall] A VARIANCE MAY not be granted for:

(1) the placement of fill in the [floodway] FLOODWAY or the Coastal High Hazard Area unless approved by appropriate [federal and state] FEDERAL AND STATE agencies;

(2) new construction of [or substantial improvement to] any PRINCIPAL structure [located] in the [floodway] FLOODWAY or the Coastal High Hazard Area; OR

(3) manufactured homes or buildings within the [floodway] FLOODWAY and Coastal High Hazard Area[; or]

[(4) any development within the floodway].

[§ 53] Conditions.]

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

(1) a demonstration of good and sufficient cause;

(2) for new construction or substantial improvements in category (a)(3) above, a determination that failure to grant the variance would result in exceptional hardship to the applicant; economic hardship shall not be considered exceptional;

(3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

(4) the stipulation that all residential structures will have the lowest floor elevated to the greatest extent possible with respect to the base flood elevation; and

(5) favorable comments from the State Coordinating Office of the National Flood Insurance Program and

compliance with §§ 52 and 54 of this subtitle.]

[§ 54 Required determination.]

[Variances shall only be granted upon a determination]

[(1) that the variance is the minimum necessary to afford relief, considering the flood hazard; and]

[(2) that local public funds may not be available to mitigate the results of such variance.]

### § 5-3. CONSIDERATIONS; FINDINGS OF FACT.

#### (A) REQUEST FOR MDE COMMENTS.

THE FLOODPLAIN MANAGER MUST:

(1) REQUEST THE NFIP STATE COORDINATOR, MARYLAND DEPARTMENT OF THE ENVIRONMENT, TO COMMENT ON VARIANCE APPLICATIONS; AND

(2) SUBMIT THOSE COMMENTS, WHEN RECEIVED, TO THE PLANNING DEPARTMENT.

#### (B) FACTORS TO CONSIDER - IN GENERAL.

IN CONSIDERING A VARIANCE APPLICATION, THE PLANNING DEPARTMENT MUST CONSIDER AND MAKE FINDINGS OF FACT ON ALL EVALUATIONS, ALL RELEVANT FACTORS, AND ALL REQUIREMENTS SPECIFIED IN THIS DIVISION I.

#### (C) FACTORS TO CONSIDER - ADDITIONAL FACTORS.

IN CONSIDERING A VARIANCE APPLICATION, THE PLANNING DEPARTMENT MUST ALSO CONSIDER AND MAKE FINDINGS OF FACT ON THE FOLLOWING ADDITIONAL FACTORS:

(1) THE DANGER THAT MATERIALS MAY BE SWEEPED ONTO OTHER LANDS TO THE INJURY OF OTHERS;

(2) THE DANGER TO LIFE AND PROPERTY DUE TO FLOODING OR EROSION DAMAGE;

(3) THE SUSCEPTIBILITY OF THE PROPOSED DEVELOPMENT AND ITS CONTENTS TO FLOOD DAMAGE AND THE EFFECT OF THAT DAMAGE ON THE INDIVIDUAL OWNER;

(4) THE IMPORTANCE OF THE SERVICES TO THE COMMUNITY PROVIDED BY THE PROPOSED DEVELOPMENT;

(5) THE AVAILABILITY OF ALTERNATIVE LOCATIONS FOR THE PROPOSED USE THAT ARE NOT SUBJECT TO OR ARE SUBJECT TO LESS FLOODING OR EROSION DAMAGE;

(6) THE NEED OF A WATERFRONT LOCATION FOR THE PROPOSED USE AND WHETHER THE PROPOSED USE IS A FUNCTIONALLY DEPENDENT USE;

(7) THE COMPATIBILITY OF THE PROPOSED USE WITH EXISTING AND ANTICIPATED

DEVELOPMENT;

(8) THE RELATIONSHIP OF THE PROPOSED USE TO THE COMPREHENSIVE PLAN FOR THAT AREA;

(9) THE SAFETY OF ACCESS TO THE PROPERTY IN TIMES OF FLOOD FOR PASSENGER VEHICLES AND EMERGENCY VEHICLES;

(10) EXPECTED HEIGHTS, VELOCITY, DURATION, RATE OF RISE, AND SEDIMENT TRANSPORT OF FLOODWATERS AND THE EFFECTS OF WAVE ACTION, IF APPLICABLE, EXPECTED AT THE SITE;

(11) THE COSTS OF PROVIDING GOVERNMENT SERVICES DURING AND AFTER FLOOD CONDITIONS, INCLUDING MAINTENANCE AND REPAIR OF PUBLIC UTILITIES AND FACILITIES, SUCH AS STREETS, BRIDGES, AND SEWER, GAS, ELECTRICAL, AND WATER SYSTEMS; AND

(12) THE COMMENTS PROVIDED BY NFIP STATE COORDINATOR.

§ 5-4. LIMITATIONS ON GRANTING VARIANCES.

THE PLANNING DEPARTMENT MAY MAKE AN AFFIRMATIVE DECISION ON A VARIANCE REQUEST ONLY ON:

(1) A SHOWING OF GOOD AND SUFFICIENT CAUSE;

(2) A DETERMINATION THAT FAILURE TO GRANT THE VARIANCE WOULD RESULT IN EXCEPTIONAL HARDSHIP DUE TO THE PHYSICAL CHARACTERISTICS OF THE PROPERTY (FOR WHICH DETERMINATION, INCREASED COST OR INCONVENIENCE OF MEETING THE REQUIREMENTS OF THIS DIVISION I DOES NOT CONSTITUTE AN “EXCEPTIONAL HARDSHIP”);

(3) A DETERMINATION THAT THE GRANTING OF A VARIANCE FOR DEVELOPMENT WITHIN A DESIGNATED FLOODWAY, OR WITHIN A SPECIAL FLOOD HAZARD AREA WITH BASE-FLOOD ELEVATIONS BUT NO DESIGNATED FLOODWAY, WILL NOT RESULT IN INCREASED FLOOD HEIGHTS BEYOND THAT WHICH IS ALLOWED BY THIS DIVISION I;

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

(5) A DETERMINATION THAT THE STRUCTURE OR OTHER DEVELOPMENT IS PROTECTED BY METHODS TO MINIMIZE FLOOD DAMAGE; AND

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

§ 55. Applications.

(a) In general.

The application for a variance [shall] MUST be submitted to the PLANNING Department [of Planning] and, TO



THE GREATEST EXTENT POSSIBLE, [shall] MUST comply with the provisions [and requirements] of this Division I.

(b) Notices to applicant.

(1) The PLANNING Department [of Planning shall] MUST notify the applicant, in writing:

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

(ii) that construction below the level of the base flood increases risks to life and property.

(2) [Such] THIS notification [shall] MUST be maintained as part of the record [of all variance actions as] required in § 57[below] {“RECORD OF VARIANCE ACTIONS”} OF THIS SUBTITLE.

§ 56. Agreement not to convert [storage] ACCESSORY structures[, etc].

The [applicant/owner] OWNER of ANY [storage structures, garages, and/or] accessory [structures] STRUCTURE for which a variance is granted [shall] MUST sign an agreement that [such structures shall] THE STRUCTURE WILL never be converted to [habitable space] ANY USE OTHER THAN FOR PARKING VEHICLES OR LIMITED STORAGE.

§ 57. Record of variance actions.

A record of all variance actions, including THE justification for their issuance, MUST BE:

(1) [shall be] maintained by the PLANNING Department [of Planning];

(2) [shall be] included in the biannual report submitted to the Federal Insurance Administrator; and

(3) [shall be] available [upon] ON request [by] TO the Federal Emergency Management Agency or its authorized agent during periodic assessments of Baltimore City’s participation in the National Flood Insurance Program.

§ 58. Historic structures.

[Variances] A VARIANCE may be issued for the reconstruction, rehabilitation, or restoration of [structures listed in the National Register of Historic Places, or State Historic Places, or the City Landmark List] AN HISTORIC STRUCTURE[, without regard to the procedures set forth herein, provided that] ONLY IF:

(1) [such] THE activity does not cause an increase in the elevation of the [100year] BASE flood [as established and adopted by this Division I];

(2) ALL CONSTRUCTION EFFORTS ARE MADE TO MEET THE INTENT OF THE PROVISIONS OF THIS DIVISION I THAT DEAL WITH THE ELEVATION OF ELECTRIC, PLUMBING, MECHANICAL, AND OTHER FACILITY AND UTILITY SYSTEMS;

(3) ALL MATERIALS BELOW THE FLOOD-PROTECTION ELEVATION MEET THE REQUIREMENTS OF THIS DIVISION I FOR DRY OR WET FLOODPROOFING; AND

(4) THE RECONSTRUCTION, REHABILITATION, RESTORATION, OR OTHER ACTIVITY WILL NOT PRECLUDE THE STRUCTURE'S CONTINUED DESIGNATION AS AN HISTORIC STRUCTURE.

§ 59. Notice on deed.

Notice of the flood hazard and the variance action [shall] MUST be placed on the deed [conveying] THAT CONVEYS title to land on which construction has occurred [hereunder] UNDER THIS SUBTITLE.

#### Subtitle 6. Administration

§ 61. Municipal nonliability.

The granting of a permit or approval is not a representation, guarantee, or warranty of any kind and [shall neither] DOES NOT create [nor] OR impose any liability [upon] ON the City, its officials, employees, or agents.

§ 62. Administrative fees.

(a) City may impose.

The City may impose additional application fees commensurate with those costs incurred in the processing, review, and evaluation of permit applications for development in the [floodplain district] FLOODPLAIN DISTRICT.

(b) Costs included.

[Such] THE costs COVERED BY THE FEES may include[, but are not limited to]:

- (1) consultant fees for certification of asbuilt condition of structures;
- (2) [floodplain district] FLOODPLAIN DISTRICT and [subdistrict] SUBDISTRICT delineations;
- (3) environmental impact characterizations;
- (4) staff assignments; and
- (5) other related costs.

#### Subtitle 7. Enforcement

§ 71. [Noncomplying structures] COMPLIANCE REQUIRED.

(A) IN GENERAL.

NO STRUCTURE OR OTHER DEVELOPMENT MAY BE LOCATED, ERECTED, CONSTRUCTED, RECONSTRUCTED, IMPROVED, REPAIRED, EXTENDED, CONVERTED, ENLARGED, OR ALTERED EXCEPT IN FULL COMPLIANCE WITH THIS DIVISION I AND ALL OTHER APPLICABLE FEDERAL, STATE, AND CITY LAWS, RULES, AND REGULATIONS.

(b) Noncompliance presumed without documentation.

A [building,] structure[,] or other development without the required design certifications, elevation [certificate] CERTIFICATES, or other evidence of compliance is presumed to be noncompliant with and in violation of this Division I until the required documentation is provided.

(C) [(a) Abatable] NONCOMPLIANT STRUCTURES as public nuisance.

Any [building,] structure[,] or other development [constructed, reconstructed, enlarged, altered, or relocated in noncompliance with] THAT IS LOCATED, ERECTED, CONSTRUCTED, RECONSTRUCTED, IMPROVED, REPAIRED, EXTENDED, CONVERTED, ENLARGED, OR ALTERED IN VIOLATION OF this Division I OR ANY OTHER APPLICABLE FEDERAL, STATE, AND CITY LAW, RULE, OR REGULATION is declared to be a public nuisance and abatable as such.

[§ 72] Notice to Federal agencies.]

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

[§ 73] Denial of flood insurance.]

[New or renewal National Flood Insurance shall be denied for any structure remaining in violation or situated on property in violation of this Division I.]

§ 7-2. {RESERVED}

§ 7-3. VIOLATION NOTICE; STOP WORK ORDER.

(A) IN GENERAL.

IF THE FLOODPLAIN MANAGER FINDS THAT ANY DEVELOPMENT OR PERSON HAS FAILED TO COMPLY WITH OR OTHERWISE HAS VIOLATED ANY PROVISION OF THIS DIVISION I, ANY PROVISION OF A RULE OR REGULATION ADOPTED UNDER THIS DIVISION I, OR ANY TERM OR CONDITION OF A PERMIT ISSUED UNDER THIS DIVISION I, THE FLOODPLAIN MANAGER MAY ISSUE A VIOLATION NOTICE AND, FOR ONGOING ACTIVITIES, A STOP WORK ORDER TO:

- (1) THE PERSON RESPONSIBLE FOR THE VIOLATION OR THAT PERSON'S AUTHORIZED AGENT;
- (2) THE DEVELOPER OR OWNER OF THE DEVELOPMENT OR THAT PERSON'S AUTHORIZED AGENT; AND
- (3) ON-SITE PERSONNEL.

(B) SERVICE.

THE VIOLATION NOTICE MUST BE SERVED:

- (1) IN PERSON;
- (2) BY CERTIFIED OR REGISTERED MAIL; OR

(3) IF THE IDENTITY OR WHEREABOUTS OF THE PERSON RESPONSIBLE, DEVELOPER, OR OWNER IS UNKNOWN, BY POSTING A COPY OF THE NOTICE IN A CONSPICUOUS PLACE IN OR ON THE PROPERTY.

(C) CONTENTS.

THE VIOLATION NOTICE MUST:

- (1) DESCRIBE THE NATURE OF THE VIOLATION;
- (2) DESCRIBE THE REMEDIAL ACTION NEEDED TO CORRECT THE VIOLATION; AND
- (3) SPECIFY A REASONABLE PERIOD OF TIME WITHIN WHICH TO COMPLETE THE REMEDIAL ACTION.

§ 7-4. ENFORCEMENT OF NOTICE OR ORDER.

(A) IN GENERAL.

IF A VIOLATION IS NOT PROMPTLY DISCONTINUED OR ABATED, OR IF THE VIOLATION NOTICE OR ORDER IS NOT COMPLIED WITH PROMPTLY, THE FLOODPLAIN MANAGER MAY INSTITUTE OR CAUSE TO BE INSTITUTED ANY APPROPRIATE LEGAL PROCEEDING.

(B) TYPES OF PROCEEDINGS.

ENFORCEMENT PROCEEDINGS MAY INCLUDE:

- (1) INJUNCTIVE OR OTHER EQUITY PROCEEDINGS;
- (2) CRIMINAL PROSECUTION, INCLUDING A PROSECUTION INITIATED BY A PREPAYABLE CRIMINAL CITATION UNDER CITY CODE ARTICLE 19, § 71-2 {"PREPAYABLE CRIMINAL CITATIONS"}; AND
- (3) ADMINISTRATIVE PROCEEDINGS, INCLUDING ONE INITIATED BY A PREPAYABLE ENVIRONMENTAL CITATION UNDER CITY CODE ARTICLE 1, § 40-14 {"VIOLATIONS TO WHICH SUBTITLE APPLIES"}.

(C) REMEDIES NOT EXCLUSIVE.

IN PURSUING A VIOLATION, THE FLOODPLAIN MANAGER MAY USE ANY 1 OR MORE AVAILABLE REMEDIES OR ENFORCEMENT ACTIONS. THE INITIATION OF ANY 1 REMEDY OR ENFORCEMENT ACTION DOES NOT PRECLUDE PURSUING ANY OTHER REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW. NEITHER DAMAGES, IRREPARABLE INJURY, NOR THE LACK OF AN ADEQUATE REMEDY AT LAW IS A PREREQUISITE TO ENFORCEMENT IN EQUITY.

## SUBTITLE 8. ADMINISTRATIVE AND JUDICIAL REVIEW

§ 8-1. ADMINISTRATIVE REVIEW - IN GENERAL.

(A) RIGHT OF APPEAL.

ANY PERSON AGGRIEVED BY THE ACTION OF THE FLOODPLAIN MANAGER OR OTHER OFFICIAL CHARGED WITH THE ENFORCEMENT OF THIS DIVISION I, WHETHER AS THE RESULT OF THE DISAPPROVAL OF AN APPLICATION, THE ISSUANCE OF A VIOLATION NOTICE, AN ALLEGED FAILURE TO PROPERLY ENFORCE THIS DIVISION I, OR OTHERWISE, MAY APPEAL THE ACTION TO THE PLANNING DIRECTOR.

(B) WHEN AND HOW TAKEN.

THE APPEAL MUST:

- (1) be in writing;
- (1)
- (2) state clearly the grounds on which the appeal is based; and
- (3) be filed with the Director within 10 days of the action in dispute.

§ 8-2. Administrative review - Delegation of hearing authority.

(a) In general.

Hearings may be conducted by:

- (1) the Planning Director; or
- (2) a hearing officer designated by the Planning Director.

(b) Scope of delegation.

The Director may delegate to a hearing officer the authority to issue:

- (1) proposed or final findings of fact;
- (2) proposed or final conclusions of law;
- (3) proposed or final findings of fact and conclusions of law;
- (4) proposed or final orders; or
- (5) the final administrative decision of the Department.

§ 8-3. Administrative review - Conduct of hearing.

(a) Notice.

- (1) The Planning Director must provide all parties reasonable written notice of the hearing.
- (2) The notice must state:

- (i) the date, time, place, and nature of the hearing;
- (ii) the right of a party to be represented, at the party's own expense, by an attorney or, if permitted by law, other representative;
- (iii) the right of a party to call witnesses and submit documents or other evidence under § 8-4 {"Administrative review - Evidence"} of this subtitle; and
- (iv) that failure to appear for the scheduled hearing may result in an adverse action against the party.

(b) Hearings to be open and informal.

Except as otherwise provided by law or by rule or regulation of the Planning Director, all hearings must be:

- (1) open to the public; and
- (2) conducted in an orderly but informal manner.

§ 8-4. Administrative review - Evidence.

(a) In general.

Except as otherwise provided by this section or by rule or regulation of the Planning Director, formal rules of evidence and trial procedures do not apply.

(b) Right to submit.

On a genuine issue of fact, a party is entitled to:

- (1) call witnesses;
- (2) offer evidence, including rebuttal evidence;
- (3) cross-examine any witness that another party or the Planning Director calls; and
- (4) present summation and argument.

(c) Scope.

The Planning Director or hearing officer:

- (1) may admit probative evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs and give probative effect to that evidence;
- (2) may not exclude evidence solely on the basis that it is hearsay;
- (3) must give effect to a privilege recognized by law;

- (4) may receive documentary evidence in the form of copies or excerpts or through incorporation by reference;
- (5) may take official notice of a fact that is judicially noticeable or that is general, technical, or scientific and within the specialized knowledge of the Planning Department; and
- (6) may exclude evidence that is:
  - (i) incompetent;
  - (ii) irrelevant;
  - (iii) immaterial; or
  - (iv) unduly repetitious.

§ 8-5. Administrative review - Final decisions.

- (a) Form and contents.

A final decision must:

- (1) be in writing; and
- (2) contain separate statements of:
  - (i) the findings of fact;
  - (ii) the conclusions of law; and
  - (iii) the decision or order.

- (b) Distribution.

A copy of the final decision must be mailed or delivered to each party or that party's attorney of record.

§ 8-6. {Reserved}

§ 8-7. Judicial and appellate review.

- (a) Judicial review.

A party aggrieved by a final decision of the Planning Department may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

- (b) Appellate review.

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

Subtitle 9. Penalties.

§ 9-1. [§ 75: Penalties. (a) In general.] IN GENERAL.

Any person who violates or fails to comply with any provision of this Division I, any provision of a rule or regulation adopted under this Division I, or any term or condition of a permit issued under this Division I is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each violation.

§ 9-2. [(b) Each day a separate offense.] EACH DAY A SEPARATE OFFENSE.

(A) IN GENERAL.

[(1)] Every day that a violation continues is a separate offense.

(B) PRIMA FACIE PROOF OF CONTINUATION.

[(2)] Proof that a violation exists on any date [following] THAT FOLLOWS the issuance of a VIOLATION notice [of violation] constitutes prima facie evidence that the violation has continued throughout the intervening period of time.

§ 9-2. [(c) Penalty not substitute for correcting noncompliance.] PENALTY NO SUBSTITUTE FOR REMEDIATION.

(A) IN GENERAL.

[(1)] The imposition of a fine or penalty for a violation or noncompliance does not excuse the violation or noncompliance nor permit it to continue.

(B) REMEDIATION STILL REQUIRED.

[(2)] All offenders are required to correct or remedy the violation or noncompliance within a reasonable time.

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40I4. Violations to which subtitle applies.

(e) Provisions and penalties enumerated.

(.5A) Article 7. Natural Resources

DIVISION I. FLOODPLAIN MANAGEMENT

\$500

Article 19. Police Ordinances

Subtitle 71. Special Enforcement Officers



§ 712l Prepayable criminal citations.

par (i) Enumeration of code violations and penalties.

(.5) Article 7. Natural Resources

DIVISION I. FLOODPLAIN MANAGEMENT

\$500

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

SECTION 3. AND BE IT FURTHER ORDAINED, That:

(a) this Ordinance applies to all development for which a permit application is filed (or required to be filed) on or after the effective date of this Ordinance;

(b) except as expressly provided to the contrary in this Ordinance, any transaction, case, proceeding, investigation, or other matter validly begun before the effective date of this Ordinance and affected by or flowing from any law amended or repealed by this Ordinance, and any right, duty, or interest flowing from any ordinance amended or repealed by this Ordinance, remains valid after the effective date of this Ordinance and may be terminated, completed, enforced, or prosecuted as required or permitted by the prior law as though the amendment or repeal has not occurred; and

(c) if any change in nomenclature involves a change in name or designation of any City agency or official, the successor agency or official has all the powers and obligations granted the predecessor agency or official.

SECTION 4. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on April 2, 2014.

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