

## ***DIVISION 4. FLOODPLAIN ORDINANCE.***

### **Sec. 32-202. General Provisions: Purpose, Scope, Application.**

(a) **General Provisions.**

- (1) **Findings.** The Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Prince George's County, Maryland. Special flood hazard areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. Structures that are inadequately elevated, improperly flood proofed, or otherwise unprotected from flood damage also contribute to flood losses.

Prince George's County, Maryland, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on August 4, 1972. As of August 4, 1972, also the initial effective date of the Prince George's County Flood Insurance Rate Map, all development and new construction, as defined herein, are to be compliant with these regulations.

- (2) **Statutory Authorization.** The Maryland General Assembly, in Md. Code Ann., Land Use Article, Title 4, has established as policy of the State that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that the planning and zoning controls shall be implemented by local government in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources. Therefore, the County Council of Prince George's County does hereby adopt the following floodplain management regulations.

(b) **Statement of Purpose.** The purpose of this Division is to promote the public health, safety and general welfare, and to:

- (1) protect human life, and health and welfare;
- (2) minimize public and private property damage;
- (3) encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (4) protect potential purchasers from unwittingly buying lands and structures which are unsuited for certain purposes because of flood hazards;
- (5) minimize flooding of water supply and sanitary sewage disposal systems;
- (6) maintain natural drainage;
- (7) reduce financial burdens imposed on the community, its governmental units, and its residents by discouraging unwise design and construction of development in areas subject to flooding;
- (8) increase public awareness of potential flooding;
- (9) protect the biological and environmental quality of the watersheds or portions thereof located in Prince George's County, Maryland;
- (10) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

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- (11) minimize prolonged business interruptions;
  - (12) minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
  - (13) reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;
  - (14) minimize the impact of development on adjacent properties within and near flood-prone areas;
  - (15) provide that flood storage and conveyance functions of floodplains are maintained;
  - (16) minimize the impact of development on the natural and beneficial functions of floodplains;
  - (17) prevent floodplains uses that are either hazardous or environmentally incompatible;
  - (18) meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22; and
  - (19) provide a unified comprehensive approach to floodplain management which addresses requirements of Federal and State programs concerned with floodplain management, including without limitations: the National Flood Insurance Program and the President's Executive Order 13690 of January 30, 2015, on floodplain management; the State Waterway Construction Permit Program, State Wetlands Permit Program, the U.S. Army Corps of Engineer's Section 10 and Section 404 permit programs; and the State Coastal Zone Management Program.
- (c) **Areas to Which These Regulations Apply.** The provisions of this Division shall apply to all special flood hazard areas within the jurisdiction of Prince George's County, Maryland, except for that area of the County within the boundaries of the City of Laurel. The provisions of this Division shall not apply to Federal and state-owned properties.
- (d) **Basis for Establishing Special Flood Hazard Areas and Base Flood Elevations (BFEs).**
- (1) For the purposes of these regulations, the minimum basis for establishing special flood hazard areas and base flood elevations is the Flood Insurance Study for Prince George's County, Maryland and Incorporated Areas (except within the boundaries of the City of Laurel) dated September 16, 2016, or the most recent revision thereof, and the accompanying Flood Insurance Rate Map(s) and all subsequent amendments and revisions to the FIRMs. The FIS and FIRMs are retained on file and available to the public at the Prince George's County website, libraries and government office(s).
  - (2) Where field surveyed topography or digital topography indicates that ground elevations are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard on the FIRM, the area shall be considered as a special flood hazard area.
  - (3) To establish base flood elevations in special flood hazard areas or floodways that do not have such elevations shown on the FIRM, the Floodplain Administrator or designee may provide the best available data for base flood elevations, may require the applicant to obtain available information from Federal, State, or other sources, or may require the applicant to establish special flood hazard areas and base flood elevations as set forth in these regulations.
- (e) **Abrogation and Greater Restrictions.** These regulations are not intended to repeal or abrogate any existing regulations and ordinances, including subdivision regulations, zoning ordinances, building codes, or any existing easements, covenants, or deed restrictions. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.
- (f) **Interpretation.** In the interpretation and application of these regulations, all provisions shall be:
- (1) Considered as minimum requirements;

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- (2) Liberally construed in favor of the governing body; and
  - (3) Deemed neither to limit nor repeal any other powers granted under the laws of Maryland.
- (g) **Warning and Disclaimer of Liability.** The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the special flood hazard areas or uses that are permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of Prince George's County, any officer or employee thereof, the Maryland Department of the Environment (MDE) or the Federal Emergency Management Agency (FEMA), for any flood damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.
- (h) **Severability.** Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.
- (CB-15-2011; CB-38-2016)

### **Sec. 32-203. Definitions.**

- (a) The following terms shall have the meanings indicated:
- (1) **Accessory Structure** - A detached structure on the same parcel of property as the principal structure, the use of which is incidental to the principal structure. (Examples would be a shed or detached garage, etc.). For the purposes of these regulations, an accessory structure shall be used solely for parking of vehicles and limited storage.
  - (2) **Agreement to Submit an Elevations Certificate** - A form on which the applicant for a permit to construct a building or structure, to construct certain horizontal additions, to place or replace a manufactured home, to substantially improve a building, structure, or manufactured home, agrees to have an Elevation Certificate prepared by a licensed professional engineer or licensed professional surveyor, as specified by the Floodplain Administrator or designee, and to submit the certificate:
    - (A) Upon placement of the lowest floor and prior to further vertical construction; and
    - (B) Prior to the final inspection and issuance of the Certificate of Occupancy.
  - (3) **Alteration of a Watercourse** - For the purpose of these regulations, alteration of a watercourse includes, but is not limited to widening, deepening or relocating the channel, including excavation or filling of the channel. Alteration of a watercourse does not include construction of a road, bridge, culvert, dam, or in-stream pond unless the channel is proposed to be realigned or relocated as part of such construction.
  - (4) **Area of Shallow Flooding** - A designated Zone AO on the Flood Insurance Rate Map with a 1-percent annual chance or greater of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident; such flooding is characterized by ponding or sheet flow.
  - (5) **Base Building** - The building to which an addition is being added. This term is used in provisions relating to additions.
  - (6) **Base Flood (or 100-year Flood)** - The flood that has a one percent (1%) chance of being equaled or exceeded in any given year; the base flood also is referred to as the 1-percent annual chance (100-year) flood.

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- (7) **Base Flood Elevation** - The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map and any approved floodplain study. In areas of shallow flooding, the base flood elevation is the highest adjacent natural grade elevation plus the depth number specified in feet on the Flood Insurance Rate Map, or at least four (4) feet if the depth number is not specified.
  - (8) **Basement** - Any area of a building having its floor subgrade (below ground level) on all sides.
  - (9) **Building Code(s)** - Subtitle 4, the Prince George's County Building Code.
  - (10) **Coastal A Zone** - An area within a special flood hazard area, landward of a coastal high hazard area (V Zone) or landward of a shoreline without a mapped coastal high hazard area, in which the principal source(s) of flooding are astronomical tides and storm surges, and in which, during base flood conditions, the potential exists for breaking waves with heights greater than or equal to 1.5 feet. The inland limit of the Coastal A Zone may be delineated on FIRMs as the Limit of Moderate Wave Action (LiMWA).
  - (11) **Coastal High Hazard Area** - An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms. Coastal high hazard areas also are referred to as "V Zones" and are designated on FIRMs as zones VE or V1-30.
  - (12) **Community** - A political subdivision of the State of Maryland (county, city or town) that has authority to adopt and enforce floodplain management regulations within its jurisdictional boundaries.
  - (13) **County Floodplain or the Floodplain** - Includes those areas within the County that will be inundated by the one percent annual chance base flood, as determined by FEMA or the County (see definition of "Flood or Flooding").
  - (14) **Critical and Essential Facilities** - Buildings and other structures that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes. Critical and essential facilities typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.
  - (15) **Declaration of Land Restriction (Nonconversion Agreement)** - A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.
  - (16) **Department** - The Prince George's County Department of Permitting, Inspections, and Enforcement (DPiE).
  - (17) **Development** - Any manmade change to improved or unimproved real estate including, but not limited to, any construction, reconstruction, modification, extension or expansion of buildings or other structures, placement of manufactured homes, placement of fill or concrete, construction of new or replacement infrastructure, dumping, mining, dredging, grading, paving, drilling operations, storage of materials, land excavation, land clearing, land improvement, landfill operation, or any combination thereof.
  - (18) **Director** - The Director of the Prince George's County Department of Permitting, Inspections, and Enforcement (DPiE) or the Director's designee.
  - (19) **Discharge** - A flow rate of stormwater runoff. For non-FEMA flood studies, discharge is based on ultimate land use conditions.

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- (20) **Elevation Certificate** - FEMA form on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a licensed professional land surveyor or a licensed professional engineer, as specified by the Floodplain Administrator. When used to document the height above grade of buildings in FEMA special flood hazard areas, for which base flood elevation data are not available, the Elevation Certificate shall be completed in accordance with the instructions issued by FEMA. The certificate verifies the as-built elevation of a structure using Mean Sea Level as established by the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, and the WSSC Datum. An elevation certificate shall identify the datum of the site topography.
- (21) **Enclosure Below the Lowest Floor** - An unfinished or flood-resistant enclosure that is located below an elevated building, is surrounded by walls on all sides, and is usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations. Also see "Lowest Floor."
- (22) **Existing Condition Floodplain** - The 1-percent annual chance (100-year) floodplain conditions before the proposed development is started. For non-FEMA floodplain studies, this is based on ultimate development hydrology and existing channel conditions.
- (23) **Federal Emergency Management Agency (FEMA)** - The Federal agency with the overall responsibility for administering the National Flood Insurance Program (NFIP).
- (24) **FEMA Floodplain** - The flood hazard area as shown on FEMA maps, which is based on existing land use conditions.
- (25) **FEMA Maps** - The Flood Insurance Rate Maps (FIRM) and any subsequent amendments or revisions.
- (26) **Flood (or Flooding)** - A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the rapid and unusual accumulation of runoff of surface water from any source.
- (27) **Flood Damage-Resistant Materials** - Any construction material that is capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.
- (28) **Flood Insurance Rate Map (FIRM)** - An official map on which the Federal Emergency Management Agency delineated the minimum special flood hazard areas to indicate the magnitude and nature of flood hazards, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMs that have been prepared in digital format or converted to digital format are referred to as Digital FIRMs (DFIRM).
- (29) **Flood Insurance Study (FIS)** - The official report in which the Federal Emergency Management Agency has provided engineering methodology to compute flood profiles, floodway information, and the water surface elevations.
- (30) **Flood Opening** - A flood opening (non-engineered) is an opening that is used to meet the prescriptive requirement of one (1) square inch of net open area for every square foot of enclosed area. An engineered flood opening is an opening that is designed and certified by a licensed professional engineer or licensed architect as meeting certain performance characteristics, including providing automatic entry and exit of floodwaters; this certification requirement may be satisfied by an individual certification for a specific structure.
- (31) **Floodplain** means in general:
- (A) Relatively flat or low land area adjoining a river, stream or other watercourse which is subject to partial or complete inundation;

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- (B) Area subject to the unusual and rapid accumulation or runoff of surface waters from any source;  
or
- (C) Area subject to tidal surges or extreme tides.
- (32) **Floodplain Buffer** - An area extending beyond and paralleling the County floodplain to maintain the stability of steep slopes, to preserve the environmental integrity of stream or wetland habitats associated with a floodplain, and to otherwise protect and maintain the public safety.
- (33) **Flood proofing (or Flood Proofed)** - Any combination of structural and nonstructural additions, changes or adjustments of properties and structures that reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings, such that the buildings or structures are watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (34) **Flood proofing Certificate** - A form supplied by the Federal Emergency Management Agency that is to be completed, signed and sealed by a licensed professional engineer or licensed architect to certify that the design of flood proofing and proposed methods of construction are in accordance with the applicable requirements to the Flood Protection Elevation.
- (35) **Flood Protection Elevation (FPE)** - The base flood elevation plus freeboard. Two (2) feet of freeboard are required for FEMA purposes only. For non-FEMA studies, one (1) to two (2) feet of freeboard are required, based on the specific watershed, as described in the Prince George's County, Maryland, Stormwater Management Design Manual (the "Manual").
- (36) **Floodway** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to pass the base flood discharge such that the cumulative increase in the water surface elevation of the base flood discharge is no more than one (1) foot. When shown on a FIRM, the floodway is referred to as the "designated floodway."
- (37) **Floodway Fringe** - That portion of the floodplain outside the floodway.
- (38) **Floodway Map** - A map which depicts floodways and special flood hazard areas to be regulated.
- (39) **Floodway Surcharge** - The increase in the one percent annual chance 100-year flood elevation due to an encroachment within the floodplain.
- (40) **Flood Zone** - A designation for areas that are shown on Flood Insurance Rate Maps:
- (A) Zone A: Special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood; base flood elevations are not determined.
  - (B) Zone AE and Zone A1-30: Special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood; base flood elevations are determined; floodways may or may not be determined. In areas subject to tidal flooding, the Limit of Moderate Wave Action may or may not be delineated.
  - (C) Zone AH and Zone AO: Areas of shallow flooding, with flood depths of one (1) to three (3) feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or designated flood depths.
  - (D) Zone B and Zone X (shaded): Areas subject to inundation by the 0.2-percent annual chance (500-year) flood; areas subject to the 1-percent annual chance (100-year) flood with average depths of less than one (1) foot or with contributing drainage area less than one (1) square mile; and areas protected from the base flood by levees.

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- (E) Zone C and Zone X (unshaded): Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, B, and X (shaded).
- (F) Zone VE and Zone V1-30: Special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood and subject to high velocity wave action (also see coastal high hazard area).
- (41) **Freeboard** - A factor of safety that compensates for uncertain circumstances that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, climate change, and the hydrologic effect of urbanization in a watershed.
- (42) **Free-of-Obstruction** - A term that describes open foundations (pilings, columns, or piers) without attached elements or foundation components that would obstruct the free passage of floodwaters and waves beneath structures that are elevated on such foundations.
- (43) **Functionally Dependent Use** - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- (44) **Geographic Information System (GIS) Based Floodplain Model** - The hydrology and hydraulic models developed by the Department of the Environment (DoE) using GIS technologies and databases to determine peak discharges and flood elevations.
- (45) **Highest Adjacent Grade** - The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a structure.
- (46) **Historic Structure** - Any structure that is:
- (A) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
  - (B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - (C) Individually listed on the Maryland Register of Historic Places; or
  - (D) Individually listed on the inventory of historic places maintained by Prince George's County whose historic preservation program has been certified by the Maryland Historical Trust or the Secretary of the Interior.
- (47) **Hydrologic and Hydraulic Engineering Analyses** - Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by Prince George's County, the Maryland Department of the Environment (Nontidal Wetlands & Waterways) and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.
- (48) **Letter of Map Change (LOMC)** - A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:
- (A) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property or structure is not located in a special flood hazard area.

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- (B) **Letter of Map Revision (LOMR):** A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (C) **Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed flood protection project or other proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A Conditional Letter of Map Revision Based on Fill (CLOMR-F) is a determination that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study. Once the CLOMR is approved, a follow-up LOMR is submitted. Upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA, to revise the effective FIRM.
- (49) **Licensed** - As used in these regulations, licensed refers to professionals who are authorized, and in good standing, to practice in the State of Maryland by issuance of licenses by the Maryland Board of Architects, Maryland Board of Professional Engineers, Maryland Board of Professional Land Surveyors, and the Maryland Real Estate Appraisers and Home Inspectors Commission.
- (50) **Limit of Moderate Wave Action (LiMWA)** - Inland limit of the area affected by waves greater than one and one-half (1.5) feet during the base flood. Base flood conditions between the VE Zone and the LiMWA will be similar to, but less severe than those in the VE Zone.
- (51) **Lowest Floor** - The lowest floor of the lowest enclosed area (including basement) of a building or structure; the floor of an enclosure below the lowest floor is not the lowest floor provided the enclosure is constructed in accordance with these regulations. The lowest floor of a manufactured home is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).
- (52) **Manufactured Home or Building (for FEMA purposes only)** - A structure transportable in one or more sections built on a permanent chassis and designed for use with or without a permanent foundation when connected to required utilities. For floodplain management purposes, the term "manufactured home or building" also includes park trailers, travel trailers, and other similar vehicles placed on a site for more than one hundred eighty (180) consecutive days.
- (53) **Market Value** - The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. For the purposes of these regulations, the market value of a building is determined by a licensed real estate appraiser or the most recent, full phased-in assessment value of the building (improvement) determined by the Maryland Department of Assessments and Taxation.
- (54) **Maryland Department of the Environment (MDE)** - A principal department of the State of Maryland that is charged with, among other responsibilities, the coordination of the National Flood Insurance Program in Maryland (NFIP State Coordinator) and the administration of regulatory programs for development and construction that occur within the waters of the State, including nontidal wetlands, nontidal waters and floodplains, and State and private tidal wetlands (Tidal Wetlands). Unless otherwise specified, "MDE" refers to the Department's Wetlands and Waterways Program.
- (55) **Mixed-Use Structure** - Any structure that is used or intended for use for a mixture of nonresidential and residential uses in the same structure.



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- (56) **National Flood Insurance Program (NFIP)** - The program authorized by the U.S. Congress in 42 U.S.C. §§ 4001—4129. The NFIP makes flood insurance coverage available in communities that agree to adopt and enforce minimum regulatory requirements for development in areas prone to flooding (see definition of "Special Flood Hazard Area").
- (57) **National Geodetic Vertical Datum (NGVD)** - The National Geodetic Vertical Datum of 1929 elevation reference points set by the national Geodetic Survey based on Mean Sea Level.
- (58) **New Construction** - Structures, including additions and improvements, and the placement of manufactured homes, for which the start of construction commenced on or after August 4, 1972, the initial effective date of the Prince George's County Flood Insurance Rate Map (FIRM), including any subsequent improvements, alterations, modifications, and additions to such structures.
- (59) **NFIP State Coordinator** - See Maryland Department of the Environment (MDE).
- (60) **North American Vertical Datum (NAVD)** - The North American Vertical Datum of 1988 is the vertical control datum established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.
- (61) **Non-tidal Waters of the State** - See "Waters of the State." As used in these regulations, "non-tidal waters of the State" refers to any stream or body of water within the State that is subject to State regulation, including the "100-year frequency floodplain of free-flowing waters." COMAR 26.17.04.01 states that "the landward boundaries of any tidal waters shall be deemed coterminous with the wetlands boundary maps adopted pursuant to Environment Article, § 16-301, Annotated Code of Maryland." Therefore, the boundary between the tidal and non-tidal waters of the State is the tidal wetlands boundary.
- (62) **Permanent Structure (for FEMA purposes only)** - any structure occupying a site for more than one hundred eighty (180) consecutive days per year.
- (63) **Proposed Condition Floodplain** - The 1-percent annual chance (100-year) floodplain conditions after the proposed development is completed. Proposed condition floodplain reflects proposed changes within the floodplain area, including: grading, road crossings, culverts, dams, embankments, bridges, structures and other modifications. For non-FEMA floodplain studies, this is based on ultimate development hydrology and proposed channel conditions.
- (64) **Recreational Vehicle (for FEMA purposes only)** - A vehicle built on a single chassis that is four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use a permanent dwelling, but as temporary living quarters for recreational, traveling, camping, or seasonal use.
- (65) **Registered Engineer, Registered Land Surveyor, or Registered Architect** - a professional engineer, land surveyor, or architect licensed to practice said profession and in good standing in the State of Maryland.
- (66) **Riparian Buffer** - A riparian buffer is a vegetated area (a "buffer strip") near a stream, usually forested, which helps shade and partially protect a stream from the impact of adjacent land uses. A riparian buffer provides an environmental benefit by increasing water quality in associated streams, rivers, and lakes.
- (67) **Special Flood Hazard Area (SFHA)** - The land in the floodplain subject to a one-percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AH, AO, A1-30, and Zones VE and V1-30 and A99. The term includes areas shown on other flood maps and that are identified in Section 32-204(a) of the County Code.

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- (68) **Start of Construction (for FEMA purposes only)** - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement occurs within one hundred eighty (180) days of the permit date. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, installation of piles, the construction of columns, or any work beyond the stage of excavation, or placement of a manufactured home on a foundation. Permanent construction, as used in this definition, does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For substantial improvements, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (69) **Structure** - That which is built or constructed; specifically, a walled and roofed building, including, but not limited to, a gas or liquid storage tank that is principally above ground, a building foundation, or platform that is affixed to a permanent site or location as well as a manufactured home.
- (70) **Substantial Damage** - Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its condition before damage would equal or exceeds fifty percent (50%) of the market value of the building or structure before the damage occurred.
- (71) **Substantial Improvement (for FEMA purposes only)** - Any reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the building or structure (less land value). The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:
- (A) Any project for improvement of a building or structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official prior to submission of an application for a permit and which are the minimum necessary to assure safe living conditions; or
  - (B) Any alteration of a historic structure, provided that the alteration will not preclude the structures' continued designation as a historic structure.
- (72) **Temporary Structure (for FEMA purposes only)** - Any structure completely removed within one hundred eighty (180) days from issuance of the permit.
- (73) **Use and Occupancy Permit** - The official approval from the Department of Permitting, Inspections and Enforcement (DPIE) indicating that the structure has been built consistent with approved plans and may be legally inhabited or used for the intended purpose.
- (74) **Violation (for FEMA purposes only)** - Any construction or development in a special flood hazard area that is being performed without an issued permit. The failure of a building, structure, or other development for which a permit is issued to be fully compliant with these regulations and the conditions of the issued permit. A building, structure, or other development without the required design certifications, the Elevation Certificate, or other evidence of compliance required is presumed to be a violation until such time as the required documentation is provided.
- (75) **Waiver (or Variance)** - A grant of relief from the strict application of one or more requirements of this Floodplain Ordinance.
- (76) **Watercourse** - The channel, including channel banks and bed, of nontidal waters of the State.
- (77) **Waters of the State** - Waters of the State include:

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- (A) Both surface and underground waters within the boundaries of the State subject to its jurisdiction;
  - (B) That portion of the Atlantic Ocean within the boundaries of the State;
  - (C) The Chesapeake Bay and its tributaries;
  - (D) All ponds, lakes, rivers, streams, public ditches, tax ditches, and public systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
  - (E) The floodplain of free-flowing waters determined by MDE on the basis of the 1-percent annual chance (100-year) flood frequency.

(78) **Wetland** - An area that is:

- (A) Inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas;
- (B) Considered "private wetland" or "State wetland" pursuant to Title 9, Wetlands and Riparian Rights, Natural Resources Article, Annotated Code of Maryland; or
- (C) Defined as wetland under the procedures described in the "Federal Interagency Committee for Wetland Delineation" most updated version and as amended from time to time.

(CB-15-2011; CB-18-2013; CB-30-2014; CB-38-2016)

### **Sec. 32-203.01. Administration — Designation of the Floodplain Administrator.**

The Floodplain Administrator will be the Director of the Department of Permitting, Inspections and Enforcement or the Director's designee. The Floodplain Administrator may:

- (a) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- (b) Enter into a written agreement or written contract with another Maryland community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.

(CB-38-2016)

### **Sec. 32-203.02. Administration — Duties and Responsibilities of the Floodplain Administrator and Designee.**

The duties and responsibilities of the Floodplain Administrator or designee shall include but not be limited to:

- (a) Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
- (b) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

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- (c) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
  - (d) Review all permit applications to advise the applicant of necessary permits required from the Federal, State or local agencies; in particular, permits from MDE for any construction, reconstruction repair or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), and alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 1-percent annual chance (100-year) frequency floodplain of free flowing non-tidal waters of the State. The applicant shall be responsible for obtaining all necessary permits.
  - (e) Verify that applicants proposing an alteration of a FEMA special flood hazard watercourse have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
  - (f) Approve applications and issue permits to develop in flood hazard areas if the waiver requirements, set forth in Section 32-206 of the County Code, have been met and approved by the Department.
  - (g) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
  - (h) Review Elevation Certificates, as appropriate, and require incomplete or deficient certificates to be corrected.
  - (i) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Prince George's County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations or boundaries.
  - (j) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
    - (1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
    - (2) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been Flood proofed, other required design certifications, waiver, and records of enforcement actions taken to correct violations of these regulations.
  - (k) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
  - (l) Administer the requirements related to proposed work on existing buildings:
    - (1) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
    - (2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
  - (m) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures;

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coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance (ICC) coverage under NFIP flood insurance policies.

- (n) Notify the Federal Emergency Management Agency when the corporate boundaries of Prince George's County have been modified and:
  - (1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
  - (2) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place within six months of the date of annexation and a copy of the amended regulations shall be provided to MDE (NFIP State Coordinator) and FEMA.
- (o) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of waivers issued for development in the SFHA.

(CB-38-2016)

### **Sec. 32-203.03. Administration — Use and Interpretation of FIRMs.**

The Floodplain Administrator or designee shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

- (a) Where field surveyed topography indicates that ground elevations:
  - (1) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
  - (2) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant or the County, as determined by the Director, obtains a Letter of Map Change that removes the area from the special flood hazard area.
- (b) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified special flood hazard areas, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- (c) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- (d) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- (e) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

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- (1) Upon the issuance of a Letter of Final Determination by FEMA, if the preliminary flood hazard data is more restrictive than the effective data, it shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
  - (2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 32-202(d)(3) of the County Code and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(CB-38-2016)

#### **Sec. 32-203.04. Administration — Permits Required and Expiration.**

- (a) It shall be unlawful for any person to begin any development or construction which is wholly within, partially within, or in contact with any flood hazard area including but not limited to: filling; grading; construction of new structures; the substantial improvement of buildings or structures, including repair of substantial damage; placement or replacement of manufactured homes, including substantial improvement or repair of substantial damage of manufactured homes; erecting or installing a temporary structure, or alteration of a watercourse, until a permit is obtained from Prince George's County. No such permit shall be issued until the requirements of these regulations have been met.
- (b) In addition to the permits required in paragraph (a), applicants for permits in non-tidal waters of the State are advised to contact MDE. Unless waived by MDE, pursuant to Code of Maryland Regulations 26.17.04, Construction on Non-tidal Waters and Floodplains, MDE regulates the "100-year frequency floodplain of free-flowing waters," also referred to as non-tidal waters of the State. To determine the 1-percent annual (100-year) frequency floodplain, hydrologic calculations are based on the ultimate development of the watershed, assuming existing zoning. The resulting flood hazard areas delineated using the results of such calculations may be different than the special flood hazard areas. A permit from Prince George's County is still required in addition to any State requirements.
- (c) A building permit is valid provided the actual start of work is within 180 days of the date of permit issuance. Requests for extensions shall be submitted in writing and justifiable cause demonstrated. For building permits for structures affecting the 1-percent annual (100-year) floodplain, the Floodplain Administrator may grant, in writing, one or more extensions of time, for additional periods not exceeding ninety (90) days each and provided there has been no amendment or revision to the basis for establishing special flood hazard areas and BFEs.

(CB-38-2016)

#### **Sec. 32-203.05. Administration — Application Required.**

- (a) The application for a county permit shall be made by the owner of the property or the owner's authorized agent (herein referred to as the applicant). The county permit shall be issued prior to start of any work.
- (b) New Technical Data:
  - (1) The applicant may seek a Letter of Map Change by submitting new technical data to FEMA, such as base maps, topography, and engineering analyses to support revision of floodplain and floodway boundaries and/or base flood elevations. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant.
  - (2) If the applicant submits new technical data to support any change in floodplain and designated floodway boundaries and/or base flood elevations but has not sought a Letter of Map Change from

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FEMA, the applicant shall submit such data to FEMA as soon as practicable, but not later than six (6) months after the date such information becomes available. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant.

(CB-38-2016)

### **Sec. 32-203.06. Administration — Review of Application.**

The Floodplain Administrator or designee shall:

- (a) Review applications for development in special flood hazard areas to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information that is required to support the application.
- (b) Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and other State and Federal authorities may be required.
- (c) Review all permit applications, advise the applicant of necessary permits required from Federal, State or local governmental agencies. The applicant shall be responsible for obtaining such permits, including permits issued by:
  - (1) The U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act;
  - (2) MDE pursuant to COMAR 26.23 (Non-tidal Wetlands) and Section 401 of the Clean Water Act;
  - (3) MDE for construction on non-tidal waters of the State pursuant to COMAR 26.17.04;
  - (4) MDE pursuant to COMAR 26.24 (Tidal Wetlands); and
  - (5) Review applications for compliance with these regulations after all information required by the Floodplain Administrator has been received.

(CB-38-2016)

### **Sec. 32-203.07. Administration — Inspections.**

The Floodplain Administrator shall make periodic inspections of development permitted in special flood hazard areas, at appropriate times throughout the period of construction in order to monitor compliance. Such inspections may include:

- (a) Wall Check inspection, to determine location on the site relative to the flood hazard area and designated floodway.
- (b) Foundation inspection, upon placement of the lowest floor and prior to further vertical construction, to collect information or certification of the elevation of the lowest floor.
- (c) Inspection of enclosures below the lowest floor, including crawl/underfloor spaces, to determine compliance with applicable provisions.
- (d) Utility inspection, upon installation of specified mechanical and electrical equipment and appliances, to determine appropriate location with respect to the base flood elevation.
- (e) Final inspection prior to issuance of the Certificate of Occupancy.

(CB-38-2016)

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## **Sec. 32-203.08. Administration — Submissions Required Prior to Final Inspection.**

Pursuant to the Agreement to Submit an Elevation Certificate submitted with the application as required, the permittee shall have an Elevation Certificate prepared and submitted prior to final inspection and issuance of a Certificate of Occupancy for elevated structures and manufactured homes, including new structures and manufactured homes, substantially-improved structures and manufactured homes, and additions to structures and manufactured homes.

(CB-38-2016)

## **Sec. 32-204. Establishment of the County Floodplain.**

- (a) Establishment of the County Floodplain and Danger Reach: The Department shall establish as the County floodplain areas of the County that are subject to inundation by the 1-percent annual chance (100-year) flood and shall delineate these areas on the official floodplain maps that shall be prepared and maintained in force as part of this Division. Where flood elevations have been defined, the County floodplain shall be determined based on 1-percent annual chance (100-year) flood elevations rather than the area graphically delineated on the official floodplain maps.
- (b) Area included. The County floodplain shall include all of the following areas:
  - (1) 1-percent annual chance (100-year) floodplain as determined by FEMA, including all of the following FEMA subcategories (also found in the Definitions section):
    - (A) Zone A;
    - (B) Zone AE and Zone A1-30;
    - (C) Zone AH and Zone AO; and
    - (D) Zone VE and Zone V1-30.
  - (2) Special flood hazard areas, as defined herein and identified by the County.
  - (3) Wetland floodplains - areas of wetland subject to inundation by the 1-percent annual (100-year) flood.
  - (4) Area delineated by approved County Comprehensive Watershed Management Plans and supporting data to be subject to the 1-percent annual (100-year) flood or determined to be subject to the 100-year flood by any other floodplain study approved by the County.
  - (5) Areas delineated by any other floodplain studies prepared using the County's GIS-based floodplain models.
- (c) Danger reach of a dam - The applicant shall define the area that will be flooded when a dam has been breached by flood waters, as established by using the latest methodology of the Maryland Department of the Environment. The danger reach limits are to be shown on the 1-percent annual chance (100-year) floodplain delineation mapping and labelled as danger reach limits. Danger reach limits that extend beyond the 1-percent chance (100-year) floodplain limits are not considered to be included in the 1-percent chance (100-year) floodplain area.
- (d) Floodplain buffer area - where proposed development is associated with a stream or tributary and the limits of the floodplain cannot be accurately determined because of the lack of detailed floodplain data and analysis or because of unknown effects of future development in the watershed, the Department may require that an approximated floodplain boundary and a floodplain buffer be established and maintained as part of the development. The floodplain buffer is twenty-five (25) feet, measured outside the approximated

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1-percent annual chance (100-year) floodplain delineation. The floodplain buffer is considered part of the 1-percent annual chance (100-year) floodplain delineation and it is included in the floodplain easement.

- (e) Areas excluded - areas associated with a watercourse having a drainage area less than fifty (50) acres of watershed may be excluded, from the County 1-percent annual chance (100-year) floodplain, subject to the approval of the Department.
- (f) Sources - the County shall use the following sources for identifying the floodplain:
  - (1) The effective FEMA Flood Insurance Study for Prince George's County, Maryland;
  - (2) The most current FEMA Flood Insurance Rate Maps;
  - (3) Approved County comprehensive watershed management plans;
  - (4) Other floodplain studies approved by the County; and
  - (5) Other floodplain studies prepared by the County or its designee using the County's GIS-based floodplain models.
- (g) Where conflicting elevations are found among the above sources, the highest elevation shall govern, including the appropriate freeboard.
- (h) Revisions of the County floodplain:
  - (1) The Department may amend the limits of the County floodplain to reflect the effect of specified flood protection measures recommended in adopted County watershed plans that have been included in an adopted Prince George's County Capital Improvement Program (CIP) for planning, design and construction, and for which the County has all necessary federal and state permits, construction has been completed, and an as-built certification has been issued. However, the County floodplain may not be based upon flood elevations lower than shown on the effective FEMA map until concurrence in the lowered elevations has been received from FEMA in accordance with applicable federal regulations.
  - (2) The County floodplain limits shall be amended by the Department where studies or information provided by a qualified agency or person document the need or possibility for such revision. Where there are no available studies, or where existing studies have been determined by the Department to be inadequate, a new study of the area shall be required. All such floodplain studies shall be performed in accordance with the Department's requirements and criteria, which shall include, without limitation:
    - (A) System within the drainage basin either existing or included in an adopted County CIP for planning, design and construction and, for which the County has all necessary federal and state permits, and construction has been completed; and
    - (B) Future land use based on existing zoning or based on adopted or approved master plans, or sectional map amendments, whichever best reflects future land use in the opinion of the County.
    - (C) Revisions to the floodplain that reflect changes, including but not limited to constructed grading, road crossings, culverts, dams, embankments, bridges, changes in channel lining or vegetative cover.
  - (3) FEMA Floodplain Modification: Any proposed reduction or modification to any area of the County identified by FEMA as part of the 1-percent annual chance (100-year) floodplain must have the approval of FEMA, as outlined in the NFIP regulations. Proposed modifications, including modifications based on existing conditions, proposed construction, or as built conditions, must first be submitted to the Department and the Prince George's County Department of the Environment for review, and the Department's recommendation on the proposed modification shall be transmitted to FEMA with a copy to the submitter. Any proposed development in the FEMA floodplain, which may result in any increase or decrease in base flood elevations or change to the FEMA floodplain boundaries, must be

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modeled and submitted to the Department and the Prince George's County Department of the Environment for review. If the proposed encroachment causes the base flood elevation to increase by more than one (1) foot at any point within the community, the permit must be submitted to and approved by FEMA for a Conditional Letter of Map Revision (CLOMR) prior to the issuance of a permit. A CLOMR is required for any encroachment in the FEMA Floodway that would result in an increase in the base flood elevation. An applicant must submit a Letter of Map Revision (LOMR) to FEMA once a project has been completed. A LOMR is required for any project that results in any change in the floodplain elevation of a half a foot or greater, and any project that results in any change in the floodplain limit that is scaleable on the FEMA maps. Hydrologic and hydraulic analysis based on the effective FEMA floodplain models must be performed in accordance with standard engineering practices and certified by a registered professional engineer and must be submitted to FEMA for approval. Failure to receive an approval letter from FEMA shall be grounds for denial of the permit. The Department shall notify the Federal Insurance Administrator of revisions to the FEMA floodplain within six (6) months after the date of completion of the modification by submitting technical and scientific data in accordance with 44 Code of Federal Regulations, Part 65. All revisions and modifications of the FEMA floodplain shall be subject to the review and approval by FEMA, the Department and the Prince George's County Department of the Environment.

- (i) The Department shall provide the County floodplain maps to the public, upon request.

(CB-15-2011; CB-38-2016)

### **Sec. 32-205. Development Regulations.**

- (a) Within the County floodplain, no development shall be permitted except as provided in Subsection (b) unless a waiver is obtained from the Department which permits such development.
- (b) Permitted Development. The following development shall be permitted:
- (1) The modification, alteration, repair, reconstruction, or improvement of a structure which does not constitute substantial improvement to the structure (including improvements to historic structures which do not affect the exterior dimensions). The improvements shall be elevated and/or flood proofed to the greatest extent possible. The elevation of the lowest floor shall be at or above the flood protection elevation or for dry flood proofing shall extend flood proofing one (1) foot above the flood protection elevation in accordance with the U.S. Army Corps of Engineers flood proofing regulations.
  - (2) Private and public utilities and facilities which conform to the construction, design, and flood proofing requirements of this Division.
  - (3) Private or public streets crossing the floodplain, in compliance with County Road Code Subtitle 23-136.
  - (4) Stormwater management facilities.
  - (5) Small projections leading off of the floodplain which would be enclosed by storm drainage pipes.
  - (6) In areas of shallow flooding (Zone AO), the lowest floor (including basements) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM, plus two (2) feet.
  - (7) Fill for proposed public and private roads and access driveways - Compensatory storage and conformance with waiver requirements as described in Section 32-206 of the County Code is not required and is subject to the requirements of the Prince George's County Stormwater Management Design Manual.

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- (c) Easements: All areas within the County floodplain shall be dedicated to public use or for use as a park, or as a floodplain or conservation easement, whichever is appropriate; the dedication or easement shall meet the County requirements for form and content and shall be recorded among the Land Records of the County. The easement requirement may be waived when, in the opinion of the Department, the waiver would not compromise any public or private interests including the rights of the landowners, safety, and environmental protection; would not conflict with any Federal, State or County laws; and the establishment of an easement would constitute an unreasonable hardship on the applicant. A waiver of an easement may be granted only if the Department finds that the applicant has demonstrated the following:
- (1) The property is already essentially developed and occupied by the applicant; or
  - (2) The proposed disturbed area is less than twenty percent (20%) of the total area of a single residential lot; and
  - (3) The floodplain is clear of proposed improvements, including access roads, to the extent the floodplain area is not used in conjunction with the proposed improvements; and
  - (4) The floodplain is not likely to increase in the future nor would it be damaged by continuing stream flows or flooding that may be caused, in part, by the existence of downgraded or upgraded public storm drain systems or stormwater management facilities.
- (d) Obstructions: Fences and other matters or enclosures which may impede, retard, or change the direction of the flow of water, or that will catch or collect debris carried by such water, or that are placed where the natural flow of the stream or flood waters would carry such impediments downstream to the damage or detriment of either public or private property in or adjacent to the floodplain shall not be permitted without a waiver and permit as provided in this Division.
- (e) Minimize Floodplain Disturbance: All development shall be designed to minimize floodplain disturbance and shall conform to all other applicable codes, ordinances, regulations, flood management, watershed management plans and the requirements of the permit programs of all applicable Federal, State and local governments.
- (f) Lowest Floor and Setback Requirements: Any new or substantially improved residential or nonresidential structures, including manufactured homes, shall be located outside the floodplain and have the lowest floor and the surrounding ground elevated, by fill, to or above the flood protection elevation. Basements are not permitted. The elevation of the lowest floor shall be certified by a registered surveyor or professional engineer on the as-built plan or after the lowest floor is in place. All new structures in any subdivision shall be located outside the 1-percent annual chance (100-year) floodplain boundary. All residential structures shall be set back at least twenty-five (25) feet from the 1-percent annual chance (100-year) floodplain. For every activity in the floodplain, the conditions described below in subsections (g) and (h) below, and Section 32-206 of the County Code must be met.
- (g) Cut and Fill: If floodplain storage is reduced because of the project, an equal amount of compensatory storage within the floodplain shall be provided. A site grading plan prepared by a professional engineer, showing a balance of cut-and-fill, shall be submitted. The limits of the floodplain before and after development shall be clearly shown on the site plan.
- (h) Changes in Base Flood Elevation: A detailed floodplain analysis shall be conducted to indicate that the new floodplain can carry the discharge of the 1-percent annual chance (100-year) flood without increasing the water surface elevation at any point on other private or public property either upstream or downstream from or adjacent to the tract to be developed, unless such lands affected by an increase in water surface elevation are either acquired by the applicant or reserved through acquisition of suitable floodplain easements, provided such increases will not, in the determination of the Department, cause or aggravate damage to such properties and provided that the necessary waiver is granted. However, development shall not increase water surface elevation of the FEMA designated base flood more than one (1) foot at any point,

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unless the community first applies, then fulfills the requirements of a Conditional Letter of Map Revision (CLOMR). The floodplain analysis shall consider backwater conditions, ineffective flow areas, local obstructions and, where required by the Department partial or complete failure or obstruction of any culvert or enclosed storm drainage system. The new floodplain shall be designed to prevent detrimental erosion, overflow, or nuisance of any kind and shall ultimately discharge into a storm drain facility or a watercourse in accordance with County standards and procedures.

- (i) Computations and Notifications: All proposals to offset the effects of development in the floodplain by construction of stream modifications shall be documented by an engineering study prepared by a professional engineer who fully evaluates the effects of such construction. The report shall use the 1-percent annual chance (100-year) flood and floodplain data prepared by FEMA, if applicable, and other County-approved watershed and floodplain studies. For permits that result in changes to the FEMA floodplain, evidence shall be provided that all adjacent communities and the Maryland Department of the Environment have been notified by certified mail regarding the proposed modification, as required for processing of a State of Maryland Waterway Construction permit. Copies of these notifications shall then be forwarded to FEMA's Federal Insurance Administration. The applicant or developer must conduct a study to assure that the 1-percent annual chance (100-year) flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained. If the development involves stormwater management facilities, the owner shall execute a declaration of covenants for stormwater management maintenance with the County, which shall be recorded in the Land Records.

(CB-15-2011; CB-38-2016)

### **Sec. 32-206. Water Requirements for Development in Floodplain.**

- (a) In order to undertake any development in the County floodplain other than as permitted in Section 32-205(b) of the County Code, the applicant must obtain a waiver from the Director or the Director's designee.
- (b) The request for waiver shall include:
  - (1) The information required for a permit for development as set forth in this Division;
  - (2) A statement explaining the need for the development, any public benefit to be derived, and the actions that will be taken to reduce the threat of any potential flooding, flood damage, or adverse environmental impacts;
  - (3) Plans and studies as required by the Department.
  - (4) The Name, address, and telephone number of the applicant and property owner; a legal description of the property; a parcel map; a description of the existing use; description of the proposed use; a site map showing the location of flood hazard areas, designated floodway boundaries, flood zones, base flood elevations, flood protection setbacks; and a description of the waiver sought; and
  - (5) If the application is for a waiver to allow the lowest floor (A Zones) or bottom of the lowest horizontal structural member (V Zones and Coastal A Zones) of a building or structure below the applicable minimum elevation required by these regulations, the application shall include a statement signed by the owner that, if granted, the conditions of the waiver shall be recorded on the deed of the property.
- (c) Required plans and studies. The Department may require plans and studies to be submitted. All studies shall be subject to approval by the Department. All studies and calculations furnished to satisfy this provision shall become the property of the County and may be used by the County for reviewing other development or for other purposes. The request for a waiver shall include all necessary documentation, including analysis of hydrology and hydraulic requirements, as defined in the Prince George's County Stormwater Management Design Manual (latest edition) for technical analysis by the Department.

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- (d) The Director shall grant a waiver only upon determining that:
- (1) There is good and sufficient cause that is based solely on the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitant, or local provision that regulate standards other than health and public safety;
  - (2) The granting of the waiver will not result in additional threats to public safety, or other adverse impacts on other public or private property either upstream, downstream or adjacent to the subject property;
  - (3) The granting of the waiver will not result in fraud or victimization of the public;
  - (4) The waiver is the minimum necessary, considering the flood hazard, to afford relief to the owner, and public funds shall not be expended to mitigate the results of the waiver;
  - (5) The development will not violate other Federal, State or local laws or regulations;
  - (6) The waiver does not violate the purpose and intent of this Division;
  - (7) The failure to grant the waiver would result in exceptional hardship due to the physical characteristics of the property.
  - (8) A building, structure or other development is protected by methods to minimize flood damages; and
  - (9) A waiver is the minimum necessary to afford relief, considering the flood hazard.
- (e) Waivers will not be granted for any filling, or the construction or placement of any structures or obstructions which will ultimately be located in the FEMA-designated Floodways. Within the floodplain, waivers shall not be granted for any new structures, the lowest floors of which are below flood protection elevations.
- (f) If granted, a waiver shall involve only the least modification necessary to provide relief. If it should become necessary to grant a waiver, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program regulations (60.3d) including the requirements for elevation, flood proofing and anchoring. The applicant must also comply with any other requirements considered necessary by the Department. Notwithstanding any of the provisions above, all structures shall be designed and constructed so as to have the capability of resisting the 1-percent annual chance (100-year) flood. Flood proofing is not an option in residential construction. All residential structures must be elevated.
- (g) A record of all waiver actions, including justifications for their issuance, shall be maintained by the Department, shall be included in a bi-annual report submitted to the Federal Insurance Administrator, and shall be available upon request by FEMA or its authorized agent during periodic assessments of the County participation in the National Flood Insurance Program.
- (h) As a condition of the waiver, the owner of the property being developed shall be required to execute covenants to provide notice of the waiver, the potential for higher insurance premium rates, commensurate with the increased risk (with rates up to \$25 per \$100 of insurance coverage), the flood hazard, and any responsibilities of the owner to maintain flood proofing or stream modification facilities or systems, which covenants shall be recorded among the Land Records of the County. Where there will be enclosed areas below the 1-percent annual chance (100-year) flood elevation, the owner shall provide a statement to be recorded in the Land Records of the County which reads, "No conversion of this area to habitable space is to occur unless the lowest floor is elevated at or above the flood protection elevation. At this site the flood protection elevation is \_\_\_\_\_ in \_\_\_\_\_ (datum)."
- (i) All construction within the floodplain must indicate whether any portion of the site lies within the danger reach of any existing or planned upstream dams. For information on danger reach, please refer to Prince George's County Soil Conservation District Soil Erosion and Sediment Control Pond Safety Reference Manual (PGSCD Reference Manual).

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- (j) Considerations for Waiver. The Director shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:
- (1) The danger that materials may be swept 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 (if applicable) to flood damage and the effect of such 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 which are not subject to, or are subject to less flooding or erosion damage;
  - (6) The necessity to the facility of a waterfront location, where applicable, or if the facility 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 and hazard mitigation plan for that area;
  - (9) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles;
  - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  - (11) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and
  - (12) The comments provided by the Department and/or the MDE.

(CB-15-2011; CB-38-2016)

### **Sec. 32-207. Construction and Design Standards within the Floodplain.**

- (a) All development permitted in the County Floodplain shall comply with the following minimum standards where applicable.
- (1) In general, all new construction and substantial improvements which are permitted in the floodplain by waiver pursuant to this Division shall be:
    - (A) Designed (or modified) and adequately connected and anchored to prevent flotation, collapse, or lateral movement of the structure due to structural loads and stresses, including hydrodynamic and hydrostatic loads and the effects of buoyancy, from flooding equal to the flood protection elevation or the elevation required by these regulations or the building code, whichever is higher, and constructed to safely support flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation;
    - (B) Constructed and placed on the lots so as to offer the minimum obstruction to the flow and height of the flood water;
    - (C) Constructed with materials and utility equipment resistant to flood damage; and
    - (D) Constructed by methods and practices that minimize flood damage and adverse environmental impacts.

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- (2) The elevation of the lowest floor of all new or substantially improved structures, except for garages, storage and accessory structures, which are less than three hundred (300) square feet and not used for human habitation, shall be at or above the flood protection elevation. Basements in buildings within the floodplain as herein defined are prohibited.
  - (3) Enclosures below the lowest floor. New construction, substantial improvements and manufactured homes with fully enclosed areas below the lowest floor, including but not limited to enclosures that are surrounded by rigid skirting or other material that is attached to the frame the frame of foundation, crawl spaces, solid footings and continuous foundations, shall be vented to equalize hydrostatic pressure by permitting the free entry and exit of floodwaters and shall include the following as a minimum:
    - (A) At least two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
    - (B) The bottom of all openings shall be no higher than one foot above the interior floor, or the exterior grade immediately below the opening;
    - (C) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and
    - (D) The owner shall include a statement on the building plans which states: "No conversion of this area to habitable space is to occur unless the lowest floor is elevated at or above the flood protection elevation. At this site the flood protection elevation is \_\_\_\_\_ in \_\_\_\_\_ (datum)."
  - (4) Accessory structures. The new construction or substantial improvement of garages, storage sheds and similar accessory structures shall meet the requirements set forth in Paragraph (3), above. Accessory structures should be constructed with flood damage-resistant materials if it is below the base flood elevation, and constructed and placed to offer the minimum resistance to the flow of floodwaters.
  - (5) Storage. Storage for materials that are buoyant, flammable, explosive, or that in times of flooding could be injurious to human, animal or plant life shall not be constructed or permitted below the flood protection elevation.
  - (6) Fill.
    - (A) Where allowed, fill material shall comply with the requirements of Sections 32-156 through 32-158 of this Subtitle.
    - (B) Fill slopes shall be no steeper than one (1) vertical to two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the County.
    - (C) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.
    - (D) Disposal of fill, including but not limited to earthen soils, rock, rubble, construction debris, woody debris, and trash, shall not be permitted in special flood hazard areas.
    - (E) Fill shall not be placed in Coastal A Zones or coastal high hazard areas (V Zones).
  - (7) Landscape design.
    - (A) Where permitted, disturbance or removal of the natural vegetation in the floodplain shall be avoided or minimized.
    - (B) Adequate ground cover shall be provided for soil stabilization.
    - (C) Design of land contours and choice of plant materials shall direct surface runoff away from structures and shall not increase surface runoff onto neighboring properties.
  - (8) Electrical and plumbing systems.

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- (A) All new or substantially improved structures which are permitted in the floodplain based upon a waiver shall have electrical systems, equipment and components, and mechanical, heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the flood protection elevation or V Zones and Coastal A Zones:

- (i) The bottom of the lowest horizontal structural member that supports the lowest floor shall be located at or above the base flood elevation.
- (ii) Basement floors that are below grade on all sides are prohibited.

These structures shall have electrical systems, equipment and components, and mechanical, heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the lowest floor. Electrical wiring systems are permitted to be located below elevation of the lowest floor provided they conform to the provisions of the electrical part of the building code for wet locations. If replaced as part of a substantial improvement, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this Section. The space below an elevated building shall either be free-of-obstruction or, if enclosed by walls, shall meet the requirements of paragraph (a)(3) of this Section.

- (B) No electrical distribution panels shall be permitted at an elevation less than three (3) feet above the elevation of the 1-percent annual chance (100-year) flood.
- (9) Public and private utilities. The design, placement and construction of all public and private utilities and facilities shall meet the following requirements:
- (A) New or replacement water supply systems and/or sanitary sewage systems shall be designed and flood proofed to eliminate or minimize infiltration of flood waters into the systems and discharges from the systems into the flood waters, and to avoid impairment during flooding and to minimize flood damage. On-site waste disposal systems shall be located to avoid impairment to or contamination from infiltration during conditions of flooding.
    - (i) Cesspools and seepage pits are prohibited.
    - (ii) Septic tanks are permitted provided they are securely anchored to resist buoyant forces during inundation.
    - (iii) All pipes connected to sewage systems shall be sealed to prevent leakage.
  - (B) All gas, electrical and other facility and utility systems shall be located, constructed and flood proofed to eliminate or minimize flood damage. The following applies to gas and liquid storage tanks:
    - (i) Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
    - (ii) Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and elevated to or above the base flood elevation, or shall be anchored or otherwise designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
    - (iii) In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:



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- (a) At or above the base flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood; and
    - (b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
  - (C) All new storm drainage facilities within and leading to or from the County floodplain shall be adequately designed, and installed to eliminate or minimize property damage resulting from the flood waters of the 1-percent annual chance (100-year) flood and to minimize adverse environmental impacts of their installation and use.
  - (10) Recreational vehicles located within the floodplain may be exempted from the elevation and anchoring requirements provided they are:
    - (A) Located on the site less than 180 consecutive days per year;
    - (B) Fully licensed and ready for highway use; and
    - (C) Properly permitted.

A recreational vehicle is ready for highway use if it is on its wheels and jacking system, is attached to the site by quick disconnect type utilities and securing devices, and has no permanently attached additions. If it cannot meet all of these criteria, the recreational vehicle must be considered a manufactured home and is subject to the elevation and construction standards of this Subtitle.

- (11) All notice of the flood hazard and the waiver action shall be placed on the deed or other title document of the property on which the waiver is granted.

(CB-15-2011; CB-38-2016)

## **Sec. 32-207.01. Construction and Design Standards within the Floodplain — Subdivision Proposals and Development Proposals.**

Subdivision and development proposals shall be reviewed by the Department of Permitting, Inspections and Enforcement to must address the following requirements:

- (a) Subdivision proposals and development proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- (b) Subdivision proposals and development proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (c) Subdivision proposals and development proposals shall have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed structures.
- (d) Subdivision proposals and development proposals containing at least five (5) lots or at least five (5) acres, whichever is the lesser, that are wholly or partially in flood hazard areas where base flood elevation data are not provided by the Floodplain Administrator or available from other sources, shall be supported by determinations of base flood elevations as required in Prince George's County Stormwater Management Manual.
- (e) Proposed Subdivision access roads shall be designed to convey the 1-percent annual chance (100-year) storm with at least one (1) foot of freeboard from the 100-year backwater elevation to the ground elevation at the public right-of-way for closed section roadways, or to the edge of paving for an open

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section roadways, or to the bottom of a new bridge superstructure. If an existing access roadway is inundated by floodplain (6-inch inundation or more) due to the 1-percent annual chance (100-year) storm, such that the 1 foot of freeboard cannot be achieved, approval is required through a waiver process with the Director or the Director's designee.

- (f) In special flood hazard areas of non-tidal waters of the State:
  - (1) Subdivision proposals shall be laid out such that proposed building pads are located outside of the special flood hazard area and any portion of platted lots that include land areas that are below the base flood elevation shall be used for other purposes, deed restricted, or otherwise protected to preserve it as open space.
  - (2) In special flood hazard areas of non-tidal waters of the State: Subdivision access roads shall have the driving surface at or above the base flood elevation.

(CB-38-2016)

### **Sec. 32-207.02. Construction and Design Standards within the Floodplain — Historic Structures.**

Repair, alteration, addition, rehabilitation, or other improvement of historic structures shall be subject to the requirements of these regulations if the proposed work is determined to be a substantial improvement, unless a determination is made that the proposed work will not preclude the structure's continued designation as a historic structure. The Floodplain Administrator or designee may require documentation of a structure's continued eligibility and designation as a historic structure.

(CB-38-2016)

### **Sec. 32-207.03. Construction and Design Standards within the Floodplain — Manufactured Homes.**

- (a) New or substantially improved manufactured homes shall not be placed or installed in floodplain, floodways or coastal high hazard areas (V Zones).
- (b) New manufactured homes located outside of floodplains and floodways and coastal high hazard areas (V Zones), replacement manufactured homes in any flood hazard areas, and substantial improvement (including repair of substantial damage) of existing manufactured homes in all flood hazard area, shall:
  - (1) Be elevated on a permanent, reinforced foundation in accordance with this ordinance, as applicable to the flood zone; and
  - (2) Be installed in accordance with the anchor and tie-down requirements of the building code or the manufacturer's written installation instructions and specifications.

(CB-38-2016)

### **Sec. 32-207.04. Construction and Design Standards within the Floodplain — Critical and Essential Facilities.**

Critical and essential facilities shall:

- (a) Not be located in coastal high hazard areas (V Zones), Coastal A Zones or floodways.

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- (b) If located in flood hazard areas other than coastal high hazard areas, Coastal A Zones and floodways, shall be elevated to the flood protection elevation or higher.

(CB-38-2016)

#### **Sec. 32-207.05. Construction and Design Standards within the Floodplain — Temporary Structures and Temporary Storage.**

In addition to the application requirements, applications for the placement or erection of temporary structures and the temporary storage of any goods, materials, and equipment, shall specify the duration of the temporary use. Temporary structures and temporary storage in the floodplain shall meet the limitations of these regulations. In addition:

- (a) Temporary structures shall:
  - (1) Be designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic loads and hydrostatic loads during conditions of the base flood;
  - (2) Have electric service installed in compliance with the electric code; and
  - (3) Comply with all other requirements of the applicable State and local permit authorities.
- (b) Temporary storage shall not include hazardous materials.

(CB-38-2016)

#### **Sec. 32-207.06. Construction and Design Standards within the Floodplain — Functionally Dependent Uses.**

Applications for functionally dependent uses that do not conform to the requirements of these regulations shall be approved only through a waiver. If approved, functionally dependent uses shall be protected by methods that minimize flood damage during the base flood, including measures to allow floodwaters to enter and exit, use of flood damage-resistant materials, and elevation of electric service and equipment to the extent practical given the use of the building.

(CB-38-2016)

#### **Sec. 32-207.07. Construction and Design Standards within the Floodplain — Development in Floodways.**

For proposed development that will encroach into a designated floodway, the applicant is required to submit an evaluation of alternatives to such encroachment, including different uses of the site or the portion of the site within the floodway, and minimization of such encroachment. This requirement does not apply to fences that do not block the flow of floodwaters or trap debris. Proposed development in a designated floodway may be permitted only if:

- (a) The applicant has been issued a permit by MDE; and
- (b) The applicant has developed hydrologic and hydraulic engineering analyses and technical data prepared by a licensed professional engineer reflecting such changes, and the analyses, which shall be submitted to the Floodplain Administrator, demonstrate that the proposed activity will not result in any increase in the base flood elevation; or

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- (c) If the analyses demonstrate that the proposed activities will result in an increase in the base flood elevation, the applicant has obtained a Conditional Letter of Map Revision and a Letter of Map Revision from FEMA upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.

(CB-38-2016)

#### **Sec. 32-207.08. Construction and Design Standards within the Floodplain — Roads, Bridges, Culverts, Dams and In-Stream Ponds.**

Construction of roads, bridges, culverts, dams and in-stream ponds in non-tidal waters of the State shall not be constructed unless they comply with this section and the applicant has received a permit from MDE.

(CB-38-2016)

#### **Sec. 32-207.09. Construction and Design Standards within the Floodplain — Alteration of a Watercourse.**

For any proposed development that involves alteration of a watercourse the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting such changes, including the floodplain analysis, and submit such technical data to the Floodplain Administrator. This shall also be submitted to FEMA for projects that affect a FEMA established 1-percent annual chance (100-year) floodplain. The analyses shall be prepared by a licensed professional engineer in a format required by MDE and by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and fees shall be the responsibility of the applicant. Alteration of a watercourse may be permitted only upon submission, by the applicant, of the following:

- (a) A description of the extent to which the watercourse will be altered or relocated;
- (b) A certification by a licensed professional engineer that the flood-carrying capacity of the watercourse will not be diminished;
- (c) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and MDE have been notified of the proposal, and evidence that such notifications have been submitted to FEMA, for projects that affect a FEMA established 1-percent annual chance (100-year) floodplain; and
- (d) Evidence that the applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the applicant to enter into an agreement with Prince George's County specifying the maintenance responsibilities; if an agreement is required, the permit shall be conditioned to require that the agreement be recorded on the deed of the property which shall be binding on future owners.

(CB-38-2016)

#### **Sec. 32-207.010. Construction and Design Standards within the Floodplain — Horizontal Additions.**

- (a) A horizontal addition proposed for a building or structure that was constructed after the date specified in Section 32-202 of the County Code shall comply with the applicable requirements of Section 32-207 of the County Code and this section.

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- (b) In non-tidal waters of the State that are subject to the regulatory authority of MDE, all horizontal additions shall comply with the applicable requirements of Section 32-207 of the County Code and this Section and:
    - (1) If the addition is structurally connected to the base building, the requirements of paragraph (c) apply.
    - (2) If the addition has an independent foundation and is not structurally connected to the base building and the common wall with the base building is modified by no more than a doorway, the base building is not required to be brought into compliance.
  - (c) For horizontal additions that are structurally connected to the base building:
    - (1) If the addition combined with other proposed repairs, alterations, or modifications of the base building constitutes substantial improvement, the base building and the addition shall comply with the applicable requirements of Section 32-207 of the County Code and this section.
    - (2) If the addition constitutes substantial improvement, the base building and the addition shall comply with all of the applicable requirements of Section 32-207 of the County Code and this section.
  - (d) For horizontal additions with independent foundations that are not structurally connected to the base building and the common wall with the base building is modified by no more than a doorway, the base building is not required to be brought into compliance. A horizontal addition to a building or structure that is not substantial improvement, and is not located in nontidal waters of the State, is not required to comply with this section.

(CB-38-2016)

## **Sec. 32-208. Coastal and Wetland Floodplain Regulations — General Requirements.**

- (a) General Requirements: In addition to the general requirements pursuant to Section 32-207 of the County Code, for any development and construction in the coastal and wetland floodplains shall also meet the following requirements:
  - (1) Apply in flood hazard areas that are identified as coastal high hazard areas (V Zones) and Coastal A Zones (if delineated).
  - (2) Apply to all development, new construction, substantial improvements (including repair of substantial damage), and placement, replacement, and substantial improvement (including repair of substantial damage) of manufactured homes.
    - (A) Exception: In Coastal A Zones, the requirements of Section 32-207 of the County Code shall apply to substantial improvements (including repair of substantial damage), and the substantial improvement of manufactured homes (including repair of substantial damage) and replacement manufactured homes.
- (b) The development shall be subject to the provisions of this Code regulating development in the Chesapeake Bay Critical Areas.
- (c) In the wetland floodplain the following regulations shall apply:
  - (1) The Department shall obtain, review and reasonably utilize any wetlands classification data available from a Federal, State or other source to determine the boundaries and characteristics of the wetland floodplain. When the boundary of the wetland floodplain is unknown, obscure, or undefined, the applicant shall evaluate each site to determine the actual extent of wetlands.
  - (2) Except where specifically allowed by the Department and the Maryland Department of the Environment and the U.S. Army Corps of Engineers, the following shall be prohibited:
    - (A) Filling, dumping or excavating of any kind;

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- (B) Drainage or alteration of the natural drainage and circulation of surface or ground waters; and
  - (C) Removal of natural vegetation.
- (3) The Department may approve development or construction upon determining that the proposed uses:
- (A) Require access to water or wetlands, or are water dependent;
  - (B) Have no prudent or feasible alternative site which does not involve wetland areas;
  - (C) Will result in minimum feasible alteration or impairment to wetland functional characteristics and existing contour, vegetation, fish and wildlife resources and hydrologic conditions of the wetland area; and
  - (D) Meet all applicable regulations of Subtitle 5B when located in the Chesapeake Bay Critical Area Overlay Zone.

(CB-15-2011; CB-38-2016)

### **Sec. 32-208.01. Coastal and Wetland Floodplain Regulations — Location and Site Preparation.**

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

(CB-38-2016)

### **Sec. 32-208.02. Coastal and Wetland Floodplain Regulations — Residential and Nonresidential Structures.**

New structures and substantial improvement (including repair of substantial damage) of existing structures shall comply with the applicable requirements of Section 32-207 of the County Code and the requirements of this Section.

- (a) Foundations:
  - (1) Structures shall be supported on pilings or columns and shall be adequately anchored to such pilings or columns. Pilings shall have adequate soil penetrations to resist the combined wave and wind loads (lateral and uplift). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by applicable building codes. Pile embedment shall include consideration of decreased resistance capacity caused by scour of soil strata surrounding the piling.
  - (2) Slabs, pools, pool decks and walkways shall be located and constructed to be structurally independent of structures and their foundations to prevent transfer of flood loads to the structures during conditions of flooding, scour, or erosion from wave-velocity flow conditions, and shall be designed to minimize debris impacts to adjacent properties and public infrastructure.
- (b) Elevation Requirements:

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- (1) The bottom of the lowest horizontal structural member that supports the lowest floor shall be located at or above the flood protection elevation.
  - (2) Basement floors that are below grade on all sides are prohibited.
  - (3) The space below an elevated building shall either be free-of-obstruction or, if enclosed by walls, shall meet the requirements of paragraph (d) below.
  - (c) Certification of Design. As required in Section 32-204 of the County Code, the applicant shall include in the application a certification prepared by a licensed professional engineer or a licensed architect that the design and methods of construction to be used meet the requirements of Section 32-208.03(c) and (d), and the building code.
  - (d) Enclosures Below the Lowest Floor:
    - (1) Enclosures below the lowest floor shall be used solely for parking of vehicles, building access or limited storage;
    - (2) Enclosures below the lowest floor shall be less than two hundred ninety-nine (299) square feet in area (exterior measurement);
    - (3) Walls and partitions are permitted below the elevated floor, provided that such walls and partitions are designed to break away under flood loads and are not part of the structural support of the building or structure;
    - (4) Electrical, mechanical, and plumbing system components shall not be mounted on or penetrate through walls that are designed to break away under flood loads;
    - (5) Walls intended to break away under flood loads shall be constructed with insect screening or open lattice, or shall be designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading resistance of not less than 10 pounds per square foot and no more than twenty (20) pounds per square foot; or
    - (6) Where wind loading values of the building code exceed twenty (20) pounds per square foot, the applicant shall submit a certification prepared and sealed by a licensed professional engineer or licensed architect that:
      - (A) The walls and partitions below the lowest floor have been designed to collapse from a water load less than that which would occur during the base flood.
      - (B) The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood; wind loading values used shall be those required by the building code.
      - (C) In Coastal A Zones, in addition to the requirements of this section, walls below the lowest floor shall have flood openings that meet the requirements of Section 32-207 of the County Code.

(CB-38-2016)

### **Sec. 32-208.03. Coastal and Wetland Floodplain Regulations — Horizontal Additions to Structures.**

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- (a) A horizontal addition proposed for a building or structure that was constructed after the date specified in Section 32-202 of the County Code shall comply with the applicable requirements of Section 32-207 of the County Code and this Section.
  - (b) For horizontal additions, whether structurally connected or not structurally connected, to the base building:
    - (1) If the addition combined with other proposed repairs, alterations, or modifications of the base building constitutes substantial improvement, the base building and the addition shall comply with the applicable requirements of Section 32-207 of the County Code and this Section.
    - (2) If the addition constitutes substantial improvement, the base building and the addition shall comply with all of the applicable requirements of Section 32-205 of the County Code and this section. Note: The base building is required to comply otherwise it is an obstruction that does not comply with the free-of-obstruction requirement that applies to the elevated addition under Section 32-208 of the County Code.
  - (c) A horizontal addition to a building or structure that is not substantial improvement is not required to comply with this section.

(CB-38-2016)

#### **Sec. 32-208.04. Coastal and Wetland Floodplain Regulations — Accessory Structures.**

- (a) Accessory structures shall be limited to not more than three hundred (300) square feet in total floor area.
- (b) Accessory structures shall comply with the elevation requirements and other requirements of Section 32-208 of the County Code or, if not elevated, shall:
  - (1) Be useable only for parking of vehicles or limited storage;
  - (2) Be constructed with flood damage-resistant materials below the base flood elevation;
  - (3) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
  - (4) Be anchored to prevent flotation;
  - (5) Have electrical service and mechanical equipment elevated to or above the base flood elevation; and
  - (6) If larger than one hundred (100) square feet in size, have walls that meet the requirements of Section 32-208, as applicable for the flood zone; and if located in Coastal A Zones, walls shall have flood openings that meet the requirements of Section 32-207.

(CB-38-2016)

#### **Sec. 32-208.05. Coastal and Wetland Floodplain Regulations — Other Structures and Development.**

- (a) Decks and Patios: In addition to the requirements of the building code or the residential code, decks and patios shall be located, designed, and constructed in compliance with the following:
  - (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the flood protection elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

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- (2) A deck or patio that is located below the flood protection elevation shall be structurally independent from structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during base flood conditions or to break apart into small pieces that will not cause structural damage to adjacent elevated structures.
  - (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill that is necessary for site drainage shall not be approved unless an analysis demonstrates no harmful diversion of floodwaters or wave run-up and wave reflection that would increase damage to adjacent elevated structures.
  - (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave run-up and wave reflection.
- (b) Other Development: Other development activities shall be permitted only if located outside the footprint of, and not structurally attached to, structures, and only if an analysis demonstrates no harmful diversion of floodwaters or wave run-up and wave reflection onto adjacent elevated structures. Other development includes but is not limited to:
- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
  - (2) Solid fences, privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under base flood conditions; and
  - (3) Mounded septic systems.

(CB-38-2016)

## **Sec. 32-209. Permit Requirements within the Floodplain.**

- (a) A permit is required for all development (including, but not limited to, construction of and/or substantial improvements to buildings and structures, placement of manufactured homes or buildings, fill, temporary development, new or replacement infrastructure, or any combination thereof) in the floodplain. However, for a development associated with a watercourse having a drainage area of less than 50 acres, a detailed floodplain study may be waived, subject to the approval of the Department.
- (b) An application for a permit shall be submitted to the Department. The application shall be part of the application for a building or grading permit when such a permit is otherwise required for the proposed development.
- (c) The following additional information shall be required, where applicable:
  - (1) If the development includes any grading, new construction, or exterior modifications to existing structures, a site grading plan prepared by a professional engineer or architect showing: the size and location of the proposed development and any existing buildings or structures; the location, dimensions and elevation in mean sea level of the site in relation to the stream channel, shoreline and the floodplain; the elevations of the 1-percent annual chance (100-year) flood, the existing and proposed final grading and the lowest floor elevations of all structures; the method of elevating the proposed structure, including proposed fill, retaining walls, foundations, erosion protection measures; and such other information as may be required by the Department.
  - (2) For substantial improvement to existing structures, a summary description of the proposed work and estimated cost.

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- (3) New construction or substantial improvements of nonresidential structures within the floodplain shall be certified by a professional engineer or a licensed architect, through the execution of a Flood Proofing Certificate that states that the design and methods of construction meet the requirements of this section. A Flood Proofing Certificate shall be submitted with the construction drawings.
  - (4) A plan showing the location of all existing and proposed public and private utilities, facilities, drainage structures and road access. If the 1-percent annual chance (100-year) flood elevation has been determined, it shall be delineated on the proposed plan. For all proposals associated with a watercourse having a drainage area of fifty (50) acres or more, the Department shall approve the 1-percent annual chance (100-year) flood elevation using floodplain models and the applicant shall delineate it on the proposed plan. Private consultant engineering studies and studies using the County's GIS-based floodplain models will be accepted by the Department. In addition, field survey information of structures, within the floodplain, as may be required by the County to complete the study, shall be supplied by the applicant. For all proposals associated with a watercourse having a drainage area of fifty (50) acres or less, the delineation of the 1-percent annual chance (100-year) flood may be excluded upon the approval of the Department. All plans shall be certified by a professional engineer.
- (d) The application shall be reviewed by the Department to assure that:
- (1) The proposed development is consistent with the construction and design requirements of this Division;
  - (2) Adequate drainage is provided to reduce exposure to flood hazards;
  - (3) The plans provide at least one access which will permit safe vehicular ingress and egress from the subdivision and/or new development during the 1-percent annual chance (100-year) flood;
  - (4) Adequate measures have been taken to minimize any potential adverse environmental impacts of the proposed development; and
  - (5) The development complies with the requirements of this Division and all other applicable codes and ordinances.
- (e) No construction or development will occur until all other Federal, State and local permits and approvals have been obtained.
- (f) During the construction period, the Department shall inspect the premises to determine that the work is progressing in compliance with the permit and with all applicable laws and ordinances. The premises shall also be subject to inspection by the Maryland Department of the Environment. In the event that the Department determines that the work is not in compliance with the permit or all applicable laws and ordinances, or that there has been a false statement or misrepresentation by the applicant, the Department shall report such fact to the Maryland Department of the Environment for whatever action it considers necessary as well as pursuing compliance as provided under this Division and Subtitle.
- (g) A use and occupancy permit shall not be approved until the Department has been provided with a completed elevation certificate prepared by a registered land surveyor or engineer certifying the "as-built" elevation of the subject construction.
- (h) A record or log of permits issued for development in the County floodplain shall be maintained by the Department and shall be available upon request to FEMA or its authorized agent (the Maryland Department of the Environment) during periodic assessments of the County participation in the National Flood Insurance Program. Such record shall include at a minimum the date the permit was issued, the "as-built" lowest floor elevation of all new construction or substantial improvement, the issuance date of the use and occupancy permit, a copy of the completed elevation certificate, and any map amendments issued by FEMA.

(CB-15-2011; CB-38-2016)

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## **Sec. 32-210. Appeals.**

- (a) A person aggrieved by a decision of the Department under this Division may file an appeal in writing with the Board of Appeals for Prince George's Department within ten (10) days of receiving notice of the Department's decision.
  - (b) The Board may reverse, modify or remand the decision of the Department only if the decision of the Department is clearly erroneous, illegal, arbitrary or capricious or unsupported by any substantial evidence. The Board shall not have the authority to issue an order which is in conflict with a lawful order of the Department, the requirements and provisions of this Division, or the Federal or State floodplain regulations.
  - (c) Further appeals shall be to the Circuit Court pursuant to the Maryland Rules on Administrative Appeals.
- (CB-15-2011)

## **Sec. 32-211. Enforcement and Penalties.**

- (a) Compliance Required.
  - (1) The Department may issue a notice of violation to any person, firm, association or corporation who fails to comply with the standards and requirements of this Division for construction or development in the floodplain, which notice may provide a reasonable time in which to comply.
  - (2) Any person who fails to comply with a notice of violation or other lawful direction of the Director shall be subject to civil citation and a monetary fine pursuant to Section 28-261 of this Code.
  - (3) The Department shall promptly notify the Federal Insurance Administrator and the Maryland Department of the Environment of any structure or development in the floodplain which is in violation of this Division in order that new or renewal National Flood Insurance on the subject property may be denied or other appropriate remedies may be pursued by these agencies.
    - (A) Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties in accordance with this Section.
    - (B) Permits issued on the basis of plans and applications approved by the Department authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a violation of these regulations.
- (b) Notice of Violation and Stop Work Order. If the Floodplain Administrator or designee determines that there has been a violation of any provision of these regulations, the Floodplain Administrator shall give notice of such violation to the owner, the owner's authorized agent, and the person responsible for such violation, and may issue a stop work order. The notice of violation or stop work order shall be in writing and shall:
  - (1) Include a list of violations, referring to the section or sections of these regulations that have been violated;
  - (2) Order remedial action which, if taken, will effect compliance with the provisions of these regulations;
  - (3) Specify a reasonable period of time to correct the violation;
  - (4) Advise the recipients of the right to appeal; and
  - (5) Be posted in a conspicuous place in or on the property and sent by registered or certified mail to the last known mailing address, residence, or place of business of the recipients.

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- (c) Violations and Penalties. Violations of these regulations or failure to comply with the requirements of these regulations or any conditions attached to a permit or waiver shall constitute a misdemeanor. Any person responsible for a violation shall comply with the notice of violation or stop work order. Failure to comply has following consequences.
- (1) Any person who violates the provisions of this Division shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than One Thousand Dollars (\$1,000) or imprisonment not exceeding six (6) months, or both, for each violation, with costs imposed at the discretion of the Court. Each day that the violation continues shall constitute a separate offense.
  - (2) The imposition of a civil or criminal fine or penalty for any violation or noncompliance with this Division shall not excuse the violator from the requirement to correct or remedy the violation within a reasonable time. The County Attorney may institute injunctive, mandamus or other appropriate action or proceedings at law or equity for the enforcement of this Ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.
  - (3) Each day a violation continues shall be considered a separate offense. Nothing herein contained shall prevent Prince George's County from taking such other lawful action as is necessary to prevent or remedy any violation.
- (d) The Department shall promptly notify the Federal Insurance Administrator and the Maryland Department of the Environment of any structure or development in the floodplain which is in violation of this Division in order that new or renewal National Flood Insurance on the subject property may be denied or other appropriate remedies may be pursued by these agencies.

(CB-15-2011; CB-38-2016)

### **Sec. 32-212. Fees for Conducting the Floodplain Study.**

Fees for GIS-Based Floodplain Studies: The fees for the County to conduct a floodplain study using the GIS-based floodplain models pursuant to this Subtitle shall be adopted by resolution of the Prince George's County Council. The County Executive shall propose and recommend to the County Council a schedule of fees that reflects the actual costs associated with conducting the study and administering and maintaining the GIS database and hardware needed for the models pursuant to the floodplain study.

(CB-15-2011; CB-38-2016)

### **Sec. 32-213 through Sec. 32-215. Reserved.**