

Title 15

BUILDING AND CONSTRUCTION

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- 15.04 Construction Regulations
Generally**
- 15.08 Building and Energy Codes**
- 15.12 Plumbing Code**
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Chapter 15.04

CONSTRUCTION REGULATIONS GENERALLY

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- 15.04.040 Persons subject to prosecution for violation.**
- 15.04.050 Abatement of violations.**
- 15.04.060 Building permit charges.**
- 15.04.070 Violation - Penalty.**

15.04.010 Compliance with regulations.

No building or structure shall be constructed, altered, repaired or removed nor shall the equipment of a building, structure or premises be constructed, installed, altered, repaired or removed, except in conformity with the provisions of this chapter.

15.04.020 Building permit required.

No building or structure shall be built, enlarged, altered or moved without a permit from the building official, who may require a plan of the proposed work, together with a statement of the materials to be used.

15.04.030 Adoption of standards and codes by reference.

The Town shall adopt standards and codes applicable to building and construction accepted and/or approved by the State of Maryland and said standards and codes shall be set forth by reference in a resolution by the Mayor and Commissioners. (Amended by Ord. 05-2004, eff. 11/09/04)

15.04.040 Persons subject to prosecution for violations.

The owner of a building, structure or premises where anything in violation of this chapter shall be placed or shall exist, and any architect, builder, contractor, agent, person or legally authorized business entity employed in connection therewith and who may have assisted in the commission of such violation, shall each be guilty of a separate offense and subject to prosecution for such violation. (Amended by Ord. 08-2001, eff. 10/23/01)

15.04.050 Abatement of violations.

The imposition of a penalty for a violation of this chapter shall not preclude the Town from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the occupancy of a building, structure or premises, or to prevent an illegal act, conduct business or use in or about any premises. (Amended by Ord. 08-2001, eff. 10/23/01)

15.04.060 Building permit and inspection charges.

Building permit, inspection and other construction related charges under this chapter shall be established by a resolution of the Mayor and Commissioners. (Amended by Ord. 08-2001, eff. 10/23/01)

15.04.070 Violation - Penalty.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment not to exceed six (6) months, or both such fine and imprisonment. Each day a violation of this chapter occurs shall constitute a separate offense.

Chapter 15.08

BUILDING AND ENERGY CODES

**Repealed by Ord. 09-2001, effective:
10/23/01**

Chapter 15.12

PLUMBING CODE

Sections:

- 15.12.010 Compliance required.**
- 15.12.020 Permit required.**
- 15.12.030 Application for permit – Issuance - Fees.**
- 15.12.040 Inspections.**
- 15.12.050 Plumbers license.**
- 15.12.060 Enactment of rules and regulations.**
- 15.12.070 Violation - Penalty.**

15.12.010 Compliance required.

All plumbing work done in the town in and about or in connection with any building must conform to the Plumbing Code approved by the Maryland State Board of Commissioners of Practical Plumbing and/or applicable state of Maryland regulations. All indoor plumbing fixtures hereinafter installed shall be inspected and approved by the building official. (Amended during 1996 codification; prior code § 86-1)

15.12.020 Permit required.

No person shall begin the erection or construction of a new building in the town or undertake the construction of any major additions or alterations to an existing building which will in any way affect the water supply, sewage disposal or plumbing system in such existing building without first having obtained a permit from the building official of the town as provided in this chapter. (Amended during 1996 codification; prior code § 86-2)

15.12.030 Application for permit – Issuance - Fees.

A. Applicants for a permit as provided in Section 15.12.020 shall be required to give the location of the property, size of lot, nature and size of building and the method of water

supply and sewage disposal and number and kind of plumbing fixtures to be installed, on an application form obtainable at the office of the building official. Such application must be accompanied by a drawing showing the size, shape and general location of the owner's lot and the location of the existing or proposed building thereon and the water supply and sewage disposal systems in existence or proposed. After such application has been duly processed by the building official and after approval, a permit shall be issued to the applicant.

B. All plumbing fees provided in this chapter shall be established by the resolution of the Mayor and Commissioners. (Amended during 1996 codification; prior code § 86-3)

15.12.040 Inspections.

Inspections of the property before and during the construction authorized by the plumbing permit shall be made by the town, whose representative shall be authorized and empowered to go upon the property whenever he deems it necessary or expedient to do so to inspect the work as it progresses to see that it conforms to the Plumbing Code and state of Maryland regulations. He shall be empowered to order work stopped that is not in conformity with the Plumbing Code and said health regulations and require the plumber doing the work to correct the same. (Amended during 1996 codification; prior code § 86-5)

15.12.050 Plumbers license.

All plumbers doing work in the town must be licensed in accordance with the applicable COMAR regulations. (Amended during 1996 codification; prior code § 86-6)

15.12.060 Enactment of rules and regulations.

The Mayor and Commissioners are authorized and empowered to pass such rules and regulations from time to time as shall be required and deemed necessary to carry into effect the intention and provisions of this

chapter. (Amended during 1996 codification; prior code § 86-7)

15.12.070 Violation - Penalty.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in the Charter, Section C14-1A. Each day a violation of this chapter occurs shall constitute a separate offense. (Amended during 1996 codification; prior code § 86-8)

Chapter 15.16

Article I. General Provisions

HOUSING STANDARDS

Sections:

Article I. General Provisions

- 15.16.010 Definitions.
- 15.16.020 Scope and applicability.
- 15.16.030 Building Official designated – Assistance.
- 15.16.040 Powers and duties of Building Official.
- 15.16.050 Responsibilities of owners.
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- 15.16.100 Heating.
- 15.16.110 Basic equipment and facilities.
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- 15.16.130 Property maintenance - Conditions of structure.
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15.16.010 Definitions.

A. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“*Basement*” means a portion of a structure which is partly or completely below grade.

“*Building Official*” means the town official as defined in Chapter 2.08, Title 2, Code of the Town of Elkton, including his designee(s).

“*Central heating*” means a heating system which is permanently installed and adjusted so as to provide the distribution of heat to all habitable areas from a source outside of these areas.

“*Condemn*” means to declare a structure or part of it, premises, or equipment, unsafe or unfit for use or occupation.

“*Codes*” mean any or all of the building, plumbing, mechanical, energy conservation, electric, property maintenance, life safety, masonry, fuel gas, and liquefied petroleum gas codes as adopted by a Resolution of the Mayor and Commissioners and enforced by the Building Official and the Town’s department of Building and Zoning.

“*Dwelling*” means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing as hereinafter defined shall not be regarded as a “dwelling.”

“*Dwelling unit*” means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

“*Extermination*” means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods approved by the Cecil County health department.

“*Garbage*” means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

“*Habitable room*” means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

“*Housing unit*” means a single unit of a structure providing or intended to provide complete living and sleeping facilities for one or more persons.

“*Infestation*” means the presence, within or contiguous to, a structure or premises of insects, rodents, vermin, or other pests.

“*Kitchen*” means a room containing any of the following equipment or area of a room within three feet of the following equipment: sink or other device for dishwashing, stove or other device for cooking, refrigerator or other device for cool storage of food, cabinets or shelves for storage of equipment and utensils, counter or table for food preparation.

“*Multiple dwelling*” means any dwelling containing more than two (2) dwelling units.

“*Occupant*” means any person over one year of age living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

“*Operator*” means any person who has charge, care or control of a building or part thereof in which dwelling units or rooming units are let.

“*Owner*” means any person who, alone or jointly or severally with others:

1. Shall have legal title to any improved real property, including a dwelling or dwelling unit, with or without accompanying actual possession thereof; or
2. Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the

owner. Any such person thus representing the actual “owner” shall be bound to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto, to the same extent as if he were the “owner.”

“*Plumbing*” means and includes all of the following supplied facilities and equipment: bathtubs, catch basins, installed clothes washing machines, installed dishwashers, drains, flush water closets, garbage disposal units, gas burning equipment, gas pipes, lavatories, shower baths, sinks, vents, waste pipes, water pipes, other similar supplied fixtures, and each connection to a water, sewer or gas line.

“*Premises*” means a platted lot or part thereof or unplatted lot or parcel or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure.

“*Public hall*” means any hall, corridor or passageway not within the exclusive control of one family.

“*Refuse*” means any putrescible and nonputrescible solids, includes garbage, rubbish, ashes and dead animals; does not include body wastes.

“*Rooming house*” means any dwelling or that part of any dwelling containing one or more dwelling units in which space is let by the owner or operator to three (3) or more persons who are not husband or wife, son or daughter, mother or father or sister or brother of the owner or operator.

“*Rubbish*” means any paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and other similar materials as well as the residue from the burning of wood, coal, coke, and other combustible materials.

“*Supplied*” means paid for, furnished or provided by or under the control of the owner or operator.

“*Temporary housing*” means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another

structure or to any utilities system on the same premises for more than thirty (30) consecutive days.

“*Town Code*” means the Code of the Town of Elkton, as amended.

“*Unfit structure*” means one that is unsafe or, because of the degree to which it lacks maintenance or is in disrepair, is unsanitary, is vermin or rat infested, or contains filth and contaminants, or because of the chosen location, constitutes a hazard to its occupants or to the public, as determined by the Building Official.

“*Unsafe equipment*” means and include any boiler, heating equipment, plumbing fixtures or equipment, electrical wiring or device, flammable liquid containers or other equipment or machinery on the premises or within the structure which is in disrepair or a condition that is found to be a hazard to life, health, safety, property of the public or occupant(s) of the premises or structure. Unsafe equipment may contribute to finding that the structure is unsafe or unfit for human occupancy or use.

“*Unsafe structure*” means one in which all or any part thereof is found to be dangerous to life, health, or the safety of the public or the occupant(s) of the premises or structure, or, because it is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, it is likely to partially or completely collapse.

“*Ventilation*” means the process of supplying and removing air by natural or mechanical means to or from a space. “*Mechanical ventilation*” is the ventilation by power-driven devices. “*Natural ventilation*” is the ventilation by an opening to the outer air through windows, skylights, doors, louvers or stacks without power-driven devices.

“*Water closet*” means a toilet, with a bowl and trap made in one piece, which is connected to the town water and sewer system or other approved water supply and sewer system.

“*Workmanlike state of repair*” means in such a state as to comply with all provisions of law,

the applicable Codes and other ordinances pertaining to construction of buildings and installation of facilities and utilities.

B. Word Usage. Whenever the words “dwelling,” “dwelling unit,” “rooming house,” “rooming unit” and “premises” are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof.”

15.16.20 Scope and applicability.

A. Every building used in whole or in part as a dwelling unit or as two or more dwelling units shall conform to the requirements of this chapter irrespective of the date that such building may have been constructed, altered or repaired.

B. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for purpose of living, sleeping, cooking or eating therein which does not comply with the requirements of this chapter.

15.16.30 Building Official designated - Assistance

The Mayor and Commissioners shall designate a Building Official, who shall be provided by the town with such facilities and personnel as may be necessary.

15.16.40 Powers and duties of housing inspector.

A. The Building Official is charged with the duty of safeguarding the health and safety of the occupants of buildings and of the general public, in accordance with the requirements and purposes of this chapter, and as set forth in the Code of the Town of Elkton, Title 2, Chapter 2.08.

B. The Building Official or his duly authorized representative is directed to perform the following duties:

1. Make inspections to determine the condition of dwellings, dwelling units, rooming houses and premises within the town,

and for this purpose he may enter, examine and survey such housing premises at any reasonable time and upon showing proper identification;

2. Secure the cooperation of any other inspector of building construction and facilities in determining the conditions of dwellings, dwelling units, rooming houses and premises;

3. Make and adopt such written interpretations of standards and procedures as may be necessary for the proper enforcement of the provisions of this chapter, provided that such interpretations shall not conflict with the provisions of the Town Code. The Building Official shall file a certified copy of all such interpretations in the office of the Building Official. If a public hearing has been held in accordance with the laws governing the conduct of public hearings in the state, such interpretations may be adopted by the Mayor and Commissioners and, when so adopted, shall have the same force and effect as the provisions of this chapter;

4. Issue notices of violation of the provisions of this chapter and take appropriate actions to ensure compliance with or to prevent violation of such provisions;

5. Issue emergency orders setting forth appropriate and immediate actions necessary to meet conditions that endanger the health or safety of the public or of the occupants of a dwelling or dwelling unit;

6. Issue orders of condemnation upon finding any dwelling or dwelling unit unfit for human habitation;

7. The Building Official has the authority to require and approve any alterations or repairs necessary to bring a structure or premises into compliance with this code. The determination of what may be necessary to bring the premises into compliance shall take into consideration the use of alternatives and equivalent approaches as provided for in this code.

15.16.50 Responsibilities of owners.

The responsibilities of an owner in meeting the requirements of this chapter are as follows:

A. To occupy or to let no dwelling or room to anyone for occupancy unless it is in a clean, sanitary and habitable condition, free from infestation, in good repair and otherwise complies with all requirements of this chapter;

B. To maintain in a clean and sanitary condition the shared or public areas of a dwelling containing two or more dwelling units;

C. To provide screens to be installed;

D. To exterminate infestation in a dwelling containing two or more dwelling units when infestation exists in two or more units or in shared or public areas, or when infestation is due to failure of the owner to maintain the dwelling in a rodent proof and reasonably insect proof condition;

E. To provide facilities for garbage and refuse disposal in a dwelling containing three or more dwelling units;

F. To be responsible for installing and maintaining in good working order any smoke detector installed pursuant to this code. Installation and maintenance shall be in accordance with the International Residential Code, as amended.

15.16.60 Responsibilities of occupants.

The responsibilities of an occupant in meeting the requirements of this chapter are as follows:

A. To keep the dwelling and premises he controls and occupies in a clean and sanitary condition;

B. To dispose of garbage and refuse in a clean and sanitary manner;

C. To install and remove screens provided by the owner;

D. To keep plumbing fixtures in a clean and sanitary condition and to exercise reasonable care in the proper use and operation thereof;

E. To exterminate infestation in a single dwelling or, if his unit is the only unit

infested, in a dwelling containing two or more dwelling units;

F. To give the Building Official or his authorized representative free access to the dwelling or dwelling unit at all reasonable times for the purpose of inspection;

G. To give the owner of the dwelling or dwelling unit, or his agent or employee, access to any part of such dwelling or dwelling unit and premises at all reasonable times for the purposes of making such repairs or alterations as are necessary to comply with the provisions of this chapter.

Article II. Minimum Standards

15.16.70 Conflicts.

It is the intent of this chapter that all dwellings and dwelling units shall comply with the standards of this code and other ordinances, laws and lawfully adopted regulations pertaining to construction of buildings and installation of facilities and utilities, in addition to the standards of this article, and where a conflict exists, the provision which establishes the higher standard shall prevail.

15.16.80 Lighting.

A. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area for every habitable room shall be ten percent of the total floor area of such room, except that if the only window in a room is the skylight type, the minimum total window area shall be fifteen (15) percent of the total floor area of such room.

B. A window shall be deemed to face directly to the outdoors whenever walls or other light-obstructing structures are located more than three (3) feet from the outside of a window and extend no higher than the ceiling of the room.

C. Every habitable room shall contain at least two (2) separate wall-type electric outlets, and

every bathroom, laundry room, furnace room and public hall shall contain at least one ceiling or wall-type electric light fixture; provided that such rooms are in a dwelling which is not more than three hundred (300) feet from power lines having available electric service.

D. Every public hall and stairway in a multiple dwelling containing five (5) or more dwelling units shall be adequately lighted at all times.

E. All electric wiring, outlets and fixtures shall be installed and maintained in accordance with the requirements of the National Electrical Code.

15.16.90 Ventilation.

A. Every habitable room shall have at least one window or skylight opening directly to the outdoors, at least half of which can easily be opened, or shall have some other device which affords adequate ventilation and receives the approval of the Building Inspector.

B. Every bathroom shall have an operable window of at least four square feet or mechanical device which affords adequate ventilation and receives the approval of the Building Official.

15.16.100 Heating.

A. Residential Structures. Each housing unit shall be supplied with sufficient heat or heating equipment capable of supplying sufficient heat during the period from October 1st to May 15th to maintain a room temperature of not less than sixty-five (65) degrees Fahrenheit in all habitable areas during the hours between six-thirty a.m. and ten-thirty p.m. of each day and maintain a temperature of not less than sixty (60) degrees Fahrenheit during other hours. The temperature shall be measured at a point three (3) feet above the floor and three (3) feet from the exterior walls. Exception: when the exterior temperature falls below zero (0) degree Fahrenheit and the heating system is operating at its full capacity,

a minimum room temperature of sixty (60) degrees Fahrenheit shall be maintained at all times.

B. All heating facilities, vents, ducts and other equipment associated with heating shall be installed and maintained in accordance with the requirements of the Applicable Code(s).

C. All fuel-burning equipment shall be connected to a chimney, flue or vent in accordance with applicable local or state codes or according to manufacturer's instructions in cases where no local or state codes apply.

D. All necessary and legally required clearances to combustible materials shall be maintained.

E. All safety controls for fuel-burning equipment shall be maintained in effective operation in accordance with applicable local or state codes, or according to manufacturer's instructions in cases where no local or state codes apply.

F. A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided the fuel-burning equipment.

G. Devices purporting to reduce gas consumption by attachment to a gas appliance, the gas supply line, or the vent outlet or vent piping may not be used unless labeled for that use and the installation has specifically received all necessary and legally required approvals.

H. Fireplaces, and other construction and devices intended for use similar to a fireplace, shall be stable and structurally safe and connected to chimneys which have received all necessary and legally required approvals.

I. When facilities for interior climate control (heating, cooling and humidity) are integral functions of housing units, these facilities shall be maintained and operated in accordance with the designed capacity.

15.16.110 Basic equipment and facilities.

A. Every dwelling unit shall be supplied with piped hot and cold running water to provide an adequate, safe and sanitary water supply to every fixture connected with the water supply and drainage system. Hot water shall be supplied at all times at a temperature of at least one hundred twenty (120) degrees Fahrenheit at the tap.

B. Every dwelling unit shall contain a kitchen sink, a bathtub or shower, a lavatory basin and a flush water closet, each properly connected to a water system and sewage disposal system in accordance with the requirements of the applicable Code(s).

15.16.120 Space and occupancy.

A. Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor space for each additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area.

B. Every sleeping room for one occupant shall have at least seventy (70) square feet of floor space, and every sleeping room for more than one occupant shall have at least fifty (50) square feet of floor space for each additional occupant.

C. At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven (7) feet. Any part of the room having a ceiling height of less than five (5) feet shall not be considered in computing the total floor area of such room.

D. No habitable room shall contain less than seventy (70) square feet of floor area, nor shall any horizontal room dimension be less than seven feet.

E. No basement space shall be used as a habitable room or dwelling unit unless:

1. Adequate lighting is provided according to the requirements of this chapter;
2. The floors and walls are impervious to leakage of underground and surface runoff

water and are insulated against dampness.

F. Every water closet, bathtub or shower required by this chapter shall be installed in a room which will afford privacy to the occupant.

G. Every dwelling unit shall have a safe, unobstructed means of egress to a safe and open space at ground level. All structures of three (3) or more stories shall have two (2) separate, usable, unobstructed means of egress for every dwelling unit located above the second story.

**15.16.130 Property maintenance -
Conditions of structure.**

A. All dwelling structures shall be watertight, weatherproof, rodent proof, insect proof and in good repair.

B. Every foundation, exterior wall and roof shall be reasonably watertight, weathertight and rodent proof, shall adequately support the building at all times and shall be in a workmanlike state of repair.

C. Every interior partition, wall, floor and ceiling shall be reasonably tight, capable of affording privacy and maintained in a workmanlike state of repair and in a clean and sanitary condition.

D. All rainwater shall be so drained and conveyed from every roof and the lot shall be so graded and drained as not to cause dampness in the walls, ceilings, floors or basement of the dwelling.

E. Every window, exterior door and basement hatchway shall be reasonably weathertight, watertight and rodent proof and shall be maintained in a workmanlike state of repair.

F. Each window, used for ventilation or emergency escape, shall be capable of being easily opened from the inside and shall be held in position by window hardware.

G. Every inside and outside stairway, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and it shall be

maintained in a workmanlike state of repair.

H. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in a workmanlike state of repair, free from defect, leaks and obstruction.

I. Every toilet, bathroom and kitchen floor shall be constructed and maintained so as to be reasonably impervious to water, and such floor shall be kept in a clean and sanitary condition.

J. Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed and installed that it will function safely and effectively and shall be maintained in a workmanlike state of repair.

K. All chimneys and similar appurtenances shall be maintained structurally sound, safe, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials such as paint or similar surface treatment.

L. Each exterior door and its hardware shall be maintained in good condition. Door locks on all interior and exterior doors entering housing units shall be in good repair and capable of tightly securing the door.

M. The supporting structural members of a structure shall be maintained structurally sound, free of deterioration and maintained capable of safely carrying the imposed loads.

N. The interior of a structure shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage.

O. Each door available as an exit shall be capable of being opened easily from the inside.

P. All interior stairs and railings and other exit facilities of a structure shall be maintained in sound condition and good repair. Each interior stair used for exit shall be maintained so as to be safe to use and capable of supporting the anticipated loads.

Q. The exterior of a structure shall be maintained in good repair, and shall be structurally sound and maintained in a sanitary

condition so as not to pose a threat to the health, safety or welfare of occupants.

R. Each foundation, exterior wall, roof, and all other exterior surfaces shall be maintained in good repair and shall be kept in such condition as to exclude rodents and other pests.

S. Foundation walls shall be structurally sound and shall be maintained free from open cracks and breaks.

T. Each exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied areas of the structure. All exterior surface materials, including wood, composition or metal siding, shall be maintained weatherproof and shall be properly surface-coated when required to prevent deterioration.

U. The roof shall be structurally sound, and may not have defects which might admit rain. Roof drainage shall be adequate to prevent rainwater from causing dampness or deterioration in the walls or interior portion of the structure.

15.16.140 Infestation.

A. During that portion of each year extending from May 1st through September 30th and as protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device, and every window or other device with openings to outdoor space used or intended to be used for ventilation shall likewise be equipped with screens or other insect deterrents.

B. Every basement window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be permanently equipped with screens or such other device as will effectively prevent their entrance.

C. During the summer months there shall be no standing pools of water that might provide

a breeding place for mosquitoes.

15.16.150 Garbage and refuse disposal.

A. Every dwelling unit shall be supplied with refuse storage or disposal facilities, which shall be metal or an equivalent material approved by the Building Official, watertight and provided with tight covers, which shall be kept securely closed at all times.

B. Garbage and refuse shall not be allowed to accumulate except in such facilities and shall be discarded within a reasonable time.

15.16.160 Open space areas and incidental structures.

A. Heavy undergrowth and accumulations of plant growth which are noxious or detrimental to health shall be eliminated.

B. Junk, trash or rubbish shall not be allowed to accumulate to the detriment of health or so as to cause unsightly conditions.

C. Fences and other minor constructions shall be maintained in safe and substantial condition.

D. Steps, walks, driveways, yards and courts shall be maintained free of physical hazards.

E. It is unlawful to maintain any unlicensed, abandoned or dismantled vehicles or vehicles with expired registrations within the corporate limits of the Town of Elkton.

15.16.170 Rooming houses.

A. Every rooming house and room shall be in compliance with the minimum standards set forth in the light, ventilation, heating, space and property maintenance requirements of this Chapter.

B. Every rooming house shall be equipped with at least one flush water closet, one lavatory and one bathtub or shower for each eight persons or fraction thereof within the rooming house, including members of the family if they are to share the use of the

facilities. In rooming houses in which rooms are let only to males, flush urinals may be substituted for not more than one-half of the required number of water closets. All such facilities shall be properly connected to the water supply and sewage disposal system.

C. Every flush water closet, flush urinal, lavatory, bathtub or shower required above shall be located within the rooming house in a room which:

1. Affords privacy;
2. Is accessible by a common hall without going outside the rooming house or through sleeping quarters of others;
3. Is not more than one story removed from the room of an occupant intended to share the facilities.

15.16.180 Fire safety requirements.

A. The provisions of this regulation shall govern the minimum standards for fire safety facilities and equipment. All structures shall be constructed and maintained to prevent and avoid fire hazards, and in a manner conducive to fire safety.

B. Means of Egress.

1. General. A safe, continuous and unobstructed means of egress shall be provided from the interior of a structure to the exterior at a street, yard, court or passageway leading to a public open area at grade.

2. Direct Exit. Each housing unit shall have access directly to the outside or to a common area that leads directly to the outside.

3. Doors. All doors in the required means of egress shall be easily opened from the inner side.

4. Fire Escape. All fire escapes shall be maintained in working condition and structurally sound.

5. Exit Signs. All exit signs shall be illuminated and visible.

6. Emergency Escape. Each sleeping room located in a basement shall have at least one openable window or exterior door for emergency egress or rescue which has received all necessary and legally required

approvals or shall have access to two separate exits which have received all necessary and legally required approvals.

C. Accumulation and Storage

1. General. Garbage or rubbish may not be allowed to accumulate in stairways, passageways, doors, windows, fire escapes, or other means of egress.

2. Flammable Matter. Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible rubbish such as wastepaper, boxes and rags, may not be accumulated or stored on premises except in reasonable quantities consistent with normal usage.

3. Residential Unit. A housing unit may not be located within a structure containing an establishment handling, dispensing or storing flammable liquids with a flash point of one hundred (100) degrees Fahrenheit or lower, except as provided for in the applicable local building code.

D. Fire Resistance Ratings. Floors, walls, ceilings, and other elements and components which are required by the applicable Codes to comply with a fire resistance rating shall be maintained so that the respective fire resistant rating of the enclosure, separation or construction is preserved.

E. Fire Protection Systems.

1. General. All fire protection systems and equipment shall be maintained in proper operating condition at all times.

2. Smoke Detectors.

a. All housing units shall be provided with a minimum of one single station smoke detector in the vicinity of each sleeping area.

b. The smoke detectors shall be installed and maintained in accordance with the International Residential Code, as amended, and/ or by code or regulation as otherwise adopted by a resolution of the Mayor and Commissioners.

c. When actuated, the smoke detector shall provide an alarm suitable to warn the occupants within the unit.

1. Fire Suppression System. Fire suppression systems in housing units so

equipped shall be maintained in good condition, free from mechanical defect. Sprinkler heads shall be kept clean and free of corrosion and paint, and may not be bent or damaged.

2. Fire Extinguishers. All portable fire extinguishers in housing units so equipped shall be visible and accessible, and maintained in an efficient and safe operating condition.

F. Fire Doors.

1. All necessary and legally required fire-resistance-rated doors or smoke barriers shall be maintained in good working order, including all hardware necessary for their proper operation.

2. The use of door stops, wedges, and other hold-open devices which have not received all necessary and legal approvals or which have been denied approval is prohibited.

Article III. Inspection and Enforcement

15.16.190 Notice of violation.

A. Whenever the Building Official determines that there has been a violation or that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, he shall give notice to the person responsible therefore. Such notice shall be put in writing and shall:

1. Include a description of the property involved, a statement of the reason why the notice is being issued and a statement of the time permitted to reach compliance with the notice;

2. Inform the violator of his right to petition for a hearing before the board of housing appeals and specify the necessary procedure for making such a petition.

B. Such notice shall be served upon the owner or occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such violator if a copy thereof is delivered to him personally or by registered mail, or if the notice is published in a newspaper of general circulation in the

town once each week for two consecutive weeks, but such publication shall be made only if the address of the violator is unknown and cannot be ascertained with reasonable diligence.

C. Such notice may include an outline of remedial actions to effect compliance with the provisions of this chapter.

D. A copy of such notice shall be filed in the office of the Building Official.

15.16.200 Emergency orders

A. Whenever the Building Official finds that an emergency exists which requires immediate action to protect the health or safety of the public or of the occupants of a dwelling or dwelling unit, he may, without notice or hearing, issue an emergency order, which shall be in writing and shall recite the existence and nature of the emergency and require that such action be taken as necessary.

B. Such emergency order shall be served upon the owner or the occupant, as the case may require; provided that such emergency order shall be deemed to be properly served if a copy thereof is delivered to him personally or by registered mail, or if a copy is posted upon the premises.

C. Such emergency order shall be effective immediately and shall be complied therewith immediately.

D. A copy of such emergency order shall be filed in the office of the Building Official.

15.16.210 Condemnations.

A. General procedures. When a structure or part thereof is found by the Building Official to be unsafe or unfit for human occupancy or use, it may be condemned pursuant to this section and the applicable adopted Code(s). If the Building Official makes such determination, the Building Official shall serve the owner with a compliance order pursuant to this section. No condemned structure shall be used as an ongoing business or for human habitation without the approval

of the Building Official. In addition, the Building Official may also determine that equipment located in a residential or business structure is unsafe and issue a compliance order.

B. A structure shall be considered to be unsafe or to be unfit for human habitation when it is found to have any of the following defects:

- 1) Damage, decay or dilapidation, or unsanitary, unsafe or vermin infested conditions to the extent that a serious hazard to the health or safety of the occupant(s) or to the public is created;
- 2) Any boiler, heating equipment, cooking equipment, electrical wiring or device, flammable liquid container(s), or other equipment on the premises or within the structure which is in such disrepair or condition that it is found by the Building Official to be a hazard to life, health, property, or safety of the tenant(s), lessee(s), or occupant(s) of the premises or structure or of the public.
- 3) Structurally unsafe or of such faulty and/or deteriorated construction or unsafe foundation that it is likely to partially or completely collapse.
- 4) Unsanitary or dangerous conditions arising from the general condition or location of the building or structure to the extent that a serious hazard to the health and safety of the occupants or of the public is created.
- 5) Unsanitary or unsafe conditions do to filth or contamination, lack of ventilation or illumination, lack of sanitary or heating facilities, or lack of other essential equipment required by the Code(s).

C. Closure of vacant structures. If the structure or part thereof is vacant and unfit for human habitation, occupancy, business, or other use, and is not in danger of structural collapse, but is a potential hazard to health and safety, the Building Official shall serve the owner(s) with a compliance order pursuant to this section. The owner shall secure the structure from entry by boarding or any other method(s) necessary, as approved by the

Building Official. Upon failure of the owner(s) to close the premises within the time specified in the compliance order, the Building Official shall cause it to be closed by the Town or through the use of a contractor, and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon the real estate.

D. Placarding of structures. Upon inspection of the structure, the Building Official may post on the premises a placard bearing the words "Condemned - Dangerous and Unsafe" or "Danger - Unsafe for Human Occupancy or Use," or other words to that effect, along with a statement of penalties provided for any occupancy or use and for the removal of the placard.

E. Occupancy or use of placarded premises prohibited. Any person who shall occupy or otherwise use a placarded premises or structure or part thereof, or any person responsible for the premises who lets any person(s) occupy or otherwise use a placarded premises shall be liable for penalties as provided under this Chapter.

F. Removal of placard. The Building Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation or danger placard action was based have been eliminated. Any person who defaces or removes a condemnation or damage placard without the approval of the Building Official shall be subject to penalties provided under this Chapter.

G. Notice of violation.

1) Notification. The Building Official shall give notice of the existing violation to the owner(s) of the affected structure and to its occupant(s).

2) Notice. The notice shall be in writing and include information sufficient for identification of the real estate involved, include a statement of the reason(s) why the notice is being issued and any Codes violation(s) described. The notice shall include the owner(s)' right to appeal the decision of the Building Official and shall

include the penalties for failure to correct said violation(s).

3) Service. Notice shall be considered served when the notice is delivered to the owner(s) personally and/or sent by certified or registered mail, addressed to the owner(s) of record at the last known address, with return receipt requested. Notice shall also be posted in a conspicuous place on or about the affected structure or premises.

4) Publication of notice. In case the structure is to be razed and demolished, the Town shall public a notice indicating the same, which shall include all information relative to the property. The notice shall be advertized once a week for two (2) consecutive weeks in a newspaper of general circulation and authorized to provide service by publication.

H. Demolition orders; subsequent action.

1) Raze and removal. At the time of service of a notice of violation to the owner(s), the Building Official may order the owner(s) of the premises or structure that is an unsafe structure to raze and remove the structure and to stabilize the disturbed area by grading, seeding, and erosion control measures as may be required by the Town Code, State law or regulation(s).

2) Noncompliance. In the event that owner(s) of a property fails to comply with an order of the Building Official within the prescribed time of the order and upon exhaustion of any and all legal remedies by the Town and the Building Official, and with the approval of the Mayor and Commissioners the Building Official may enter the building or premises affected by the order and cause the building or premises to be repaired or demolished and the materials removed, or cause any dangerous condition to be remedied by a contractor at the expense of the owner(s) of the property.

3) Lien. If the owner(s) fails to repay the Town for expenses incurred under this section within thirty (30) days after written demand has been mailed to the owner(s)' last known address, the Building Official shall notify Cecil County and a tax lien in favor of the

Town for the amount of expenses incurred by the Town under this section shall attach to the property and any other applicable fees which the Town has expended shall also be applied to the lien.

15.16.220 Hearings

A) A person affected by a decision of the Building Official which has been made in connection with the enforcement of this section, or a regulation adopted pursuant to this section, may request and shall be granted a hearing in a manner as prescribed in this Chapter.

B) A person aggrieved by a decision of the Building Official in connection with an alleged violation of this section or demolition order issued under the provisions of this section may appeal such decision or order to the Board of Housing Appeals. Such appeal shall be filed within twenty (20) days of receipt of such notice.

C) The Building Official shall notify the appellant in writing of the date, time, and place for the hearing with ten (10) days of the filing of the appeal.

D) The hearing before the Board of Housing Appeals shall take place not later than thirty (30) days after the day on which the appeal was filed, unless the appellant requests postponement for cause.

E) After such hearing, the Board of Housing Appeals shall sustain, modify, or withdraw the notice, emergency order or condemnation, depending upon its findings of compliance with the provisions of this section.

If the Board of Housing Appeals sustains or modified such notice, emergency order or condemnation, it shall be deemed to be an order and the violator shall comply with all the provisions of such order within the specified length of time. Such order shall be made within thirty (30) days after the hearing.

15.16.230 Appeal

Any decision of the Board of Housing Appeals may be appealed to the Cecil County Circuit Court in accordance with the Mary

land Rules of Procedure.

15.16.240 Failure to comply with emergency or condemnation orders.

It is unlawful for any person upon whom a notice of violation, emergency order or order of condemnation has been served to fail to begin compliance with the directives thereof within the specified length of time without having timely petitioned the board of housing appeals for a hearing, or to fail to comply with the decision of the board of housing appeals after a hearing.

15.16.250 Violation - Penalty.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be subject to a fine of not more than one thousand dollars (\$1,000.00), and/or imprisonment for not more than six months.

**Chapter 15.20
FLOODPLAIN MANAGEMENT**

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Article I. General Provisions

15.20.010 Findings

The Federal Emergency Management Agency has identified *special flood hazard areas* within the boundaries of the Town of Elkton. *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 *floodproofed*, or otherwise unprotected from flood damage, also contribute to flood losses.

The Town of Elkton, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on March 18, 1980.

As of that date the initial effective date of the Town of Elkton *Flood Insurance Rate Map*, all *development* and *new construction* as defined herein, are to be compliant with these regulations.

15.20.020 Statutory Authorization

The Maryland General Assembly, in Land Use Article, Division I., Single-Jurisdiction Planning and Zoning., Title 4., Zoning., Subtitle 1., Powers., Section 4-101, Annotated Code of Maryland, established the State's policy that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that 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 Mayor and Commissioners of the Town of Elkton have adopted the following floodplain management regulations.

15.20.030 Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (A) Protect human life, health and welfare;
- (B) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (C) Minimize *flooding* of water supply and sanitary sewage disposal systems;
- (D) Maintain natural drainage;
- (E) 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*;
- (F) Minimize the need for rescue and relief efforts associated with *flooding* and generally undertaken at the expense of the general public;
- (G) Minimize prolonged business interruptions;
- (H) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (I) Reinforce that those who build in and occupy *special flood hazard areas* should assume responsibility for their actions;
- (J) Minimize the impact of *development* on adjacent properties within and near *flood-prone* areas;
- (K) Provide that the *flood* storage and conveyance functions of *floodplains* are maintained;
- (L) Minimize the impact of *development* on the natural and beneficial functions of *floodplains*;
- (M) Prevent *floodplain* uses that are either hazardous or environmentally incompatible; and
- (N) Meet community participation requirements of the National Flood Insurance Program as

set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

15.20.040 Areas to Which These Regulations Apply

These regulations shall apply to all *special flood hazard areas* within the jurisdiction of the Town of Elkton and identified in Section 15.20.050.

15.20.050 Basis for Establishing Special Flood Hazard Areas and BFEs

- (A) 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 Cecil County, Maryland and Incorporated Areas dated July 8, 2013, 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 Town of Elkton's Department of Planning.
- (B) Where field surveyed topography or digital topography indicates that ground elevations are below the closest applicable *base flood elevation*, even in areas not delineated as a special flood hazard on the *FIRM*, the area shall be considered as *special flood hazard area*.
- (C) To establish *base flood elevations* in *special flood hazard areas* that do not have such elevations shown on the *FIRM*, the Floodplain Administrator may provide the best available data for *base flood elevations*, may require the applicant to obtain available information from Federal, State or other sources, or may require the applicant to establish *special flood hazard areas* and *base flood elevations* as set forth in Section 15.20.130, Section 15.20.140, and Section 15.20.150 of these regulations.

15.20.060 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.

15.20.070 Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and,
- (C) Deemed neither to limit nor repeal any other powers granted under State statutes.

Notes referencing publications of the Federal Emergency Management Agency refer to the most recent edition of those publications, are intended only as guidance, and do not bind or alter the authority of the Floodplain Administrator to interpret and apply these regulations.

15.20.080 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 the Town of Elkton, any officer or employee thereof, the Maryland Department of the Environment (MDE) or the Federal Emergency Management Agency (FEMA), for any *flood* damage, injury or death that results from reliance on these regulations or any administrative decision lawfully made hereunder.

15.20.090 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.

Article II. Definitions

15.20.100 Definitions

Unless specifically defined below, words or phrases used in these regulations shall be interpreted to have the meaning they have in common usage and to give these regulations the most reasonable application.

Accessory Structure: A building or *structure* on the same lot with, and of a nature customarily incidental and subordinate to, the principal *structure*. For the purposes of these regulations, an accessory structure shall be used solely for parking of vehicles and/or limited storage.

Agreement to Submit an Elevation 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, and to submit the certificate:

- (1) Upon placement of the *lowest floor* and prior to further vertical construction; and
- (2) Prior to the final inspection and issuance of the Certificate of Occupancy.

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.

Area of Shallow Flooding: A designated Zone AO on the *Flood Insurance Rate Map* with a 1 one percent (1 %) annual chance or greater of *flooding* to an average depth of one (1) to three (3) 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.

Base Building: The building to which an addition is being added. This term is used in provisions relating to additions.

Base Flood: The *flood* having a one-percent (1 %) chance of being equaled or exceeded in any given year; the base flood also is referred to as the one percent (1 %) annual chance (100-year) *flood*.

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*. 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.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Building Code(s): The effective Maryland Building Performance Standards (COMAR 05.02.07), including the building code, residential code, and existing building code.

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. *Community in the context of this ordinance refers to the Town of Elkton.*

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. [Note: See Maryland Building Performance Standards, Sec. 1602 and Table 1604.5.] 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.

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.

Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other *structures*, placement of *manufactured homes*, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevation Certificate: FEMA Form 86-03-33, 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 *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. [Note: FEMA Form 86-0-33 and instructions are available on FEMA's website.]

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."

Federal Emergency Management Agency (FEMA): The Federal agency with the overall responsibility for administering the National Flood Insurance Program.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

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. [Note: See NFIP Technical Bulletin #2, "Flood Damage-

Resistant Materials Requirements." August 2008]

Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency has delineated *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).

Flood Insurance Study (FIS): The official report in which the Federal Emergency Management Agency has provided *flood* profiles, *floodway* information, and the water surface elevations.

Flood Opening: A flood opening (non-engineered) is an opening that is used to meet the prescriptive requirement of 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; the certification requirement may be satisfied by an individual certification or issuance of an Evaluation Report by the ICC Evaluation Service, Inc. [Note: See NFIP Technical Bulletin #1, "Openings in Foundation Walls and Walls of Enclosures." August 2008]

Flood Protection Elevation: The *base flood elevation* plus two (2) feet of freeboard. Freeboard is a factor of safety that compensates for uncertainty in factors 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.

Flood Protection Setback: A distance measured perpendicular to the top of bank of a *watercourse* that delineates an area to be left undisturbed to minimize future *flood* damage and to recognize the potential for bank erosion. Along *nontidal waters of the State*, the flood protection setback is:

- (1) 100 feet, if the *watercourse* has *special flood hazard areas* shown on the *FIRM*, except where the setback extends beyond the boundary of the flood hazard area; or
- (2) 50 feet, if the *watercourse* does not have *special flood hazard areas* shown on the *FIRM*.

Flood Zone: A designation for areas that are shown on *Flood Insurance Rate Maps*:

- (1) **Zone A:** *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) *flood*; *base flood elevations* are not determined.
- (2) **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.
- (3) **Zone AH and Zone AO:** *Areas of shallow flooding*, with *flood depths* of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or designated *flood depths*.
- (4) **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 1 foot or with contributing drainage area less than 1 square mile; and areas protected from the *base flood* by levees.
- (5) **Zone C and Zone X (unshaded):** Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, B, and X (shaded).
- (6) **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*).

Floodplain: Any land area susceptible to being inundated by water from any source (see definition of “Flood” or “Flooding”).

Floodproofing or Floodproofed: Any combination of structural and nonstructural additions, changes, or adjustments to buildings or *structures* which reduce or eliminate *flood* damage to real estate or improved real property, water and sanitary facilities, *structures* and their contents, 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. [Note: State regulations at COMAR 26.17.04.11(B)(7) do not allow new nonresidential buildings in *nontidal waters of the State* to be floodproofed.]

Floodproofing Certificate: FEMA Form 086-0-34 is to be completed, signed and sealed by a *licensed* professional engineer or *licensed* architect to certify that the design of *floodproofing* and proposed methods of construction are in accordance with the applicable requirements of Section 15.20.350 (B) of these regulations. [Note: FEMA Form 086-0-34 *Floodproofing Certificate for Non-residential Structures* is available on FEMA’s website.]

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 a designated height. When shown on a *FIRM*, the floodway is referred to as the “designated floodway.”

Free-of-Obstruction: A term that describes open foundation (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. [Note: See NFIP Technical Bulletin #5, “Free-of-Obstruction Requirements.”]

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.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a *structure*.

Historic Structure: Any *structure* that is:

- (1) 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;
- (2) 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; or
- (3) Individually listed on the Maryland Register of Historic Places.

Hydrologic and Hydraulic Engineering

Analyses: Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by 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.

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:

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*.

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.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other 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*; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA, to revise the effective *FIRM*.

Licensed: As used in these regulations, *licensed* refers to professionals who are authorized 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.

Limit of Moderate Wave Action (LiMWA): Inland limit of the area affected by waves greater than 1.5 feet during the *base flood*. *Base flood* conditions between the VE Zone and the LiMWA will be similar to, but less than those in the VE Zone.

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).

Manufactured Home: A *structure*, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term *manufactured home* does not include a *recreational vehicle*.

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.

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.

Mixed-use Structure: Any *structure* that is used or intended for use for a mixture of nonresidential and residential uses in the same structure.

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”).

New Construction: *Structures*, including additions and improvements, and the placement of *manufactured homes*, for which the *start of construction* commenced on or after March 18, 1980, the initial effective date of the Town of Elkton *Flood Insurance Rate Map*, including any subsequent improvements, alterations, modifications, and additions to such *structures*.

NFIP State Coordinator: See Maryland Department of the Environment.

Nontidal Waters of the State: See “Waters of the State.” As used in these regulations, “nontidal 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 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 nontidal waters of the State is the tidal wetlands boundary.

Person: An individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

Recreational Vehicle: A vehicle that is built on a single chassis, 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 as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

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 A99. The term includes areas shown on other flood maps that are identified in Section 15.20.050.

Start of Construction: The date the building permit was issued, provided the actual start of

construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a *structure* on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a *manufactured home* on a foundation. Permanent construction 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 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.

Structure: That which is built or constructed; specifically, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a *manufactured home*.

Substantial Damage: Damage of any origin sustained by a building or *structure* whereby the cost of restoring the building or *structure* to its before damaged condition would equal or exceed 50 percent of the *market value* of the building or *structure* before the damage occurred. Also used as “substantially damaged” structures. [Note: See “Substantial Improvement/Substantial Damage Desk Reference” (FEMA P-758).]

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a building or *structure*, the cost of which equals or exceeds 50 percent of the *market value* of the building or *structure* before the *start of construction* of the improvement. The term includes *structures* which have incurred *substantial damage*, regardless of the actual repair work performed. The term does not, however, include either:

- (1) 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
- (2) Any alteration of a *historic structure* provided that the alteration will not preclude the *structure*'s continued designation as a *historic structure*.

[Note: See “Substantial Improvement/Substantial Damage Desk Reference” (FEMA-P758).]

Temporary Structure: A *structure* installed, used, or erected for a period of less than 180 days.

Variance: A grant of relief from the strict application of one or more requirements of these regulations.

Violation: 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.

Watercourse: The channel, including channel banks and bed, of *nontidal waters of the State*.

Waters of the State: [See Environment Article, Title 5, Subtitle 1, Annotated Code of Maryland.] Waters of the State include:

- (1) Both surface and underground waters within the boundaries of the State subject to its jurisdiction;
- (2) That portion of the Atlantic Ocean within the boundaries of the State;
- (3) The Chesapeake Bay and its tributaries;
- (4) All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect,

convey, or dispose of sanitary sewage;
and

- (5) The *floodplain* of free-flowing waters determined by MDE on the basis of the 100-year *flood* frequency.

Article III. Administration

15.20.110 Designation of the Floodplain Administrator

The Department of Building and Zoning is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. 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.

15.20.120 Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not 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.
- (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 applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies

from which prior or concurrent approval is required; in particular, permits from MDE for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, *structures*), any *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 100-year frequency *floodplain* of free-flowing *nontidal waters of the State*.

- (E) Verify that applicants proposing an *alteration of a watercourse* have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
- (F) Advise applicants for *new construction* or *substantial improvement* of *structures* that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such *structures*; areas subject to this limitation are shown on *Flood Insurance Rate Maps* as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).;
- (G) Approve applications and issue permits to develop in *flood* hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (H) 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.
- (I) Review *Elevation Certificates* and require incomplete or deficient certificates to be corrected.
- (J) 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 the Town of Elkton, within six months after such data and information becomes available if the

- analyses indicate changes in *base flood elevations* or boundaries;
- (K) 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 *floodproofed*, other required design certifications, *variances*, 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) Advise the Board of Zoning Appeals regarding the intent of these regulations and for each application for a *variance* prepare a staff report and recommendation.
 - (M) 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.
 - (N) 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*; 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.
- (O) Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Elkton 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.
- (P) 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 *variances* issued for *development* in the SFHA.

15.20.130 Use and Interpretation of FIRMs

The Floodplain Administrator 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 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:

- (1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data 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 15.20.050(C) and used where no *base flood elevations* and/or

floodway areas are provided on the effective *FIRM*.

- (3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary *base flood elevations* or *floodway* areas exceed the *base flood elevations* and/or designated *floodway* widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

15.20.140 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 established in Section 15.20.050, 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 the Town of Elkton. 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 *nontidal waters of the State* are advised to contact MDE. Unless waived by MDE, pursuant to Code of Maryland Regulations 26.17.04, Construction on Nontidal Waters and Floodplains, MDE regulates the “100-year frequency floodplain of free-flowing waters,” also referred to as *nontidal waters of the State*. To determine the 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* established in Section 15.20.050 of these regulations. A

permit from the Town of Elkton is still required in addition to any State requirements.

- (C) A 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. The Floodplain Administrator may grant, in writing, one or more extensions of time, for additional periods not exceeding 90 days each and provided there has been no amendment or revision to the basis for establishing *special flood hazard areas* and BFEs set forth in Section 15.20.050.

15.20.150 Application Required

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

(A) Application Contents

At a minimum, applications shall include:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and existing and proposed topography of the area in question, and the location of existing and proposed *structures*, excavation, filling, storage of materials, drainage facilities, and other proposed activities.
 - (2) Elevation of the existing natural ground where buildings or *structures* are proposed, referenced to the datum on the *FIRM*.
 - (3) Delineation of flood hazard areas, designated *floodway* boundaries, *flood zones*, *base flood elevations*, and *flood protection setbacks*. *Base flood elevations* shall be used to delineate the boundary of flood hazard areas and such delineations shall prevail over the boundary of SFHAs shown on *FIRMs*.
 - (4) Where *floodways* are not delineated or *base flood elevations* are not shown on the *FIRMs*, the Floodplain Administrator has the authority to require the applicant to use information provided by the Floodplain Administrator, information that is available from Federal, State, or other sources, or to determine such information using accepted engineering practices or methods approved by the Floodplain Administrator. [Note: See "Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base (100-Year) Flood Elevations" (FEMA 265).]
- (5) Determination of the *base flood elevations*, for *development* proposals and subdivision proposals, each with at least five (5) lots or at least five (5) acres, whichever is the lesser, in *special flood hazard areas* where *base flood elevations* are not shown on the *FIRM*; if *hydrologic and hydraulic engineering analyses* are submitted, such analyses shall be performed in accordance with the requirements and specifications of MDE and FEMA.
 - (6) *Hydrologic and hydraulic engineering analyses* for proposals in *special flood hazard areas* where FEMA has provided *base flood elevations* but has not delineated a *floodway*; such analyses shall demonstrate that the cumulative effect of proposed *development*, when combined with all other existing and anticipated development will not increase the water surface elevation of the *base flood* by more than one foot or a lower increase if required by MDE.
 - (7) For encroachments in *floodways*, an evaluation of alternatives to such encroachments, including different uses of the site or portion of the site within the *floodway*, and minimization of such encroachment.
 - (8) If fill is proposed to be placed for a purpose other than to elevate *structures*, the applicant shall indicate the intended purpose for the fill.
 - (9) For proposed buildings and *structures*, including *substantial improvement* and repair of *substantial damage*, and placement and replacement of manufactured homes, including

- substantial improvement* and repair of *substantial damage*:
- (a) The proposed elevation of the *lowest floor*, including *basement*, referenced to the datum on the *FIRM* and a signed *Agreement to Submit an Elevation Certificate*.
 - (b) The signed *Declaration of Land Restriction (Nonconversion Agreement)* that shall be recorded on the property deed prior to issuance of the Certificate of Occupancy, if the application includes an *enclosure below the lowest floor* or a crawl/underfloor space that is more than four (4) feet in height.
 - (c) A written evaluation of alternative methods considered to elevate *structures* and *manufactured homes*, if the location is in *nontidal waters of the State* and fill is proposed to achieve the elevation required in Section 15.20.340 (A) or Section 15.20.350 (A).
- (10) For *accessory structures* that are three hundred (300) square feet or larger in area (footprint) that are below the *base flood elevation*, a variance is required as set forth under Article VII. If a variance is granted, a signed *Declaration of Land Restriction (Nonconversion Agreement)* shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
- (11) For *temporary structures* and temporary storage, specification of the duration of the temporary use.
- (12) For proposed work on existing buildings, *structure*, and *manufactured homes*, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes *substantial improvement* or repair of *substantial damage*, including but not limited to:
- (a) If the existing building or *structure* was constructed after March 18, 1980, evidence that the work will not alter any aspect of the building or *structure* that was required for compliance with the floodplain management requirements in effect at the time the building or *structure* was permitted.
 - (b) If the proposed work is a horizontal addition, a description of the addition and whether it will be independently supported or structurally connected to the *base building* and the nature of all other modifications to the *base building*, if any.
 - (c) Documentation of the *market value* of the building or *structure* before the improvement or, if the work is repair of damage, before the damage occurred.
 - (d) Documentation of the actual cash value of all proposed work, including the actual cash value of all work necessary to repair and restore damage to the before-damaged condition, regardless of the amount of work that will be performed. The value of work performed by the owner or volunteers shall be valued at market labor rates; the value of donated or discounted materials shall be valued at market rates.
- (13) Certifications and/or technical analyses prepared or conducted by a *licensed professional engineer* or *licensed architect*, as appropriate, including:
- (a) The determination of the *base flood elevations* or *hydrologic and hydraulic engineering analyses* prepared by a *licensed professional engineer* that are required by the Floodplain Administrator or are required by these regulations in: Section 15.20.200 for certain subdivisions and *development*; Section 15.20.330 (A) for *development* in designated *floodways*; Section 15.20.330 (C) for *development* in flood hazard areas with *base flood elevations* but

no designated *floodways*; and Section 15.20.330 (E) for deliberate alteration or relocation of *watercourses*.

- (b) The *Floodproofing Certificate* for nonresidential *structures* that are *floodproofed* as required in Section 15.20.350 (B).
 - (c) Certification that engineered *flood openings* are designed to meet the minimum requirements of Section 15.20.340(C)(3) to automatically equalize hydrostatic flood forces.
 - (d) Certification that the proposed elevation, structural design, specifications and plans, and the methods of construction to be used for *structures* in *Coastal High Hazard Areas (V Zones)* and *Coastal A Zones*, are in accordance with accepted standards of practice and meet the requirements of Section 15.20.400©.
- (14) For nonresidential *structures* that are proposed with *floodproofing*, an operations and maintenance plan as specified in Section 15.20.350 (B)(3)
- (15) Such other material and information as may be requested by the Floodplain Administrator and necessary to determine conformance with these regulations.
- (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. A copy of the submittal shall be attached to the application for a permit.
 - (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 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.

15.20.160 Review of Application

The Floodplain Administrator 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 to assure that all necessary permits have been received from the Federal, State or local governmental agencies from which prior approval is required. 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 (Nontidal Wetlands) and Section 401 of the Clean Water Act;
 - (3) MDE for construction on *nontidal waters of the State* pursuant to COMAR 26.17.04; and
 - (4) MDE pursuant to COMAR 26.24 (Tidal Wetlands).
- (D) Review applications for compliance with these regulations after all information required in Section 15.20.150 of these regulations or identified and required by the Floodplain Administrator has been received.

15.20.170 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) Stake-out 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 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.

15.20.180 Submissions Required Prior to Final Inspection

Pursuant to the *Agreement to Submit an Elevation Certificate* submitted with the application as required in Section 15.20.150 (A)(9) 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*.

Article IV. Requirements in All Flood Hazard Areas

15.20.190 Application of Requirements

The general requirements of this section apply to all *development* proposed within all *special flood hazard areas* identified in Section 15.20.050.

15.20.200 Subdivision Proposals and Development Proposals

- (A) In all *flood zones*:
 - (1) 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.

- (2) 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.
 - (3) 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*.
 - (4) 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 Section 15.20.150 of these regulations.
 - (5) Subdivision access roads shall have the driving surface at or above the *base flood elevation*.
- (B) In *special flood hazard areas* of *nontidal 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) Subdivision access roads shall have the driving surface at or above the *base flood elevation*.

15.20.210 Protection of Water Supply and Sanitary Sewage Systems

- (A) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- (B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into

systems and discharges from systems into floodwaters.

- (C) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of *flooding*.

15.20.220 Buildings and Structures

New buildings and *structures* (including the placement and replacement of *manufactured homes*) and *substantial improvement* of existing *structures* (including *manufactured homes*) that are located, in whole or in part, in any *special flood hazard area* shall:

- (A) Be designed (or modified) 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. *Structures* shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement 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.
- (B) Be constructed by methods and practices that minimize flood damage.
- (C) Use *flood damage-resistant materials* below the elevation of the *lowest floor* required in Section 15.20.340 (A) or Section 15.20.350 (A) (for A Zones) or Section 15.20.400 (B) (For V Zones and *Coastal A Zones*).
- (D) 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* required in Section 15.20.340 (A) or Section 15.20.350 (A) (A Zones) or Section 15.20.400 (B) (V Zones and *Coastal A Zones*). 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.
- (E) As an alternative to paragraph (D), electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the *lowest floor* provided they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of *flooding* to that elevation.
- (F) Have the electric panelboard elevated at least three (3) feet above the BFE.
- (G) If located in flood hazard areas (A Zones) that are not identified as *Coastal A Zones* and *coastal high hazard areas* (V Zones), comply with the specific requirements of Article V.
- (H) If located in *Coastal A Zone*, comply with the specific requirement of:
 - (1) Article VI (*new construction* and placement of new *manufactures homes*) or;
 - (2) Article V (*substantial improvements* (including repair of *substantial damage*) and replacement *manufactured homes*).
- (I) If located in *coastal high hazard areas* (V Zones), comply with the specific requirements of Article VI.
- (J) Comply with the requirements of the most restrictive designation if located on a site that has more than one *flood zone* designation (A Zone, designated *floodway*, *Coastal A Zone*, V Zone).

15.20.230 Placement of Fill

- (A) 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*.
- (B) Fill should not be placed in *Coastal A Zones* or *coastal high hazard areas* (V Zones) except as provided in Section 15.20.390.

- (C) Fill proposed to be placed to elevate *structures* in flood hazard areas (A Zones) that are not *Coastal A Zones* or *coastal high hazard areas* (V Zones) shall comply with the *floodways* requirements in Section 15.20.330 (A), 15.20.330 (B), and 15.20.330 (C), and the limitations of Section 15.20.340 (B).

15.20.240 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 may require documentation of a *structure's* continued eligibility and designation as a *historic structure*.

15.20.250 Manufactured Homes

- (A) New *manufactured homes* shall not be placed or installed in *floodways* or *coastal high hazard areas* (V Zones).
- (B) For the purpose of these regulations, the *lowest floor* of a *manufactured home* is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).
- (C) New *manufactured homes* located outside of *floodways*, 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 Article V or Article VI, as applicable to the *flood zone*;
 - (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; and
 - (3) Have *enclosures below the lowest floor* of the elevated *manufactured home*, if any, including enclosures that are surrounded by rigid skirting or other material that is attached to the frame or

foundation, that comply with the requirements of Article V or Article VI, as applicable to the *flood zone*.

[Note: See "Protecting Manufactured Homes from Floods and Other Hazards: A Multi-Hazard Foundation and Installation Guide" (FEMA P-85).]

15.20.260 Recreational Vehicles

Recreational vehicles shall:

- (A) Meet the requirements for *manufactured homes* in Section 15.20.250; or
- (B) Be fully licensed and ready for highway use; or
- (C) Be on a site for less than one hundred eighty (180) consecutive days.

15.20.270 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*.
- (B) If located in flood hazard areas other than *coastal high hazard areas*, *Coastal A Zones* and *floodways*, be elevated to the higher of elevation required by these regulations plus one (1) foot, the elevation required by the *building code*, or the elevation of the 0.2 percent chance (500-year) flood.

15.20.280 Temporary Structures and Temporary Storage

In addition to the application requirements of Section 15.20.150, 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 *floodways* shall meet the limitations of Section 15.20.330(A) 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.

15.20.290 Gas or Liquid Storage Tanks

- (A) 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*.
- (B) 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*.
- (C) In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
 - (1) 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
 - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.

15.20.300 Functionally Dependent Uses

Applications for *functionally dependent uses* that do not conform to the requirements of these regulations shall be approved only by *variances* issued pursuant to Article VII. 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.

Article V. Requirements in Flood Hazard Areas (A Zones) That Are Not Coastal High Hazard Areas (V Zones) or Coastal A Zones

15.20.310 General Requirements

In addition to the general requirements of Article IV, the requirements of this section shall:

- (A) Apply in flood hazard areas that are not identified as coastal high hazard areas (V Zones) and Coastal A Zones. These flood hazard areas, referred to collectively as “A Zones”, include special flood hazard areas along nontidal waters of the State, landward of coastal high hazard areas (V Zones), and landward of Coastal A Zones (if delineated).
- (B) 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*.

15.20.320 Flood Protection Setbacks

Within areas defined by *flood protection setbacks* along *nontidal waters of the State*:

- (A) No new buildings, *structures*, or other *development* shall be permitted unless the applicant demonstrates that the site cannot be developed without such encroachment into the *flood protection setback* and the encroachment is the minimum necessary after consideration of varying other siting standards such as side, front, and back lot line setbacks.
- (B) Disturbance of natural vegetation shall be minimized and any disturbance allowed shall be vegetatively stabilized.
- (C) Public works and temporary construction may be permitted.

15.20.330 Development that Affects Flood-Carrying Capacity of Nontidal Waters of the State

- (A) Development in Designated Floodways
For proposed *development* that will encroach into a designated *floodway*, Section 15.20.150(A)(7) requires the applicant 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:

- (1) The applicant has been issued a permit by MDE; and
- (2) 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
- (3) If the analyses demonstrate that the proposed activities will result in an increase in the *base flood elevation*, the applicant has obtained a Conditional Letter of Map Revision or Letter of Map Revision from FEMA. Submittal requirements and fees shall be the responsibility of the applicant.

(B) Development that Includes the Placement of Fill in Nontidal Waters of the State

For proposed *development* that includes the placement of fill in *nontidal waters of the State*, other than *development* that is subject to paragraph (D), a hydraulically-equivalent volume of excavation is required. Such excavations shall be designed to drain freely.

(C) Development in Areas with Base Flood Elevations but No Designated Floodways

For *development* in *special flood hazard areas of nontidal waters of the State* with *base flood elevations* but no designated *floodways*:

- (1) The applicant shall develop *hydrologic and hydraulic engineering analyses* and technical data reflecting the proposed activity and shall submit such technical data to the Floodplain Administrator as required in Section 15.20.150(A)(6). The analyses shall be prepared by a *licensed* professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal

requirements and fees shall be the responsibility of the applicant.

- (2) The proposed *development* may be permitted if the applicant has received a permit by MDE and if the analyses demonstrate that the cumulative effect of the proposed *development*, when combined with all other existing and potential flood hazard area encroachments will not increase the *base flood elevation* more than one (1.0) foot at any point.

(D) Construction of Roads, Bridges, Culverts, Dams and In-Stream Ponds

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

(E) Alteration of a Watercourse

For any proposed *development* that involves *alteration of a watercourse* not subject to paragraph (C), unless waived by MDE, the applicant shall develop *hydrologic and hydraulic engineering analyses* and technical data reflecting such changes, including the *floodway* analysis required in Section 15.20.150 (A), and submit such technical data to the Floodplain Administrator and to FEMA. 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:

- (1) A description of the extent to which the *watercourse* will be altered or relocated;
- (2) A certification by a *licensed* professional engineer that the flood-carrying capacity of the *watercourse* will not be diminished;
- (3) 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; and

- (4) 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 Town of Elkton 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.

15.20.340 Residential Structures and Residential Portions of Mixed Use Structures

New residential *structures* and residential portions of mixed use *structures*, and *substantial improvement* (including repair of *substantial damage*) of existing residential *structures* and residential portions of mixed use *structures* shall comply with the applicable requirements of Article IV and this section. See Section 15.20.360 for requirements for horizontal additions.

(A) Elevation Requirements

- (1) *Lowest floors* shall be elevated to or above the *flood protection elevation*.
- (2) In *areas of shallow flooding* (Zone AO), the *lowest floor* (including *basement*) shall be elevated at least as high above the *highest adjacent grade* as the depth number specified in feet on the *FIRM* plus two (2) feet, or at least four (4) feet if a depth number is not specified.
- (3) *Enclosures below the lowest floor* shall meet the requirements of paragraph (C).

(B) Limitations on Use of Fill to Elevate Structures

Unless otherwise restricted by these regulations, especially by the limitations in Section 15.20.330(A), Section 15.20.330(B), and Section 15.20.330(C), fill placed for the purpose of raising the ground

level to support a building or *structure* shall:

- (1) Consist of approved pre-engineered fill consisting of earthen soil or rock materials only.
 - (2) Extend laterally from the building footprint to provide for adequate access as a function of use; the Floodplain Administrator may seek advice from the State Fire Marshal's Office and/or the local fire services agency;
 - (3) Comply with the requirements of the *building code* and be placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling;
 - (4) Be sloped no steeper than one (1) vertical to two (2) horizontal, unless approved by the Floodplain Administrator;
 - (5) Be protected from erosion associated with expected velocities during the occurrence of the *base flood*; unless approved by the Floodplain Administrator, fill slopes shall be protected by vegetation if the expected velocity is less than five feet per second, and by other means if the expected velocity is five feet per second or more; and
 - (6) Be designed with provisions for adequate drainage and no adverse effect on adjacent properties.
 - (7) In the case of nontidal floodplains, have an MDE approved Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland.
- ##### **(C) Enclosures Below the Lowest Floor**
- (1) *Enclosures below the lowest floor* shall be used solely for parking of vehicles, building access, crawl/underfloor spaces, or limited storage.
 - (2) *Enclosures below the lowest floor* shall be constructed using *flood damage-resistant materials*.
 - (3) *Enclosures below the lowest floor* shall be provided with *flood openings* which shall meet the following criteria: [Note:

See NFIP Technical Bulletin #1, "Openings in Foundation Walls and Walls of Enclosures Below Elevated Buildings."]

- (a) There shall be a minimum of two (2) *flood openings* on different sides of each enclosed area; if a building has more than one (1) *enclosure below the lowest floor*, each such enclosure shall have *flood openings* on exterior walls.
- (b) The total net area of all *flood openings* shall be at least one (1) square inch for each square foot of enclosed area (non-engineered *flood openings*), or the *flood openings* shall be engineered *flood openings* that are designed and certified by a *licensed* professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
- (c) The bottom of each *flood opening* shall be one (1) foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
- (d) Any louvers, screens or other covers for the *flood openings* shall allow the automatic flow of floodwaters into and out of the enclosed area.
- (e) If installed in doors, *flood openings* that meet requirements of paragraphs (a) through (d), are acceptable; however, doors without installed *flood openings* do not meet the requirements of this section.

15.20.350 Nonresidential Structures and Nonresidential Portions of Mixed Use Structures

New nonresidential *structures* and nonresidential portions of mixed use *structures*, and *substantial improvement* (including repair of *substantial damage*) of existing nonresidential *structures* and nonresidential portions of mixed use *structures* shall comply with the applicable requirements of Article IV and the requirements

of this section. See Section 15.20.360 for requirements for horizontal additions.

(A) Elevation Requirements

Elevated *structures* shall:

- (1) Have the *lowest floor* (including *basement*) elevated to or above the *flood protection elevation*; or
- (2) In *areas of shallow flooding* (Zone AO), have the *lowest floor* (including *basement*) elevated at least as high above the *highest adjacent grade* as the depth number specified in feet on the *FIRM* plus two (2) feet, or at least four (4) feet if a depth number is not specified; and
- (3) Have *enclosures below the lowest floor*, if any, that comply with the requirements of Section 15.20.340 (C); or
- (4) If proposed to be elevated on fill, meet the limitations on fill in Section 15.20.340 (B).

(B) Floodproofing Requirements

- (1) *Floodproofing* of new nonresidential buildings:
 - (a) is not allowed in *nontidal waters of the State* (COMAR 26.17.04.11(B)(7)).
 - (b) Is not allowed in *Coastal A Zones*.
- (2) *Floodproofing* for *substantial improvement* of nonresidential buildings:
 - (a) is allowed in *nontidal waters of the State*.
 - (b) is allowed in *Coastal A Zones*.
- (3) If *floodproofing* is proposed, *structures* shall:
 - (a) Be designed to be dry *floodproofed* such that the building or *structure* is watertight with walls and floors substantially impermeable to the passage of water to the level of the *flood protection elevation* plus one (1) foot, or
 - (b) If located in an *area of shallow flooding* (Zone AO), be dry *floodproofed* at least as high above the *highest adjacent grade* as the depth number specified on the *FIRM* plus three (3) feet, or at least

five (5) feet if a depth number is not specified; and

- (c) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (d) Have *floodproofing* measures that are designed taking into consideration the nature of flood-related hazards; frequency, depth and duration of *flooding*; rate of rise and fall of floodwater; soil characteristics; flood-borne debris; at least twelve (12) hours of flood warning time from a credible source; and time necessary to implement any measures that require human intervention;
- (e) Have at least one (1) door above the applicable flood elevation that allows human ingress and egress during conditions of *flooding*;
- (f) Have an operations and maintenance plan that is filed with local emergency management officials and that specifies the owner/occupant's responsibilities to monitor flood potential; the location of any shields, doors, closures, tools, or other goods that are required for implementation; maintenance of such goods; methods of installation; and periodic inspection; and
- (g) Be certified by a *licensed* professional engineer or *licensed* architect, through execution of a *Floodproofing Certificate* that states that the design and methods of construction meet the requirements of this section. The *Floodproofing Certificate* shall be submitted with the construction drawings as required in Section 15.20.150 (A)(13).

15.20.360 Horizontal Additions

- (A) A horizontal addition proposed for a building or *structure* that was constructed after the date specified in Section 15.20.010

shall comply with the applicable requirements of Article IV and this section.

- (B) In *nontidal waters of the State* that are subject to the regulatory authority of MDE, all horizontal additions shall comply with the applicable requirements of Article IV 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 Article IV 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 Article IV 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.
- (E) 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. [Note: See “Substantial Improvement/Substantial Damage Desk Reference” (FEMA-P758).]

15.20.370 Accessory Structures

- (A) *Accessory structures* shall be limited to no more than three hundred (300) square feet in floor area.

- (B) *Accessory structures* shall comply with the elevation requirements and other requirements of Section 15.20.340, the *floodproofing* requirements of Section 15.20.350 (B), or 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) Have *flood openings* that meet the requirements of Section 15.20.340 (C).

Article VI. Requirements in Coastal High Hazard Areas (V Zones) and Coastal A Zones

15.20.380 General Requirements

In addition to the general requirements of Article IV, the requirements of this section shall:

- (A) Apply in flood hazard areas that are identified as *coastal high hazard areas* (V Zones) and *Coastal A Zones*. (if delineated).
- (B) Apply to all *development, new construction, substantial improvements* (including repair of *substantial damage*), and placement, replacement and *substantial improvement* (including repair of *substantial damage*) of *manufactured homes*. Exception: *In Coastal A Zones*, the requirements of Article V shall apply to *substantial improvements* (including repair of *substantial damage*), and *substantial improvement* of *manufactured homes* (including repair of *substantial damage*) and replacement *manufactured homes*. [Note: See “Coastal Constructions Manual” (FEMA P-55).]

15.20.390 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 the 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 demonstrated that the potential for flood damage is not increased.

15.20.400 Residential and Nonresidential Structures

New *structures* and *substantial improvement* (including repair of *substantial damage*) of existing structures shall comply with the applicable requirements of Article IV 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

(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 and elevated building shall either be *free-of-obstruction* or, if enclosed by walls, shall meet the requirements of paragraph (D). [Note: See NFIP Technical Bulletin #5, “Free-of-Obstruction Requirements.”]

(C) Certification of Design

As required in Section 15.20.150(A)(13), 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 paragraph (A), paragraph (B), paragraph (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 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. [Note: See NFIP Technical Bulletin #9, “Design and Construction Guidance for Breakaway Walls.”]

(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 20 pounds per square foot; or

(6) Where wind loading values of the *building code* exceed 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 15.20.340 (C)(3).

15.20.410 Horizontal Additions to Structures

(A) A horizontal addition proposed for a building or structure that was constructed after the date specified in Section 15.20.010 shall comply with the applicable requirements of Article IV 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 Article IV 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 Article IV and this section. [Note: The *base building* is required to comply otherwise it is an obstruction that does not comply with the *free-of-obstruction* requirement that applies

to the elevated addition, see Section 15.20.400 (B)(3).]

(C) A horizontal addition to a building or *structure* that is not *substantial improvement* is not required to comply with this section.

15.20.420 Accessory Structures

(A) *Accessory structures* shall be limited to not more than 300 square feet in total floor area.

(B) *Accessory structures* shall comply with the elevation requirements and other requirements of Section 15.20.400 or, if not elevated, shall:

(1) Be usable 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 100 square feet in size, have walls that meet the requirements of Section 15.20.400 (D)(3) through (6), as applicable for the *flood zone*; and if located in *Coastal A Zone*, walls shall have flood openings that meet the requirements of Section 15.20.340 (C)(3).

15.20.430 Other Structures and Development

[Note: See NFIP Technical Bulletin #5, “Free-of-Obstruction Requirements.”]

(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.

(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 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 demonstrated no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated *structures*.

(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 runup 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.

Article VII. Variances

15.20.440 General

The Board of Zoning Appeals shall have the power to consider and authorize or deny *variances* from the strict application of the requirements of these regulations. A *variance* shall be approved only if it is determined to not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations, an unnecessary hardship would result.

Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Board of Zoning Appeals may attach such conditions to *variances* as it deems necessary to further the purposes of these regulations.

The Board of Zoning Appeals shall notify, in writing, any applicant to whom a *variance* is granted to construct or substantially improve a building or *structure* with its *lowest floor* below the elevation required by these regulations that the *variance* is to the floodplain management requirements of these regulations only, and that the cost of Federal flood insurance will be commensurate with the increased risk, with rates up to \$25 per \$100 of insurance coverage, or as otherwise required.

A record of all *variance* actions, including justification for issuance shall be maintained pursuant to Section 15.20.120 (K) of these regulations.

15.20.450 Application for a Variance

- (A) The owner of property, or the owner's authorized agent, for which a *variance* is sought shall submit an application for a *variance* to the Floodplain Administrator.
- (B) At a minimum, the application shall contain the following information: name, address, and telephone number of the applicant and property owner; legal description of the property; parcel map; description of the existing use; description of the proposed use; site map showing the location of flood hazard areas, designated *floodway* boundaries, *flood zones*, *base flood elevations*, and *flood protection setbacks*; description of the *variance* sought; and reason for the *variance* request. *Variance* applications shall specifically address each of the considerations in Section 15.20.460.
- (C) If the application is for a *variance* to allow the *lowest floor* (A Zones) or the 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 *variance* shall be recorded on the deed of the property.

15.20.460 Considerations for Variances

The Floodplain Administrator shall request comments on *variance* applications from MDE (NFIP State Coordinator) and shall provide such comments to the Board of Zoning Appeals.

In considering *variance* applications, the Board of Zoning Appeals 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:

- (A) The danger that materials may be swept onto other lands to the injury of others.
- (B) The danger to life and property due to *flooding* or erosion damage.
- (C) The susceptibility of the proposed *development* and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (D) The importance of the services to the *community* provided by the proposed *development*.
- (E) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, *flooding* or erosion damage.
- (F) The necessity to the facility of a waterfront location, where applicable, or if the facility is a *functionally dependent use*.
- (G) The compatibility of the proposed use with existing and anticipated *development*.
- (H) The relationship of the proposed use to the comprehensive plan for that area.
- (I) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (K) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (L) The comments provided by MDE (NFIP State Coordinator).

15.20.470 Limitations for Granting Variances

The Board of Zoning Appeals shall make an affirmative decision on a *variance* request only upon:

- (A) A showing of good and sufficient cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
- (B) A determination that failure to grant the *variance* would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- (C) A determination that the granting of a *variance* for *development* within any designated *floodway*, or flood hazard area with *base flood elevations* but no designated *floodway*, will not result in increased flood heights beyond that which is allowed in these regulations.
- (D) A determination that the granting of a *variance* will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.
- (E) A determination that the building, *structure* or other *development* is protected by methods to minimize flood damages.
- (F) A determination that the *variance* is the minimum necessary to afford relief, considering the flood hazard.

Article VII. Enforcement

15.20.480 Compliance Required

- (A) No building, *structure* or *development* shall hereafter be located, erected, constructed, reconstructed, improved, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations.

- (B) Failure to obtain a permit shall be a *violation* of these regulations and shall be subject to penalties in accordance with Section 15.20.500.

- (C) Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a *violation* of these regulations.

15.20.490 Notice of Violation and Stop Work Order

If the Floodplain Administrator determines that there has been a *violation* of any provision of these regulations, the Floodplain Administrator shall give notice of such *violation* to the owner, the owner's authorized agent, and the *person* responsible for such *violation*, and may issue a stop work order. The notice of *violation* or stop work order shall be in writing and shall:

- (A) Include a list of *violations*, referring to the section or sections of these regulations that have been violated;
- (B) Order remedial action which, if taken, will effect compliance with the provisions of these regulations;
- (C) Specify a reasonable period of time to correct the *violation*;
- (D) Advise the recipients of the right to appeal; and
- (E) Be served in person; or
- (F) 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.

15.20.500 Violations and Penalties

A violation(s) of these regulations or the failure to comply with the requirements of these regulations or any condition(s) attached to a permit or *variance* shall constitute a misdemeanor, and a person, upon conviction, shall be punished as set forth under Article XIV., Section C14-1 (A), Charter of the Town of Elkton. Nothing herein contained shall prevent the Town of Elkton from taking such

other lawful action as necessary and deemed appropriate to prevent or remedy any *violation*.

Article VIII. Subsequent Amendments and Effective Date

15.20.510 Subsequent Amendments

All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency. This ordinance shall be amended as required by the Federal Emergency Management Agency, 44 Code of Federal Regulations. All subsequent amendments to this ordinance are subject to the approval of the Federal Emergency Management Agency and the Maryland Department of the Environment.

15.20.520 Effective Date

The effective date of this Ordinance shall be April 21, 2015/ (Ordinance 3-2015 eff. 4/21/15)