

CHAPTER 76 ~~CHAPTER 76~~ FLOODPLAIN REGULATIONS

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~~76.1 Purpose and General Provisions.~~

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~~76.6 Regulation of Structures and Development in Nontidal and Tidal Floodplains.~~

~~76.2. Purpose and General Provisions.~~

~~0. Purpose. The purpose of this chapter is to establish standards and regulations for development in floodplain areas to:~~

~~Manage and in some cases prevent development in areas subject to flooding; and~~ 76.1 GENERAL PROVISIONS

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76.1 GENERAL PROVISIONS

A. Findings

The Federal Emergency Management Agency has identified *special flood hazard areas* within the boundaries of St. Mary's County, MD. *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 Board of County Commissioners for St. Mary's County, by resolution, agreed to meet the requirements of the National Flood Insurance Program and St. Mary's County, MD was accepted for participation in the program on February 19, 1987. As of that date, all *development* and *new construction* as defined herein, are to be compliant with these regulations.

B. Statutory Authorization

The Maryland General Assembly, in Md. Code Ann., Land Use Article, Title 4, has established as policy of the State that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that 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.

C. Statement of Purpose

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

1        1. Protect human life, health and welfare;

2        Encourage the utilization of

3        ~~1-2. Require~~ appropriate construction practices in order to prevent or minimize future flood damage, and in  
4        the future;

5            a. ~~Provide for the review of all activities proposed within identified floodplains and, by the issuance~~  
6            ~~of permits for those activities that comply with the objectives of this Ordinance, assure compliance~~  
7            ~~with relevant federal and state programs, including;~~

8        3. Minimize flooding of water supply and sanitary sewage disposal systems;

9        4. Maintain natural drainage;

10       5. Reduce financial burdens imposed on the community, its governmental units and its residents, by  
11       discouraging unwise design and construction of development in areas subject to flooding;

12       6. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the  
13       expense of the general public;

14       7. Minimize prolonged business interruptions;

15       8. Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and  
16       sewer lines, streets and bridges;

17       9. Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for  
18       their actions;

19       10. Minimize the impact of development on adjacent properties within and near flood-prone areas;

20       11. Provide that the flood storage and conveyance functions of floodplains are maintained;

21       12. Minimize the impact of development on the natural and beneficial functions of floodplains;

22       13. Prevent floodplain uses that are either hazardous or environmentally incompatible; and

23       ~~2-14. Meet community participation requirements of the National Flood Insurance Program (44 CFR Parts~~  
24       ~~59-79); as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.~~

25  
26       **D. Areas to Which These Regulations Apply**

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28       These regulations shall apply to all special flood hazard areas within the jurisdiction of St. Mary's County  
29       identified in Section 76.1.5, below.

30  
31       **E. Basis for Establishing Special Flood Hazard Areas and BFEs**

32  
33            1. For the purposes of these regulations, the minimum basis for establishing special flood  
34            hazard areas and base flood elevations is the Flood Insurance Study for St. Mary's  
35            County, Maryland and Incorporated Areas dated October 19, 2004 and November 19,  
36            2014, or the most recent revision thereof, and the accompanying Flood Insurance Rate  
37            Map(s) and all subsequent amendments and revisions to the FIRMs. The FIS and FIRMs  
38            are retained on file and available to the public at the Department of Land Use and Growth  
39            Management.

40  
41            2. Where field surveyed topography or digital topography indicates that ground elevations  
42            are below the closest applicable base flood elevation, even in areas not delineated as a  
43            special flood hazard on the FIRM, the area shall be considered as special flood hazard  
44            area.

45  
46            3. To establish base flood elevations in special flood hazard areas that do not have such  
47            elevations shown on the FIRM, the Floodplain Administrator may:  
48

1                   a. Provide the best available data for base flood elevations, or

- 2
- 3                   (1) ~~Require Maryland Waterway Construction Permit Program for n~~
- 4                   (2) ~~U.S Army Corps of Engineers Section 10 and 404 Permit Programs on tidal~~
- 5                   ~~floodplains.~~
- 6                   (3) ~~Maryland Tidal and Nontidal Wetlands Permit Programs.; and~~
- 7                   (4) ~~Maryland Coastal Zone Management Program.~~

8                   b. the applicant to obtain available information from Federal, State or

9                   other sources, or

10

11                   c. May require the applicant to establish special flood hazard areas and base flood

12                   elevations as set forth in Section 76.3.3, Section 76.3.4, and Section 76.3.5 of

13                   these regulations.

14

15 **F. Abrogation and Greater Restrictions.** ~~This Ordinance supersedes any~~

16

17 These regulations are not intended to repeal or abrogate any existing regulations and ordinances, including

18 subdivision regulations, zoning ordinances, building codes, or any existing easements, covenants, or deed

19 restrictions. In the event of a conflict between these regulations and any other ordinance in effect in flood

20 prone areas. However, any other ordinance shall remain in full force to the extent that its provisions

21 are, the more restrictive, shall govern.

22

23 **G. Interpretation**

24

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

26

27 1. Considered as minimum requirements;

28                   a. Liberaly construed in favor of the governing body; and

29                   b. Deemed neither to limit nor repeal any other powers granted under State statutes.

30

31

32

33

34 **A.H. Warning and Disclaimer of Liability**

35

36 ~~—The degree of flood protection provided required by this Ordinance these regulations is considered~~

37 ~~reasonable for regulatory purposes and is based on scientific and engineering experience and scientific~~

38 ~~methods of study. Floods of greater magnitude may considerations. Larger floods can and will occur~~

39 ~~or, and flood heights may be increased by man-made or natural causes. This Ordinance does These~~

40 ~~regulations do not imply that flooding will not occur land outside of the delineated special flood zones,~~

41 ~~nor hazard areas or uses that are permitted development and land uses within the floodplains such areas~~

42 ~~will be free of from flooding and associated or flood damage. This Ordinance does~~

43

44 These regulations shall not create liability on the part of St. Mary's Mary's County, any officer, or

45 employee thereof, the Maryland Department of the Environment (MDE) or the Federal Emergency

46 Management Agency (FEMA), for any flood damage that may result results from reliance on this

47 Ordinance, these regulations or any administrative decision lawfully made hereunder.

48 **I. Severability**

1 Should any section or provision of these regulations be declared by the courts to be unconstitutional or  
2 invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other  
3 than the part so declared to be unconstitutional or invalid.

4  
5 **76.2 DEFINITIONS**

6  
7 The definitions of this section apply specifically to the provisions of this Chapter and shall supersede the  
8 meaning found in Article 9 for the purposes of floodplain regulation. Unless specifically defined below,  
9 words or phrases used in this Chapter shall be interpreted to have the meaning found in Article 9, and, if not  
10 defined in Article 9, shall be interpreted to have the meaning they have in common usage and to give these  
11 regulations the most reasonable application.

12  
13 1. **Accessory Structure:** A detached building or structure on the same lot with, and of a nature  
14 customarily incidental and subordinate to, the principal structure. For the purposes of these  
15 regulations, an accessory structure shall be used solely for parking of vehicles and limited storage.

16  
17 2. **Agreement to Submit an Elevation Certificate:** A form on which the applicant for a permit to construct  
18 a building or structure, to construct certain horizontal additions, to place or replace a manufactured  
19 home, to substantially improve a building, structure, or manufactured home, agrees to have an  
20 Elevation Certificate prepared by a licensed professional engineer or licensed professional surveyor, as  
21 specified by the Floodplain Administrator. A signed agreement must be submitted to the County before  
22 a permit will be issued.

23  
24 3. **Alteration of a Watercourse:** For the purpose of these regulations, alteration of a watercourse includes,  
25 but is not limited to widening, deepening or relocating the channel, including excavation or filling of  
26 the channel. Alteration of a watercourse does not include construction of a road, bridge, culvert, dam,  
27 or in-stream pond unless the channel is proposed to be realigned or relocated as part of such  
28 construction.

29  
30 4. **Area of Shallow Flooding:** A designated Zone AO on the Flood Insurance Rate Map with a 1-percent  
31 annual chance or greater of flooding to an average depth of one to three feet where a clearly defined  
32 channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be  
33 evident; such flooding is characterized by ponding or sheet flow.

34  
35 5. **Base Building:** The building to which an addition is being added. This term is used in provisions  
36 relating to additions.

37  
38 6. **Base Flood:** The flood having a one-percent chance of being equaled or exceeded in any given year;  
39 the base flood also is referred to as the 1-percent annual chance (100-year) flood.

40  
41 7. **Base Flood Elevation:** The water surface elevation of the base flood in relation to the datum specified  
42 on the community's Flood Insurance Rate Map. In areas of shallow flooding, the base flood elevation  
43 is the highest adjacent natural grade elevation plus the depth number specified in feet on the Flood  
44 Insurance Rate Map, or at least four (4) feet if the depth number is not specified.

45  
46 8. **Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.

47  
48 9. **Building Code(s):** The effective Maryland Building Performance Standards (COMAR 05.02.07) with  
49 local amendments.

50  
51 10. **Coastal A Zone:** An area within a special flood hazard area, landward of a coastal high hazard area (V  
52 Zone) or landward of a shoreline without a mapped coastal high hazard area, in which the principal  
53 source(s) of flooding are astronomical tides and storm surges, and in which, during base flood  
54 conditions, the potential exists for breaking waves with heights greater than or equal to 1.5 feet. The  
55 landward limit of the Coastal A Zone is delineated on FIRMs as the Limit of Moderate Wave Action  
56 (LimWA).

- 1 11. Coastal High Hazard Area: An area of special flood hazard extending from offshore to the inland limit  
2 of a primary frontal dune along an open coast and any other area subject to high velocity wave action  
3 from storms. Coastal high hazard areas also are referred to as “V Zones” and are designated on FIRMs  
4 as zones VE or V1-30.
- 5
- 6 12. Critical and Essential Facilities: Buildings and other structures that are intended to remain operational  
7 in the event of extreme environmental loading from flood, wind, snow or earthquakes. Critical and  
8 essential facilities typically include hospitals, fire stations, police stations, storage of critical records,  
9 facilities that handle or store hazardous materials, and similar facilities.
- 10
- 11 13. Declaration of Land Restriction (Non-Conversion Agreement): A form signed by the owner to agree  
12 not to convert or modify in any manner that is inconsistent with the terms of the permit and these  
13 regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory  
14 structures. The form requires the owner to record it on the property deed to inform future owners of  
15 the restrictions.
- 16
- 17 14. Development: Any manmade change to improved or unimproved real estate, including but not limited  
18 to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading,  
19 paving, excavation or drilling operations or storage of equipment or materials.
- 20
- 21 15. Elevation Certificate: FEMA Form 086-0-33 on which surveyed elevations and other data pertinent to  
22 a property and a building are identified and which shall be completed by a licensed professional land  
23 surveyor or a licensed professional engineer, as specified by the Floodplain Administrator. When used  
24 to document the height above grade of buildings in special flood hazard areas for which base flood  
25 elevation data are not available, the Elevation Certificate shall be completed in accordance with the  
26 instructions issued by FEMA.
- 27
- 28 16. Enclosure Below the Lowest Floor: An unfinished or flood-resistant enclosure that is located below an  
29 elevated building, is surrounded by walls on all sides, and is usable solely for parking of vehicles,  
30 building access or storage, in an area other than a basement area, provided that such enclosure is built  
31 in accordance with the applicable design requirements specified in these regulations. Also see “Lowest  
32 Floor.”
- 33 17. : Structures for which the “start of construction” commenced before February 19, 1987 (the initial  
34 effective date of the St. Mary’s County Flood Insurance Rate Map). The date for the “start of  
35 construction” is the date a permit was issued by the County. The Flood Administrator may require  
36 verification that the construction was completed. The primary source for verification of proof of  
37 construction will be County records. “Existing construction” may also be referred to as “existing  
38 structures” or “Pre-FIRM structures.”
- 39
- 40 19. Federal Emergency Management Agency (FEMA): The Federal agency with the overall responsibility  
41 for administering the National Flood Insurance Program.
- 42
- 43 20. Flood or Flooding: A general and temporary condition of partial or complete inundation of normally  
44 dry land areas from:
- 45
- 46 a. The overflow of inland or tidal waters, or
- 47
- 48 b. The unusual and rapid accumulation or runoff of surface waters from any source.
- 49
- 50 21. Flood Damage-Resistant Materials: Any construction material that is capable of withstanding direct  
51 and prolonged contact with floodwaters without sustaining any damage that requires more than  
52 cosmetic repair.
- 53
- 54 22. Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management  
55 Agency has delineated special flood hazard areas to indicate the magnitude and nature of flood

1 hazards, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMs that  
2 have been prepared in digital format or converted to digital format are referred to as Digital FIRMs  
3 (DFIRM).

4  
5 23. Flood Insurance Study (FIS): The official report in which the Federal Emergency Management  
6 Agency has provided flood profiles, floodway information, and the water surface elevations.

7  
8 24. Flood Opening: A flood opening (non-engineered) is an opening that is used to meet the prescriptive  
9 requirement of 1 square inch of net open area for every square foot of enclosed area. An engineered  
10 flood opening is an opening that is designed and certified by a licensed professional engineer or  
11 licensed architect as meeting certain performance characteristics, including providing automatic entry  
12 and exit of floodwaters; this certification requirement may be satisfied by an individual certification for  
13 a specific structure or issuance of an Evaluation Report by the ICC Evaluation Service, Inc.

14  
15 25. Flood Protection Elevation (FPE): The base flood elevation plus three (3) feet of freeboard. Structures  
16 in the Special Flood Hazard Area shall have the lowest floor, including basement, elevated to the Flood  
17 Protection Elevation. The Flood Protection Elevation also applies to all mechanical and electrical  
18 equipment, including duct work, electrical utility service entrance, meters, panels, outlets, and  
19 switches.

20  
21 26. Flood Protection Setback: A distance measured perpendicular to the top of bank of a watercourse that  
22 delineates an area to be left undisturbed to minimize future flood damage and to recognize the potential  
23 for bank erosion. Along nontidal waters of the State, the flood protection setback is:

24  
25 a. 100 feet, if the watercourse has special flood hazard areas shown on the FIRM, except where the  
26 setback extends beyond the boundary of the flood hazard area; or

27  
28 b. 50 feet, if the watercourse does not have special flood hazard areas shown on the FIRM.

29  
30 27. Flood Zone: A designation for areas that are shown on Flood Insurance Rate Maps:

31  
32 a. Zone A: Special flood hazard areas subject to inundation by the 1-percent annual chance (100-  
33 year) flood; base flood elevations are not determined.

34  
35 b. Zone AE: Special flood hazard areas subject to inundation by the 1-percent annual chance (100-  
36 year) flood; base flood elevations are determined; floodways may or may not be determined. In  
37 areas subject to tidal flooding, the Limit of Moderate Wave Action (LiMWA) is delineated to  
38 define the landward limit of the Coastal A zone.

39  
40 c. Zone AH and Zone AO: Areas of shallow flooding, with flood depths of 1 to 3 feet (usually areas  
41 of ponding or sheet flow on sloping terrain), with or without BFEs or designated flood depths.

42  
43 d. Zone X (shaded): Areas subject to inundation by the 0.2-percent annual chance (500-year) flood;  
44 areas subject to the 1-percent annual chance (100-year) flood with average depths of less than 1  
45 foot or with contributing drainage area less than 1 square mile; and areas protected from the base  
46 flood by levees.

47  
48 e. Zone X (unshaded): Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, and X  
49 (shaded).

50  
51 f. Zone VE: Special flood hazard areas subject to inundation by the 1-percent annual chance (100-  
52 year) flood and subject to high velocity wave action (also see coastal high hazard area).

53  
54 28. Floodplain: Any land area susceptible to being inundated by water from any source (see definition of  
55 "Flood" or "Flooding").

1  
2 **76.3. — Floodproofing Applicability.**

3 ~~0. — The floodplain regulations herein shall apply to all lands within the unincorporated area of St.~~  
4 ~~Mary's County being subject to inundation by floodwaters of the 100-year, regulatory flood or base~~  
5 ~~flood and as delineated on the most recent revision of the County floodway maps and FEMA Flood~~  
6 ~~Insurance Rate Maps (FIRMs) and described in the flood insurance study (FIS) prepared by the~~  
7 ~~Federal Emergency Management Agency (FEMA). Emphasis is on flood height elevation rather than~~  
8 ~~the actual detail of the maps, so that if map boundaries and elevations disagree, elevations prevail,~~  
9 ~~with no approval from FEMA required.~~

10 ~~1. — The regulated floodplain includes:~~

- 11 ~~a. — *Mapped Areas.* The Planning Director or his designee shall determine the floodplain zone in~~  
12 ~~which the development activity is proposed using the County floodway maps and FIS if available~~  
13 ~~or, if not, by using the FIRM. The 100-year floodplain may be expanded beyond the designations~~  
14 ~~on the FIRM due to elevation.~~
- 15 ~~(1) — Non-tidal floodplains. Consisting of the floodway and the floodway fringe, non-tidal~~  
16 ~~floodplains may have detailed engineering study data, profiles, and water surface~~  
17 ~~elevations, or may have approximate delineation only.~~
- 18 ~~(2) — Tidal floodplains. Consisting of areas subject to coastal or tidal flooding by the 100-~~  
19 ~~year flood due to high tides, hurricanes, tropical storms, and steady on-shore winds,~~  
20 ~~these areas are landward of 0.0 National Geodetic Vertical Datum (NGVD)~~  
21 ~~designated on the FIRM.~~
- 22 ~~(3) — Coastal High Hazard Areas. Consisting of areas subject to coastal or tidal flooding~~  
23 ~~with the addition of high-velocity water and wind action. These areas are designated~~  
24 ~~as V-Zones on the FIRM.~~
- 25 ~~b. — *Approximate Floodplain Areas.* The following areas along non-tidal streams that do not have~~  
26 ~~FEMA delineation as described above are subject to regulation by this Ordinance and the state.~~
- 27 ~~c. — *Areas along Streams.* In cases in which development is proposed in the vicinity of "U.S.G.S. blue~~  
28 ~~line" streams, which have no delineated 100-year flood plain, a 50-foot drainage way protection~~  
29 ~~buffer from the centerline of the stream shall be subject to the provisions of this chapter.~~

30 ~~If a portion of a lot, parcel, or tract lies within the regulated floodplain, the restrictions upon uses and~~  
31 ~~structures shall apply only to that portion of the lot, parcel, or tract located within the flood zone. or~~  
32 ~~**Floodproofed: Any combination of structural and nonstructural additions,**~~

33 ~~2. — **If a structure is located within more than one flood zone, the more restrictive applicable regulations**~~  
34 ~~**shall apply for the entire structure.**~~

35 ~~3. — **Where interpretation is needed as to the exact location of flood zone boundaries, the Planning**~~  
36 ~~**Director shall make the necessary interpretation. Any person contesting the interpretation of the**~~  
37 ~~**location of boundaries or those boundaries shown on the official floodplain map may appeal the**~~  
38 ~~**decision to the Board of Appeals and shall submit his own technical evidence. Pursuant to federal**~~  
39 ~~**flood insurance Program requirements, where map information shows a structure in the floodplain**~~  
40 ~~**and actual site conditions show the structure to be out of the floodplain, the applicant shall be**~~  
41 ~~**required to meet all floodplain regulations unless a letter of map amendment (LOMA) is issued by**~~  
42 ~~**FEMA. It shall be the applicant's responsibility to seek and obtain the LOMA.**~~

43 **76.4. — Permit Procedures.**

44 ~~0. — *General.*~~

45 ~~A permit is required for all development in any regulated floodplain zone. Receipt of federal or state~~  
46 ~~permits does not exempt development from the provisions of this Ordinance.~~

47 ~~1. — *Information Required for a Permit.*~~

- 48 ~~a. — Applicants for development in or adjacent to a regulated floodplain shall be required to provide~~  
49 ~~information necessary to evaluate the proposed development for compliance with regulations of~~  
50 ~~this chapter, including:~~

- ~~(1) — A site plan meeting the requirements of Chapter 60 for the use proposed;~~
- ~~(2) — Type, dimensions, and estimated cost of development proposed;~~
- ~~(3) — Dimensions of site;~~
- ~~(4) — Size and location of existing and proposed structures or alterations;~~
- ~~(5) — Elevation contours in mean sea level (NGVD);~~
- ~~(6) — Delineation of the 100-year flood elevation and boundary; and~~
- ~~(7) — Proposed elevation of the lowest floor and method of elevation, if applicable.~~
- ~~(8) — Other Information:~~

~~A written agreement to provide an elevation certificate completed by a registered professional engineer or surveyor to certify that the built lowest floor of a structure is at or above the flood protection elevation.~~

- ~~(a) — For development proposed in the approximate floodplain (no water surface elevations or floodway data provided), the applicant shall use the best available information to determine the elevation of the 100-year flood and the extent of the floodway, and must delineate these on the site plan submitted for approval.~~
- ~~(b) — For new subdivisions, the applicant must have the 100-year flood elevations certified by a registered professional engineer based on hydrologic and hydraulic analyses that include a floodway analysis.~~
- ~~(c) — For individual lot development, if no data are available, the point on the boundary method may be used. In this method, the distance is scaled from a reference point at the site to the edge of the 100-year floodplain boundary indicated on the FIRM. An elevation of the 100-year flood is determined at that point by survey.~~

~~b. — If an improvement to an existing structure is proposed, adequate information on the cost of the improvement and the market value of the structure before the improvement must be supplied to the Planning Director to allow a determination of substantial improvement. The Planning Director may use tax assessment records to determine substantial improvement. In floodway and coastal high hazard areas, permits shall be tracked by property location to determine if the cumulative value of improvements constitutes substantial improvement of a structure.~~

~~c. — Subdivisions and site plans shall demonstrate compliance with the criteria of Section 71.6 to assure no development occurs in the regulated floodplain on newly created lots. All regulated floodplains, or portions of regulated floodplains that pass through a lot or a project site shall have a floodplain easement.~~

- ~~(1) — The floodplain easements shall be shown on the record plat, site plans and site construction drawings and shall be designated as a “floodplain and storm drainage easement.” The following note shall be clearly shown: “No use shall be made of nor shall any improvements be constructed in the floodplain and drainage easement without specific authorization from the St. Mary’s County Department of Land Use and Growth Management.”~~
- ~~(2) — The floodplain easement shall be placed around the floodplain as delineated by the established FEMA map, or floodplain calculations, and at least 50 feet from each side of USGS blue line streams. This easement shall be tied to the site boundaries in a manner that makes easement easy to establish at the site.~~

~~d. — The Planning Director may require plans for tree maintenance, stormwater management, revegetation, establishment of vegetated buffers, and final grading as part of the permit application process.~~

~~e. — An elevation certificate must be submitted to the Department of Land Use and Growth Management, before a certificate of occupancy may be issued. Work undertaken prior to submission of the certification is at the applicant's risk. For enclosed areas below the flood protection elevation, a non-conversion agreement may be required, which includes an agreement to install water equalizing vents as specified in Section 76.6.7 of this Ordinance.~~



1 **76.5.— Issuance of Permit.**

2 **0.— Considerations.**

- 3 a. — Prior to issuance of a permit, the Planning Director shall determine the location of the project  
4 relative to floodways, floodplains, or V zones and shall note on the permit the proper elevation to  
5 which the lowest floor of proposed structures must be elevated. In approximate floodplains where  
6 a floodplain elevation is not available, the applicant shall be required to obtain such elevation.  
7 The applicant must agree to secure all other required permits, an elevation certificate,  
8 floodproofing certificate, engineering analysis, or other required verifications deemed appropriate  
9 by the Planning Director.
- 10 b. — Permits shall be granted by the Planning Director only after determining that the proposed  
11 development will conform to the requirements of this Ordinance and all other applicable local  
12 codes and ordinances. All other necessary permits or approvals must be applied for or granted.  
13 Permits are valid only after all other necessary permits have been granted.

14 ~~Caution shall be exercised when approving development downstream of existing or proposed dams. The~~  
15 ~~condition of the dam, as well as the design criteria, hazard class, and danger reach, shall be investigated~~  
16 ~~by the applicant to avoid increasing potential hazards. Downstream development within the dam break~~  
17 ~~flood wave shall be denied unless the dam meets the design standards for a high hazard dam.~~

18 **1.— ~~After Issuance and During Construction~~**

- 19 a. — ~~After issuance of a permit, no changes of any kind shall be made to the approved permit or any of~~  
20 ~~the plans, specifications, or other documents submitted with the application without the written~~  
21 ~~approval of the Planning Director. A copy of the permit or other verification must be displayed at~~  
22 ~~the construction site during construction activity.~~
- 23 b. — ~~Work shall be completed within one year of the date of the permit unless a greater time is specified~~  
24 ~~in the permit or a written extension is granted.~~
- 25 c. — ~~During construction, the Planning Director or an authorized representative shall inspect the site to~~  
26 ~~determine that the work is in compliance with the permit. Any work found to be non-compliant~~  
27 ~~must be corrected before any additional work is undertaken.~~

28 **2.— ~~Record of Permits. A record of all floodplain permits shall be maintained and be available upon~~**  
29 **~~request by the Federal Emergency Management Agency or its authorized agent during periodic~~**  
30 **~~assessments of St. Mary's County's participation in the National Flood Insurance Program. All~~**  
31 **~~documents needed to support any permit action, such as elevation certificates, map amendments or~~**  
32 **~~revisions, variance actions, shall be available for review during these assessments.~~**

33 **3.— ~~Conditioned Permits for Accessory Structures and Garages.~~**

- 34 a. — ~~A conditioned permit, for up to a total size of 600 square feet may be issued at the discretion of the~~  
35 ~~Planning Director when the 300 square foot exemption is exceeded for accessory structures. In~~  
36 ~~order to qualify, the structure's use must be incidental to the primary structure, and it can be used~~  
37 ~~only for limited storage or parking of vehicles. The provisions of Section 76.6.7.b must also be~~  
38 ~~met.~~
- 39 b. — ~~A conditioned permit is subject to the applicant's completion of a non-conversion agreement~~  
40 ~~stating that the use of the accessory structure may not change from that permitted and that it must~~  
41 ~~be equipped with the proper water equalizing vents. A statement of the greater flood risk and~~  
42 ~~possibly higher flood insurance premiums must be included on the permit. In addition, a~~  
43 ~~declaration of land restriction must be recorded on a form approved by the Planning Director that~~  
44 ~~states that the permitted structure may not be used for human habitation without first complying~~  
45 ~~with the requirements of this Ordinance.~~

46 **4.— ~~Fees. A fee may be charged at the time of application as established by the St. Mary's County~~**  
47 **~~Commissioners.~~**

48 **76.6.— Site Development Regulations in Floodplain Zones.**

49 **Split Properties or Structures, or adjustments to buildings or**

50 **~~if a proposed structure is in more than one flood zone, the more stringent applicable flood zone~~**  
51 **~~provisions shall apply to the entire structure.~~**

~~0. Flood Protection Elevation.~~

The flood protection elevation shall be one foot above the floodplain elevation.

~~The Planning Director may grant a waiver of the elevation requirement when a structure is substantially improved, upon findings that:~~

- ~~(1) The structure is individually listed on the federal National Register of Historic Places or National Historic Landmark program, the Maryland Inventory of Historic Properties or the County's historic sites survey inventory; and~~
- ~~(2) The listing agency verifies that the modifications proposed do not preclude its continued designation as an historic structure.~~

**76.7. Regulation of Structures and Development in Nontidal and Tidal Floodplains.**

~~General.~~ Due to the inherent hazards and risks involved, development may not occur in the regulated floodplain where alternative locations exist on site outside the floodplain. Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the regulated floodplain and that necessary encroachments onto the floodplain are minimized.

~~0. New and Substantially Improved Structures.~~

~~a. The following provisions shall apply to residential structures within the regulated floodplain:~~

- ~~(1) All new residential structures, including manufactured homes, shall have the lowest floor elevated at or above the flood protection elevation.~~

~~All substantially which reduce or eliminate flood damage to real estate or improved residential real property, water and sanitary facilities, structures, including manufactured homes, shall have the lowest floor elevated to or above the flood protection elevation. and their contents, such~~

- ~~(2) In nontidal floodplains, horizontal expansions that increase the footprint but result in less than substantial improvement shall also have the lowest floor elevated to or above the flood protection elevation.~~
- ~~(3) The elevation of the lowest floor shall be field verified and certified by a registered surveyor or professional engineer on the elevation certificate, after the lowest floor has been constructed.~~
- ~~(4) Enclosures below the flood protection elevation must be constructed with water equalizing vents to meet the specifications of Section 76.6.7.~~
- ~~(5) Improvements in tidal floodplains **that** are determined to be less than substantial shall be constructed to minimize damage during flooding or shall be elevated to the greatest extent possible.~~

~~b. The following provision shall apply to non-residential the buildings or structures within the regulated floodplain:~~

- ~~(1) All new or substantially improved non-residential structures shall either be elevated as set forth above for residential structures or shall be flood proofed.~~
- ~~(2) Horizontal expansions in the nontidal floodplain that increase the footprint but result in less than substantial improvement shall also have the lowest floor elevated to or above the flood protection elevation.~~

~~State regulations do not allow the floodproofing option for new non-residential structures in nontidal floodplains.~~

~~21.29. Floodproofing designs must insure that areas below the flood protection elevation are watertight with walls substantially impermeable to the passage of water and with structural components **capable** having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. **If the floodproofing option is chosen, a floodproofing certificate must be completed by a registered professional engineer or architect who shall review** State regulations at COMAR 26.17.04.11(B)(7) do not allow new nonresidential buildings in nontidal waters of the **design and specifications and certify that the non-residential structure will meet this standard** State to be floodproofed.~~

- 1     30. Floodproofing Certificate: FEMA Form 086-0-34 that is to be completed, signed and sealed by a  
2     licensed professional engineer or licensed architect to certify that the design of floodproofing and  
3     proposed methods of construction are in accordance with the applicable requirements of Section  
4     76.5.5.b of these regulations.
- 5
- 6     31. Floodway: The channel of a river or other watercourse and the adjacent land areas that must be  
7     reserved in order to pass the base flood discharge such that the cumulative increase in the water surface  
8     elevation of the base flood discharge is no more than a designated height. When shown on a FIRM,  
9     the floodway is referred to as the “designated floodway.”
- 10
- 11     32. Freeboard: A margin of safety that compensates for uncertainty in the factors that could contribute to  
12     flood heights greater than the height calculated for a selected size flood and floodway conditions.  
13     Factors of uncertainty include wave action, obstructed bridge openings, debris and ice jams, sea level  
14     rise, storm intensity, and the hydrologic effect of urbanization in a watershed.
- 15
- 16     33. Free-of-Obstruction: A term that describes open foundations (pilings, columns, or piers) without  
17     attached elements or foundation components that would obstruct the free passage of floodwaters and  
18     waves beneath structures that are elevated on such foundations.
- 19
- 20     34. Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or  
21     carried out in close proximity to water; the term includes only docking facilities, port facilities that are  
22     necessary for the loading and unloading of cargo (including seafood) or passengers, and ship building  
23     and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- 24
- 25     35. Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction,  
26     next to the proposed foundation of a structure.
- 27
- 28     36. Historic Structure: Any structure that is:
- 29
- 30         a. Individually listed in the National Register of Historic Places (a listing maintained by the U.S.  
31         Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the  
32         requirements for individual listings on the National Register;
- 33
- 34         b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the  
35         historical significance of a registered historic district or a district preliminarily determined by the  
36         Secretary to qualify as a registered historic district;
- 37
- 38         c. Individually listed on the Maryland Register of Historic Places maintained by the Maryland  
39         Historical Trust; or
- 40
- 41         d. Individually listed on the inventory of historic places maintained by St. Mary’s County, through  
42         the authority provided to the County as a Certified Local Government for Historic Preservation as  
43         designated by the Secretary of the Interior.
- 44
- 45     37. Hydrologic and Hydraulic Engineering Analyses: Analyses performed by a licensed professional  
46     engineer, in accordance with standard engineering practices that are accepted by the Maryland  
47     Department of the Environment (Nontidal Wetlands & Waterways) and FEMA, used to determine the  
48     base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood  
49     profiles.
- 50
- 51     38. Letter of Map Change (LOMC): A Letter of Map Change is an official FEMA determination, by letter,  
52     that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of  
53     Map Change include:
- 54
- 55         a. Letter of Map Amendment (LOMA): An amendment based on technical data showing that a  
56         property was incorrectly included in a designated special flood hazard area. A LOMA amends the

1 current effective Flood Insurance Rate Map and establishes that a specific property or structure is  
2 not located in a special flood hazard area.

3  
4 b. Letter of Map Revision (LOMR): A revision based on technical data that may show changes to  
5 flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A  
6 Letter of Map Revision Based on Fill (LOMR-F) is a determination that a structure or parcel of  
7 land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed  
8 to flooding associated with the base flood. In order to qualify for this determination, the fill must  
9 have been permitted and placed in accordance with St. Mary's County's floodplain management  
10 regulations.

11  
12 c. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a  
13 proposed flood protection project or other project complies with the minimum NFIP requirements  
14 for such projects with respect to delineation of special flood hazard areas. A Conditional Letter of  
15 Map Revision Based on Fill (CLOMR-F) is a determination that a parcel of land or proposed  
16 structure that will be elevated by fill would not be inundated by the base flood if fill is placed on  
17 the parcel as proposed or the structure is built as proposed. A CLOMR does not revise the  
18 effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of  
19 certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the  
20 effective FIRM.

21  
22 39. Licensed: As used in these regulations, licensed refers to professionals who are authorized to practice  
23 in the State of Maryland by issuance of licenses by the Maryland Board of Architects, Maryland Board  
24 of Professional Engineers, Maryland Board of Professional Land Surveyors, and the Maryland Real  
25 Estate Appraisers and Home Inspectors Commission.

26  
27 40. Limit of Moderate Wave Action (LiMWA): Inland limit of the area affected by waves greater than 1.5  
28 feet during the base flood. Base flood conditions between the VE Zone and the LiMWA will be similar  
29 to, but less severe than those in the VE Zone.

30  
31 41. Lowest Floor: The lowest floor of the lowest enclosed area (including basement) of a building or  
32 structure; the floor of an enclosure below the lowest floor is not the lowest floor provided the enclosure  
33 is constructed in accordance with these regulations. The lowest floor of a manufactured home is the  
34 bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).

35  
36 42. Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent  
37 chassis and is designed for use with or without a permanent foundation when connected to the required  
38 utilities. The term manufactured home does not include a recreational vehicle.

39  
40 43. Market Value: The price at which a property will change hands between a willing buyer and a willing  
41 seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of  
42 relevant facts. For the purposes of these regulations, the market value of a building is determined by a  
43 licensed real estate appraiser or the most recent, full phased-in assessment value of the building  
44 (improvement) determined by the Maryland Department of Assessments and Taxation.

45  
46 44. Maryland Department of the Environment (MDE): A principal department of the State of Maryland  
47 that is charged with, among other responsibilities, the coordination of the National Flood Insurance  
48 Program in Maryland (NFIP State Coordinator) and the administration of regulatory programs for  
49 development and construction that occur within the waters of the State, including nontidal wetlands,  
50 nontidal waters and floodplains, and State and private tidal wetlands (Tidal Wetlands). Unless  
51 otherwise specified, "MDE" refers to the Department's Wetlands and Waterways Program.

52  
53 45. Mixed-use Structure: Any structure that is used or intended for use for a mixture of nonresidential and  
54 residential uses in the same structure.

1 46. National Flood Insurance Program (NFIP): The program authorized by the U.S. Congress in 42 U.S.C.  
2 §§4001 - 4129. The NFIP makes flood insurance coverage available in communities that agree to  
3 adopt and enforce minimum regulatory requirements for development in areas prone to flooding (see  
4 definition of "Special Flood Hazard Area").

5  
6 47. Natural Grade: The grade unaffected by construction techniques such as fill, landscaping, or berming.  
7

8 **1. New Fill.**

9 48. Construction: Structures, including additions and improvements, and the placement of ~~more than~~  
10 600 cubic yards of fill per parcel/lot in the floodplain is prohibited—manufactured homes, for  
11 which the start of construction commenced on or after February 19, 1987 (the initial effective date of  
12 the St. Mary's County Flood Insurance Rate Map) including any subsequent improvements,  
13 alterations, modifications, and additions to such structures.

14 49. Nontidal Waters of the State: See "Waters of the State." As used in these regulations, "nontidal waters  
15 of the State" refers to any stream or body of water within the State that is subject to State regulation,  
16 including the "100-year frequency floodplain of free-flowing waters." COMAR 26.17.04.01 states that  
17 "the landward boundaries of any tidal waters shall be deemed coterminous with the wetlands boundary  
18 maps adopted pursuant to Environment Article, §16-301, Annotated Code of Maryland." Therefore,  
19 the boundary between the tidal and nontidal waters of the State is the tidal wetlands boundary.  
20

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

23  
24 51. Post -FIRM structures: See New Construction.

25  
26 52. Pre-FIRM structures: See Existing Construction.

27  
28 53. Recreational Vehicle: A vehicle that is built on a single chassis, 400 square feet or less when  
29 measured at the largest horizontal projection, designed to be self-propelled or permanently towable by  
30 a light duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living  
31 quarters for recreational, camping, travel, or seasonal use.  
32

33 54. Special Flood Hazard Area (SFHA): The land in the floodplain subject to a one-percent or greater  
34 chance of flooding in any given year. Special flood hazard areas are designated by the Federal  
35 Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as  
36 Zones A, AE, AH, AO, and A99, and Zones VE and V1-30. The term includes areas shown on other  
37 flood maps that are identified in Section 75.1.5.  
38

39 55. Start of Construction: Structures, including additions and improvements, and the placement of  
40 manufactured homes, for which the start of construction commenced on or after February 19, 1987, the  
41 initial effective date of the St. Mary's County Flood Insurance Rate Map, including any subsequent  
42 improvements, alterations, modifications, and additions to such structures.  
43

44 The date the building permit was issued, provided the construction, repair, reconstruction,  
45 rehabilitation, addition placement, or other improvement was started within 180 days of permit  
46 issuance according to County records.

47  
48 The actual start means either the first placement of permanent construction of a structure on a site, such  
49 as pouring of slab or footings, the installation of piles, the construction of columns, or any work  
50 beyond the state of excavation; or the placement of a manufactured home on a foundation.

51  
52 For substantial improvements, the actual start of construction means the first alteration of any wall,  
53 ceiling, floor, or other structural part of a building whether or not that alteration affects the external  
54 dimensions of the building.  
55

- 1     56. Structure: That which is built or constructed; specifically, a walled and roofed building, including gas  
2     or liquid storage tank that is principally above ground, as well as a manufactured home.  
3  
4     57. Substantial Damage: Damage of any origin sustained by a building or structure whereby the cost of  
5     restoring the building or structure to its before damaged condition would equal or exceed 50 percent of  
6     the market value of the building or structure before the damage occurred. Also used as “substantially  
7     damaged” structures.  
8  
9     58. Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a  
10    building or structure, the cost of which equals or exceeds 50 percent of the market value of the  
11    building or structure before the start of construction of the improvement. Also called “substantially  
12    improved” structures. The term includes structures which have incurred substantial damage, regardless  
13    of the actual repair work performed. The term does not, however, include either:  
14  
15    a. Any project for improvement of a building or structure to correct existing violations of State or  
16    local health, sanitary, or safety code specifications which have been identified by the local code  
17    enforcement official prior to submission of an application for a permit and which are the minimum  
18    necessary to assure safe living conditions; or  
19  
20    b. Any alteration of a historic structure, provided that the alteration will not preclude the structure’s  
21    continued designation as a historic structure.  
22  
23    59. Temporary Structure: A structure installed, used, or erected for a period of less than 180 days.  
24  
25    60. Violation: Any construction or development in a special flood hazard area that is being performed  
26    without an issued permit. The failure of a building, structure, or other development for which a permit  
27    is issued to be fully compliant with these regulations and the conditions of the issued permit. A  
28    building, structure, or other development without the required design certifications, the Elevation  
29    Certificate, or other evidence of compliance required is presumed to be a violation until such time as  
30    the required documentation is provided.  
31  
32    61. Watercourse: The channel, including channel banks and bed, of nontidal waters of the State.  
33  
34    62. Waters of the State: [See Environment Article, Title 5, Subtitle 1, Annotated Code of Maryland.]  
35    Waters of the State include:  
36  
37    a. Both surface and underground waters within the boundaries of the State subject to its jurisdiction;  
38  
39    b. That portion of the Atlantic Ocean within the boundaries of the State;  
40  
41    c. The Chesapeake Bay and its tributaries;  
42  
43    d. All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within  
44    the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and  
45  
46    e. The floodplain of free-flowing waters determined by MDE on the basis of the 100-year (1-percent  
47    annual chance) flood frequency.  
48

### **76.3 ADMINISTRATION**

#### **1. Designation of the Floodplain Administrator**

The Director of the Department of Land Use and Growth Management is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- 1        a. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel,  
2        plan examiners, inspectors, and other employees.
- 3
- 4            1. Enter into a written agreement or written contract with another Maryland community or  
5            private sector entity to administer specific provisions of these regulations.  
6            Administration of any part of these regulations by another entity shall not relieve the  
7            community of its responsibilities pursuant to the participation requirements of the  
8            National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR)  
9            at 44 CFR Section 59.22.

10

11        **2. Duties and Responsibilities of the Floodplain Administrator**

12

13        The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- 14
- 15        a. Review applications for all development to determine whether proposed activities will be located in  
16        flood hazard areas.
- 17        b. Interpret floodplain boundaries and provide available base flood elevation and flood hazard  
18        information.
- 19        c. Review applications to determine whether proposed activities will be reasonably safe from  
20        flooding and require new construction and substantial improvements in special flood hazard areas  
21        to meet the requirements of these regulations.
- 22        d. Review applications to determine whether all necessary permits have been obtained from the  
23        Federal, State or local agencies from which prior or concurrent approval is required; in particular,  
24        permits from MDE for any construction, reconstruction, repair, or alteration of a dam, reservoir, or  
25        waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or  
26        any change of the course, current, or cross section of a stream or body of water, including any  
27        change to the 100-year frequency floodplain of free-flowing nontidal waters of the State.
- 28        e. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities  
29        and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
- 30        f. Advise applicants for new construction or substantial improvement of structures that are located  
31        within an area of the Coastal Barrier Resources System established by the Coastal Barrier  
32        Resources Act that Federal flood insurance is not available on such structures; areas subject to this  
33        limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas  
34        (CBRS) or Otherwise Protected Areas (OPA).
- 35        g. Approve applications and issue permits to develop in flood hazard areas if the provisions of these  
36        regulations have been met, or disapprove applications if the provisions of these regulations have  
37        not been met.
- 38        h. Inspect or cause to be inspected, buildings, structures, and other development for which permits  
39        have been issued to determine compliance with these regulations or to determine if non-  
40        compliance has occurred or violations have been committed.
- 41        i. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- 42        j. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to  
43        maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for St.  
44        Mary's County, within six months after such data and information becomes available if the  
45        analyses indicate changes in base flood elevations or boundaries.
- 46
- 47        k. Maintain and permanently keep records that are necessary for the administration of these  
48        regulations, including:
- 49
- 50            (1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and  
51            current effective studies and maps) and Letters of Map Change; and

1  
2           (2) Documentation supporting issuance and denial of permits, Elevation Certificates,  
3           documentation of the elevation (in relation to the datum on the FIRM) to which structures  
4           have been floodproofed, other required design certifications, variances issued prior to  
5           November 19, 2014, and records of enforcement actions taken to correct violations of these  
6           regulations.

7  
8           l. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop  
9           work orders, and require permit holders to take corrective action.

10  
11           m. Administer the requirements related to proposed work on existing structures:

12                   (1) Make determinations as to whether buildings and structures that are located in flood hazard  
13                   areas and that are damaged by any cause have been substantially damaged.

14                   (2) Make reasonable efforts to notify owners of substantially damaged structures of the need to  
15                   obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of  
16                   substantially damaged buildings except for temporary emergency protective measures  
17                   necessary to secure a property or stabilize a building or structure to prevent additional  
18                   damage.

19  
20  
21           n. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances,  
22           other actions which may include but are not limited to: issuing press releases, public service  
23           announcements, and other public information materials providing information related to permit  
24           requests and repair of damaged structures; coordinating with other Federal, State, and local  
25           agencies to assist with substantial damage determinations; providing owners of damaged  
26           structures information related to the proper repair of damaged structures in special flood hazard  
27           areas; and assisting property owners with documentation necessary to file claims for Increased  
28           Cost of Compliance (ICC) coverage under NFIP flood insurance policies.

29  
30  
31           o. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP  
32           which may request information regarding the number of buildings in the SFHA and number of  
33           permits issued for development in the SFHA.

34  
35           p. Notify the Federal Emergency Management Agency when the corporate boundaries of St. Mary's  
36           County have been modified and:

37                   1. Provide a map that clearly delineates the new corporate boundaries or the new area for  
38                   which the authority to regulate pursuant to these regulations has either been assumed or  
39                   relinquished through annexation; and

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

46  
47           **3. Use and Interpretation of FIRMs**

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

51           a. Where field surveyed topography indicates that ground elevations:  
52  
53



1  
2 (1) Are below the base flood elevation, even in areas not delineated as a special flood hazard area  
3 on a FIRM, the area shall be considered as special flood hazard area and subject to the  
4 requirements of these regulations;

5  
6 (2) Are above the base flood elevation, the area shall be regulated as special flood hazard area  
7 unless the applicant obtains a Letter of Map Change that removes the area from the special  
8 flood hazard area.

9  
10 b. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have  
11 not been identified and in areas where FEMA has not identified special flood hazard areas, any  
12 other flood hazard data available from a Federal, State, or other source shall be reviewed and  
13 reasonably used.

14  
15 c. Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take  
16 precedence over base flood elevations and floodway boundaries by any other sources if such  
17 sources show reduced floodway widths and/or lower base flood elevations.

18  
19 d. Other sources of data shall be reasonably used if such sources show increased base flood elevations  
20 and/or larger floodway areas than are shown on FIRMs and in FISs.

21  
22 e. **If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been**  
23 provided by FEMA:

24  
25 (1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard  
26 data shall be used and shall replace the flood hazard data previously provided from FEMA for  
27 the purposes of administering these regulations.

28  
29 (2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary  
30 flood hazard data shall be deemed the best available data pursuant to Section 76.1.5 and used  
31 where no base flood elevations and/or floodway areas are provided on the effective FIRM.

32  
33 (3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood  
34 hazard data is permitted where the preliminary base flood elevations, floodplain or floodway  
35 boundaries exceed the base flood elevations and/or designated floodway widths in existing  
36 flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or  
37 appeal to FEMA.

#### **4. Permits Required and Expiration**

38  
39  
40  
41 a. It shall be unlawful for any person to begin any development or construction which is wholly  
42 within, partially within, or in contact with any flood hazard area established in Section 76.1.5,  
43 including but not limited to: filling; grading; construction of new structures; the substantial  
44 improvement of buildings or structures, including repair of substantial damage; placement or  
45 replacement of manufactured homes, including substantial improvement or repair of substantial  
46 damage of manufactured homes; erecting or installing a temporary structure, or alteration of a  
47 watercourse, until a permit is obtained from St. Mary's County. No such permit shall be issued  
48 until the requirements of these regulations have been met.

49  
50 b. **In by variance-addition to the permits required in paragraph (A), applicants for permits in nontidal**  
51 waters of the State are advised to contact MDE. Unless waived by MDE, pursuant to Code of  
52 Maryland Regulations 26.17.04, Construction on Nontidal Waters and Floodplains, MDE regulates  
53 the "100-year frequency floodplain of free-flowing waters," also referred to as nontidal waters of  
54 the State. To receive a variance, an applicant must determine the 100-year frequency floodplain,  
55 hydrologic calculations are based on the ultimate development of the watershed, assuming existing  
56 zoning. The resulting flood hazard areas delineated using the results of such calculations may be

1 different than the special flood hazard areas established in Section 76.1.5 of these regulations.  
2 Issuance of permit by the State does not authorize any person to begin any development or  
3 construction. A permit from St. Mary's County is required in addition to any State permit. A  
4 County permit may include requirements in addition to those in the State permit.

- 5  
6 c. A permit is valid provided it is issued by the actual start of work. This permit shall become invalid  
7 if the authorized use or construction for which the permit was issued is not commenced within 180  
8 days of the date of permit issuance. Prior to the expiration of the permit, the Floodplain  
9 Administrator may grant, in writing, one or more extensions of time, for additional periods not  
10 exceeding 90 days each, upon good cause shown and provided there has been no amendment or  
11 revision to the basis for establishing special flood hazard areas and BFEs set forth in Section 76.1.5.  
12

### **5. Application Required and Information Necessary for Application**

13  
14 Application for a permit within the special flood hazard area shall be made by the owner of the property or  
15 the owner's authorized agent (herein referred to as the applicant) prior to the start of any work. The  
16 application shall be on a form furnished for that purpose.  
17

- 18  
19 a. Floodplain applications shall at a minimum include:  
20

- 21 (1) Site plans drawn to scale showing the nature, location, dimensions, and existing and proposed  
22 topography of the area in question, and the location of existing and proposed structures,  
23 excavation, filling, storage of materials, drainage facilities, and other proposed activities.  
24  
25 (2) Elevation of the existing natural ground where buildings or structures are proposed,  
26 referenced to the datum on the FIRM.  
27  
28 (3) Delineation of special flood hazard areas, designated floodway boundaries, flood zones, base  
29 flood elevations, and flood protection setbacks. Base flood elevations shall be used to  
30 delineate the boundary of flood hazard areas and such delineations shall prevail over the  
31 boundary of SFHAs shown on FIRMs.  
32  
33 (4) Where floodways are not delineated or base flood elevations are not shown on the FIRMs, the  
34 Floodplain Administrator has the authority to require the applicant to use information  
35 provided by the Floodplain Administrator, information that is available from Federal, State, or  
36 other sources, or to determine such information using accepted engineering practices or  
37 methods approved by the Floodplain Administrator.  
38  
39 (5) Determination of the base flood elevations, for development proposals and subdivision  
40 proposals, each with at least 5 lots or at least 5 acres, whichever is the lesser, in special flood  
41 hazard areas where base flood elevations are not shown on the FIRM; if hydrologic and  
42 hydraulic engineering analyses are submitted, such analyses shall be performed in accordance  
43 with the requirements and specifications of MDE and FEMA.  
44  
45 (6) Hydrologic and hydraulic engineering analyses for proposals in special flood hazard areas  
46 where FEMA has provided base flood elevations but has not delineated a floodway; such  
47 analyses shall demonstrate that ~~fill is the only~~ the cumulative effect of proposed development,  
48 when combined with all other existing and anticipated development will not increase the  
49 water surface elevation of the base flood by more than one foot, or a lower increase if  
50 required by MDE.  
51  
52 (7) For encroachments in floodways, an evaluation of alternatives to such encroachments,  
53 including different uses of the site or portion of the site within the floodway, and minimization  
54 of such encroachment.  
55

1 (8) If fill is proposed to be placed for a purpose other than to elevate structures, the applicant  
2 shall indicate the intended purpose for the fill.

3  
4 (9) For proposed buildings and structures, including substantial improvement and any repair of a  
5 substantially damaged structure, and placement and replacement of manufactured homes,  
6 including substantial improvement and repair of substantial damage:

7  
8 (a) The proposed elevation of the lowest floor, including basement, referenced to  
9 the datum on the FIRM and a signed Agreement to Submit an Elevation  
10 Certificate.

11  
12 (b) The signed Declaration of Land Restriction (Non-Conversion Agreement) that  
13 shall be recorded on the property deed prior to issuance of the building permit if  
14 the application includes an enclosure below the lowest floor or a  
15 crawl/underfloor space that is more than four (4) feet in height.

16  
17 (c) A written evaluation of alternative methods considered to elevate structures and  
18 manufactured homes, if the location is in nontidal waters of the State and fill is  
19 proposed to achieve the elevation required in Section 76.5.4.a. or  
20 Section 76.5.5.a.

21  
22 (10) For temporary structures and temporary storage, specification of the duration of the  
23 temporary use.

24  
25 (11) For proposed work on existing buildings, structure, and manufactured homes, including any  
26 improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient  
27 information to determine if the work constitutes substantial improvement or repair of  
28 substantial damage, including but not limited to:

29  
30 (a) ~~If to raising the building to at least the flood protection elevation, and that the~~  
31 ~~the existing building or structure was constructed after February 19, 1987,~~  
32 ~~evidence that the work will not alter any aspect of the building or structure that~~  
33 ~~was required for compliance with the floodplain management requirements in~~  
34 ~~effect at the time the building or structure was permitted.~~

35  
36 (b) If the proposed work is a horizontal addition, a description of the addition and  
37 whether it will be independently supported or structurally connected to the base  
38 building and the nature of all other modifications to the base building, if any.

39  
40 (c) Documentation of the market value of the building or structure before the  
41 improvement or, if the work is repair of damage, before the damage occurred.

42  
43 ~~(d)~~ Documentation of the actual cash value of all proposed work, including the  
44 actual cash value of all work necessary to repair and restore damage to the  
45 before-damaged condition, regardless of the amount of fill used will not affect  
46 the flood storage capacity or increase flooding onto neighboring properties work  
47 that will be performed. The value of work performed by the owner or volunteers  
48 shall be valued at market labor rates; the value of donated or discounted  
49 materials shall be valued at market rates.

50  
51 (12) Certifications and/or technical analyses prepared or conducted by a licensed professional  
52 engineer or licensed architect, as appropriate, including:

53  
54 (a) The determination of the base flood elevations or hydrologic and hydraulic  
55 engineering analyses prepared by a licensed professional engineer that are  
56 required by the Floodplain Administrator or are required by these regulations in:

1                    Section 76.4.2 for certain subdivisions and development; Section 76.5.3.c and  
2                    Section 76.5.3.d for development in designated floodways; Section 76.5.3.f for  
3                    development in flood hazard areas with base flood elevations but no designated  
4                    floodways; and Section 76.5.3.h for deliberate alteration or relocation of  
5                    watercourses.

6  
7                    (b) The Floodproofing Certificate for nonresidential structures that are floodproofed  
8                    as required in Section 76.5.5.b.

9  
10                   (c) Certification that engineered flood openings are designed to meet the minimum  
11                   requirements of Section 76.5.4.c.3 to automatically equalize hydrostatic flood  
12                   forces.

13  
14                   (d) Certification that the proposed elevation, structural design, specifications and  
15                   plans, and the methods of construction to be used for structures in coastal high  
16                   hazard areas (V Zones) and Coastal A Zones, are in accordance with accepted  
17                   standards of practice and meet the requirements of Section 76.5.5.b.3.

18  
19                   (13) For nonresidential structures that are proposed with floodproofing, an operations and  
20                   maintenance plan as specified in Section 76.5.5.b.3.

21  
22                   (14) Such other material and information as may be requested by the Floodplain Administrator and  
23                   necessary to determine conformance with these regulations.

24  
25                   ~~b. New In the event buildings on adjacent properties are known or determined to be subject to~~  
26                   ~~flooding under current conditions, the local permitting official may require submission of~~  
27                   ~~hydrologic and hydraulic analyses to adequately demonstrate the effects of the proposed fill. The~~  
28                   ~~specific requirements described in Section 76.6.7.b.5 must be met whenever fill is used.~~

29                   ~~b. Subdivision-Technical Data~~

30  
31                   (1) The applicant may seek a Letter of Map Change by submitting new technical data to FEMA,  
32                   such as base maps, topography, and engineering analyses to support revision of floodplain and  
33                   floodway boundaries and/or base flood elevations. Such submissions shall be prepared in a  
34                   format acceptable to FEMA and any fees shall be the sole responsibility of the applicant. A  
35                   copy of the submittal shall be attached to the application for a permit. A County permit  
36                   requested on the basis of receiving a LOMC shall not be issued for development prior to  
37                   receipt by the Floodplain Administrator of the approved Letter of Map Change issued by  
38                   FEMA.

39  
40                   (2) If the applicant submits new technical data to support any change in floodplain and designated  
41                   floodway boundaries and/or base flood elevations but has not sought a Letter of Map Change  
42                   from FEMA, the applicant shall submit such data to FEMA as soon as practicable, but not  
43                   later than six months after the date such information becomes available. Such submissions  
44                   shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility  
45                   of the applicant.

## 46                   **6. Review of Application**

47                   The Floodplain Administrator shall:

48  
49                   a. Review applications for development in special flood hazard areas to determine the completeness  
50                   of information submitted. The applicant shall be notified of incompleteness or additional  
51                   information that is required to support the application.

- 1        b. Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and other State  
2        and Federal authorities may be required.
- 3
- 4        c. Review all permit applications to assure that all necessary permits have been received from the  
5        Federal, State or local governmental agencies from which prior approval is required. The applicant  
6        shall be responsible for obtaining such permits, including permits issued by:
- 7
- 8            (1) The U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and  
9            Section 404 of the Clean Water Act;
- 10           (2) MDE pursuant to COMAR 26.23 (Nontidal Wetlands) and Section 401 of the Clean Water Act;
- 11           (3) MDE for construction on nontidal waters of the State pursuant to COMAR 26.17.04; and
- 12           (4) MDE pursuant to COMAR 26.24 (Tidal Wetlands).
- 13
- 14
- 15
- 16
- 17        d. Review applications for compliance with these regulations after all information required in Section  
18        76.3.5 of these regulations or identified and required by the Floodplain Administrator has been  
19        received.
- 20

### **7. Inspections**

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

- 24
- 25
- 26
- 27        a. Stake-out inspection, to determine location on the site relative to the flood hazard area and  
28        designated floodway.
- 29
- 30        b. Foundation inspection, upon placement of the lowest floor and prior to further vertical construction,  
31        to collect information or certification of the elevation of the lowest floor. A “Building under  
32        Construction” Elevation Certificate shall be submitted for review prior to scheduling the foundation  
33        inspection.
- 34
- 35        c. Inspection of enclosures below the lowest floor, including crawl/underfloor spaces, to determine  
36        compliance with applicable provisions.
- 37
- 38        d. Utility inspection, upon installation of specified equipment and appliances, to determine  
39        appropriate location with respect to the base flood elevation.
- 40
- 41        e. Final inspection prior to issuance of the Certificate of Occupancy.
- 42

### **8. Submissions Required Prior to Final Inspection**

43        Pursuant to the Agreement to Submit an Elevation Certificate submitted with the application as required in  
44        Section Chapter 7614.a(a).3.5.a.9, the permittee shall have an Elevation Certificate prepared and submitted  
45        prior to final inspection and issuance of a Certificate of Occupancy for elevated structures and  
46        manufactured homes, including new structures and manufactured homes, substantially-improved structures  
47        and manufactured homes, and additions to structures and manufactured homes.

48

49

50

### **76.4 REQUIREMENTS IN ALL FLOOD HAZARD AREAS**

#### **1. Application of Requirements-**

51        The general requirements of this section apply to all development proposed within all special flood hazard  
52        areas identified in Section 76.1.5.

53

54

55

56

1  
2 2. Subdivision Proposals and Development Proposals

3 To achieve long -term flood damage avoidance and protection of ~~the~~ natural and beneficial floodplain  
4 functions, creation of any new flood-prone building sites ~~shall not be permitted~~ is prohibited in any  
5 ~~subdivisions~~ subdivision governed by this Ordinance regardless of size, number of lots, ~~and~~ or location,  
6 ~~except in tidal floodplains.~~

7  
8 a. In all flood zones:

9  
10 (1) Subdivision proposals and development proposals shall be consistent with the need to  
11 minimize flood damage and are subject to all applicable standards in these regulations.

12 (1) Location of the buildable areas on new subdivision lots within the special flood  
13 hazard areas is prohibited. The building restriction line for new subdivision lots  
14 shall be established at the more restrictive of 25' from the site contour equal to the  
15 BFE or the flood protection setback.

16 (2) Within proposed subdivisions, the floodplain areas mapped special flood hazard area  
17 and ~~the~~ the natural vegetation waterward of the site contour equal to the BFE shall  
18 be preserved as natural buffer areas, or open space ,recreation, and similar  
19 compatible uses by deed restriction, restrictive covenants, or other or similar  
20 instrument or donation to.

21 (3) Any portion of a platted lot that includes land trust. At a minimum, areas that are  
22 below the area preserved base flood elevation shall be deed restricted, or otherwise  
23 protected to preserve it as open space.

24  
25 (2) Subdivision proposals and development proposals shall have utilities and facilities such as  
26 sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

27  
28 (3) Subdivision proposals and development proposals shall have adequate drainage paths  
29 provided to reduce exposure to flood hazards and to guide floodwaters around and away from  
30 proposed structures.

31  
32 (4) Subdivision proposals and development proposals containing at least 5 lots or at least 5 acres,  
33 whichever is the lesser, that are wholly or partially in flood hazard areas where base flood  
34 elevation data are not provided by the Floodplain Administrator or available from other  
35 sources, shall be supported by determinations of base flood elevations as required in Section 0  
36 of these regulations.

37  
38 (5) Subdivision access roads shall have the driving surface at or above the base flood elevation.

39  
40 (6) In special flood hazard areas of nontidal waters of the State:

41 (a) Subdivision proposals shall be laid out such that proposed building pads are located  
42 outside of the special flood hazard area and any portion of platted lots that include land  
43 areas that are below the base flood elevation shall be used for other purposes, deed  
44 restricted, or otherwise protected to preserve it as open space.

45 (b) Subdivision access roads shall have the driving surface at or above the base flood  
46 elevation.

47  
48  
49  
50 3. Protection of Water Supply and Sanitary Sewage Systems

51  
52 a. ~~New and~~ replacement water supply systems shall be designed to minimize or eliminate infiltration  
53 of floodwaters into the systems.

- 1 b. ~~New~~ include the ~~drainage~~way and replacement sanitary sewage systems shall be designed to  
2 minimize or eliminate infiltration of floodwaters into systems and discharges from systems into  
3 floodwaters.
- 4
- 5 c. On-site waste disposal systems shall be located to avoid impairment to or contamination from them  
6 during conditions of flooding.

#### **4. Buildings and Structures**

- 7
- 8
- 9
- 10 a. New buildings and structures (including the placement and replacement of manufactured homes)  
11 and substantial improvement of existing structures (including manufactured homes) that are  
12 located, in whole or in part, in any special flood hazard area shall:
- 13
- 14 (1) Be designed (or modified) and constructed to safely support flood loads. The construction  
15 shall provide a complete load path capable of transferring all loads from their point of origin  
16 through the load-resisting elements to the foundation. Structures shall be designed, connected  
17 and anchored to resist flotation, collapse or permanent lateral movement due to structural  
18 loads and stresses, including hydrodynamic and hydrostatic loads and the effects of buoyancy,  
19 from flooding equal to the flood protection elevation or the elevation required by these  
20 regulations or the building code, whichever is higher.
- 21
- 22 (2) Be constructed by methods and practices that minimize flood damage.
- 23
- 24 (3) Use flood damage-resistant materials below the elevation of the lowest floor required in  
25 Section 76.5.4.a or Section 76.5.5.a (for A Zones) or Section 76.6.3.b (for V Zones and  
26 Coastal A Zones).
- 27
- 28 (4) Have electrical systems, equipment and components, and mechanical, heating, ventilating, air  
29 conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service  
30 equipment located at or above the elevation of the lowest floor required in Section 76.5.4.a or  
31 Section 76.5.5.a (A Zones) or Section 76.6.3.b (V Zones and Coastal A Zones). Electrical  
32 wiring systems are permitted to be located below elevation of the lowest floor provided they  
33 conform to the provisions of the electrical part of the building code for wet locations. If  
34 replaced as part of a substantial improvement, electrical systems, equipment and components,  
35 and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct  
36 systems, and other service equipment shall meet the requirements of this section.
- 37
- 38 (5) As an alternative to paragraph (4) above, electrical systems, equipment and components, and  
39 heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct  
40 systems, and other service equipment are permitted to be located below the elevation of the  
41 lowest floor provided they are designed and installed to prevent water from entering or  
42 accumulating within the components and to resist hydrostatic and hydrodynamic loads and  
43 stresses, including the effects of buoyancy, during the occurrence of flooding to that elevation.
- 44
- 45 (6) Have the electric panelboard elevated at least three (3) feet above the BFE.
- 46
- 47 (7) If located in flood hazard areas (A Zones) that are not identified as Coastal A Zones or coastal  
48 high hazard areas (V Zones), comply with the specific requirements of Section 76.5.
- 49
- 50 (8) If located in Coastal A Zone, comply with the specific requirements of:
- 51
- 52 (1) Section 76.6 (new construction and placement of new manufactured homes); or
- 53
- 54 (2) Section 76.5 (substantial improvements (including repair of substantial damage) and  
55 replacement manufactured homes).
- 56

1                   (3) If located in coastal high hazard areas (V Zones), comply with the specific requirements of  
2                   Section 76.6.

3  
4                   d. Comply with the requirements of the most restrictive designation if located on a site that has more  
5                   than one flood zone designation (Zone X (shaded), A Zone, designated floodway, Coastal A Zone,  
6                   V Zone).

7  
8                   **5. Placement of Fill**

9  
10                  a. Disposal of fill, including but not limited to earthen soils, rock, rubble, construction debris, woody  
11                  debris, and trash, shall not be permitted in special flood hazard areas.

12  
13                  b. Fill shall not be placed in Coastal A Zones or coastal high hazard areas (V Zones) except as  
14                  provided in Section 76.6.2.

15  
16                  c. Fill proposed to be placed to elevate structures in flood hazard areas (A Zones) that are not Coastal  
17                  A Zones or coastal high hazard areas (V Zones) shall comply with the floodways requirements in  
18                  Section 76.5.3.c, Section 76.5.3.d, Section Chapter 7614.d, and Section Chapter 7614.e and the  
19                  limitations of Section 76.5.3.e.

20  
21                  **6. Historic Structures**

22  
23                  Repair, alteration, addition, rehabilitation, or other improvement of historic structures shall be subject to the  
24                  requirements of these regulations if the proposed work is determined to be a substantial improvement,  
25                  unless a determination is made that the proposed work will preclude the structure's continued designation  
26                  as a historic structure. The Floodplain Administrator may require documentation of a structure's continued  
27                  eligibility and designation as a historic structure.

28  
29                  **7. Manufactured Homes**

30  
31                  a. New manufactured homes shall not be placed or installed in floodways or coastal high hazard  
32                  areas (V Zones).

33  
34                  b. In Coastal A zones, new and substantially improved manufactured homes shall comply with V-  
35                  zone construction criteria for foundation design and elevation.

36  
37                  c. For the purpose of these regulations, the lowest floor of a manufactured home is the bottom of the  
38                  lowest horizontal supporting member (longitudinal chassis frame beam).

39  
40                  d. New manufactured homes located outside of floodways and coastal high hazard areas (V Zones),  
41                  replacement manufactured homes in any flood hazard areas, and substantial improvement  
42                  (including repair of substantial damage) of existing manufactured homes in all flood hazard area,  
43                  shall:

44  
45                         (1) Be elevated on a permanent, reinforced foundation in accordance with Section 76.5 or Section  
46                         76.6, as applicable to the flood zone;

47  
48                         (2) Be installed in accordance with the anchor and tie-down requirements of the building code or  
49                         the manufacturer's written installation instructions and specifications; and

50  
51                         (3) Have enclosures below the lowest floor of the elevated manufactured home, if any, including  
52                         enclosures that are surrounded by rigid skirting or other material that is attached to the frame  
53                         or foundation, that comply with the requirements of Section 76.5 or Section 76.6, as  
54                         applicable to the flood zone.

55  
56                  **8. Recreational Vehicles** ~~buffer area and, to the greatest~~



1  
2 Recreational vehicles shall:

- 3 a. Meet the requirements for *manufactured homes* in Section 76.47; or  
4  
5 b. Be fully licensed and ready for highway use; or  
6  
7 c. Be on a site for less than 180 consecutive days.

8  
9 **9. Critical and Essential Facilities**

10  
11 Critical and essential facilities shall not be located in coastal high hazard areas (V Zones), Coastal A Zones  
12 or floodways. If located in flood hazard areas other than coastal high hazard areas, Coastal A Zones and  
13 floodways, be elevated to the higher of:

- 14  
15 a. The elevation required by these regulations plus one (1) foot,  
16  
17 b. The elevation required by the building code, or  
18  
19 c. The elevation of the 0.2 percent chance (500-year) flood.

20  
21 **10. Temporary Structures and Temporary Storage**

22  
23 a. In addition to the application requirements of Section 76.3.5, applications for the placement or  
24 erection of temporary structures and the temporary storage of any goods, materials, and equipment,  
25 shall specify the duration of the temporary use. Temporary structures and temporary storage in  
26 floodways shall meet the limitations of Section 76.5.3.c and Section 76.5.3.d of these regulations.  
27 In addition:

28  
29 b. Temporary structures shall:

- 30  
31 (1) Be designed and constructed to prevent flotation, collapse or lateral movement resulting from  
32 hydrodynamic loads and hydrostatic loads during conditions of the base flood;  
33  
34 (2) Have electric service installed in compliance with the electric code; and  
35  
36 (3) Comply with all other requirements of the applicable State and local permit authorities.

37  
38 c. Temporary storage shall not include hazardous materials.

39  
40 **11. Gas or Liquid Storage Tanks**

41  
42 a. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral  
43 movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of  
44 the base flood.

45  
46 b. Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and elevated  
47 to or above the base flood elevation, or shall be anchored or otherwise designed and constructed to  
48 prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads,  
49 including the effects of buoyancy, during conditions of the base flood.

50  
51 c. In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:

- 52  
53 (1) One (1) foot above the flood protection elevation or fitted with covers designed to prevent the  
54 inflow of floodwater or outflow of the contents of the tanks during conditions of the base  
55 flood; and

- 1  
2           (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads,  
3           including the effects of buoyancy, during conditions of the base flood.

4  
5           **12. Functionally Dependent Uses**

6  
7           Applications for functionally dependent uses that do not conform to the requirements of these regulations  
8           are prohibited. If approved, functionally dependent uses shall be protected by methods that minimize flood  
9           damage during the base flood, including measures to allow floodwaters to enter and exit, use of flood  
10           damage-resistant materials, and elevation of electric service and equipment to the extent ~~practicable, other~~  
11           ~~floodplain areas. Steep slopes and forested areas adjacent to watercourses shall also be given high~~  
12           ~~priority for preservation~~ practical given the use of the building.

- 13           e. ~~For new subdivisions proposed in areas of nontidal floodplains, each lot platted must have a~~  
14           suitable building site outside the floodplain. An access road at or above the elevation of the 100-  
15           year flood shall be provided.
- 16           d. ~~For new subdivisions proposed in areas of tidal floodplains, high priority should be given to~~  
17           clustering development out of the tidal floodplain while preserving the low lying land and forested  
18           areas in natural vegetation. Unless the applicant can demonstrate that developing in the tidal  
19           floodplain will result in less environmental impact, new subdivisions in tidal floodplains shall be  
20           designed to develop the highest natural land available before floodplain lots are platted.

21           **2. Floodways**

- 22           a. ~~General. Floodways present increased risks to human life and property than floodplains because~~  
23           of the relatively faster and deeper flowing waters of floodways. Floodways shall, therefore, be  
24           preserved to carry the discharge of the 100 year flood. Variances from the provisions of this  
25           subsection shall not be permitted if it would result in any increase in water surface elevations of  
26           the 100 year flood.

27  
28           **76.5 REQUIREMENTS IN FLOOD HAZARD AREAS (A ZONES) THAT ARE NOT COASTAL**  
29           **HIGH HAZARD AREAS (V ZONES) OR COASTAL A ZONES**

30  
31           **1. General Requirements**

32  
33           In addition to the general requirements of Section 0, the requirements of this section shall:

- 34  
35           a. Apply in flood hazard areas that are not identified as coastal high hazard areas (V Zones) and  
36           Coastal A Zones. These flood hazard areas, referred to collectively as "A Zones," include special  
37           flood hazard areas along nontidal waters of the State, landward of coastal high hazard areas (V  
38           Zones), and landward of Coastal A Zones (if delineated).
- 39  
40           b. Apply to all development, new construction, substantial improvements (including repair of  
41           substantial damage), and placement, replacement, and substantial improvement (including repair of  
42           substantial damage) of manufactured homes.

43  
44           **2. Flood Protection Setbacks**

45  
46           Within areas defined by flood protection setbacks along nontidal waters of the State:

- 47  
48           a. No new buildings, structures, or other development shall be permitted unless the applicant  
49           demonstrates that the site cannot be developed without such encroachment into the flood  
50           protection setback and the encroachment is the minimum necessary after consideration of varying  
51           other siting standards such as side, front, and rear setbacks from lot lines.
- 52  
53           b. Disturbance of natural vegetation shall be minimized and any disturbance allowed shall be  
54           stabilized with vegetative cover.

c. Public works and temporary construction may be permitted.

**3. Development that Affects Flood-Carrying Capacity of Nontidal Waters of the State**

a. New structures and ~~fill~~critical and essential facilities shall not be permitted in floodways.

~~(1) —~~ b. Replacement structures shall be located to minimize encroachment into the floodway;

New development and shall not be permitted in ~~the~~ floodway ~~where alternatives~~when alternative locations exist outside the floodway.

~~Before a permit may be issued for new~~

c. Development in Designated Floodways:

(1) For proposed development in ~~the~~ that will encroach into a designated floodway, ~~an~~ Section 76.3.5.a.7 requires the applicant ~~shall~~to submit an evaluation of alternatives analysis 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.

(2) Proposed development in a designated floodway may be permitted only if:

(a) The applicant has been issued a permit by MDE; and

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

~~No reasonable alternatives exist outside~~

~~1. — (c) If the floodway;~~

~~2. — Encroachment in analyses demonstrate that the floodway is the minimum necessary;~~

~~3. — The development will withstand the 100-year flood without significant damage; and~~

~~The development will not increase downstream or upstream flooding or erosion proposed~~

~~Where alternatives are demonstrated to be unavailable, development activities in the floodway that may will result in any an increase in water surface elevations or change to the floodway must be submitted to FEMA for base flood elevation, the applicant has obtained a ~~conditional~~ Conditional Letter of Map Revision— and a Letter of Map Revision from FEMA upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.~~

d. 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 e., a hydraulically-equivalent volume of excavation is required. Such excavations shall be designed to drain freely.

e. 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 analyses based on existing floodway models and performed in accordance with standard engineering practices analyses and

~~certified~~ technical data reflecting the proposed activity and shall submit such technical data to the Floodplain Administrator as required in Section 76.3.5.a (6). The analyses shall be prepared by a ~~registered professional~~ licensed professional engineer ~~must be submitted~~. Failure to receive this letter in a format required by FEMA for a Conditional Letter of Map Revision and a Letter of Map Revision upon completion of the project. Submittal requirements and fees shall be ~~grounds for denial~~ 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 1.0 foot at any point.

*Existing*

f. ~~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.~~

g. ~~For any proposed development that involves alteration of a watercourse not subject to paragraph e., 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 76.3.5.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.~~

(1) ~~Alteration of a watercourse may be permitted only upon submission, by the applicant, of the following:~~

(2) ~~A description of the extent to which the watercourse will be altered or relocated;~~

(3) ~~A certification by a licensed professional engineer that the flood-carrying capacity of the watercourse will not be diminished;~~

(4) ~~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~~

(5) ~~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 St. Mary's County specifying the maintenance responsibilities; if an agreement is required, the permit shall be conditioned to require that the agreement be recorded on the deed of the property which shall be binding on future owners.~~

**4. Residential Structures— and Residential Portions of Mixed Use Structures**

*Existing*

~~New residential structures in the floodway may be substantially improved only by variance and only if the structure can be brought into conformance with this Ordinance without increasing its footprint and residential portions of mixed use structures, and~~

(2) ~~Minor additions constituting less than a substantial improvement must be elevated to the flood protection elevation on pilings or columns.~~

(3) ~~In the event (including repair of substantial damage or replacement, the applicant shall submit an alternative analysis to determine if the structure can be relocated to a less hazardous site.~~

(4) ~~Where replacement) of existing residential structures cannot be relocated, they shall be limited to the footprint of the previous structure and must residential portions of~~

1 mixed use structures shall comply with the elevation applicable requirements of  
2 Section 76.6.2 of 4 and this Ordinance.

- 3 ~~(5) Permits for incremental improvements and additions shall be tracked by the~~  
4 ~~Department of Land Use and Growth Management and, if cumulative improvements~~  
5 ~~constitute substantial improvement, no further permits may be issued unless the~~  
6 ~~structure conforms to the provisions of this Ordinance.~~

7 ~~b. Obstructions.~~

- 8 ~~(1) Structures, grading, or fill that may impede, retard, or change the direction of the~~  
9 ~~flow of flood waters, or any materials that may be carried downstream to cause~~  
10 ~~damage, shall not be placed in the floodway.~~

- 11 ~~(2) Fences, except two wire fences, shall not be placed in the floodway.~~

12 ~~c. Maintenance of Natural Channel. The natural watercourse shall be maintained section. See~~  
13 ~~Section 76.5.6 for protection of aquatic resources. A variance is required requirements for~~  
14 ~~alteration of watercourses. Any variance issued must ensure that the conditions for encroachment~~  
15 ~~in the floodway are met, adverse impacts to aquatic resources are minimized, and the public good~~  
16 ~~outweighs the adverse impacts. Altering a watercourse must be approved by the Maryland Water~~  
17 ~~Resources Administration.~~

18 **Coastal High Hazard Area (V Zone):**

19 ~~d. New development shall not be permitted in the coastal high hazard area unless the applicant~~  
20 ~~demonstrates that:~~

- 21 ~~(1) No reasonable alternative exists outside the coastal high hazard area; and~~  
22 ~~(2) The encroachment into the coastal high hazard area is the minimum necessary; and~~  
23 ~~(3) The development will withstand the 100 year wind and water loads without damage;~~  
24 ~~and~~  
25 ~~(4) The development will not create an additional hazard to existing structures; and~~

26 ~~Any natural dune system will not be disturbed.~~

27 ~~e. New and Substantially Improved Structures. The following shall apply to new or substantially~~  
28 ~~improved structures in the Coastal High hazard Area:~~

- 29 ~~(1) All new or substantially improved structures shall be elevated on adequately~~  
30 ~~anchored pilings or columns to resist flotation, collapse, and lateral movement due to~~  
31 ~~the effects of the 100 year water loads and wind loads acting simultaneously on all~~  
32 ~~building components. The following additional standards shall also apply:~~

- 33 ~~(a) The use of slabs or other at grade foundation systems is prohibited.~~

34 ~~The bottom of the lowest horizontal structural member supporting the lowest floor additions.~~

35 ~~a. Elevation Requirements~~

- 36 ~~(1) Lowest floors shall be elevated to or above the flood protection elevation.~~

- 37 ~~(b) A registered professional engineer or architect knowledgeable in such designs~~  
38 ~~must certify that building designs and elevations have been designed to~~  
39 ~~withstand the water and wind loads set forth herein and to be anchored properly.~~

- 40 ~~(2) The space below the flood protection elevation shall be free of obstruction or may be~~  
41 ~~enclosed with open wood lattice, insect screening, or breakaway walls meeting the~~  
42 ~~following criteria:~~

43 ~~Breakaway walls shall be designed to collapse~~

- 44 ~~(2) In areas of shallow flooding (Zone AO), the lowest floor (including basement) shall be~~  
45 ~~elevated at least as high above the highest adjacent grade as the depth number specified in feet~~  
46 ~~on the FIRM plus two (2) feet, or at least four (4) feet if a depth number is not specified.~~

- 47 ~~(3) Enclosures below the lowest floor shall meet the requirements of paragraph c below.~~

1  
2 b. Limitations on Use of Fill to Elevate Structures  
3

4 Unless otherwise restricted by these regulations, especially by the limitations in Section 0c,  
5 Section 76.5.3.c, Section 76.5.3.d, and Section 76.5.3.e, fill placed for the purpose of raising the  
6 ground level to support a building or structure shall:

- 7  
8 (1) Consist of earthen soil or rock materials only.  
9  
10 (2) Extend laterally from the building footprint to provide for adequate access as a function of  
11 use; the Floodplain Administrator may seek advice from the State Fire Marshal's Office  
12 and/or the local fire services agency;  
13  
14 (3) Comply with the requirements of the building code and be placed and compacted to provide  
15 for stability under a wind or water load less conditions of rising and falling floodwaters and  
16 resistance to erosion, scour, and settling;  
17  
18 (4) Be sloped no steeper than would occur one (1) vertical to two (2) horizontal, unless approved  
19 by the Floodplain Administrator;  
20  
21 (5) Be protected from erosion associated with expected velocities during the 100-year flood, and  
22 have a designed safe loading resistance of not occurrence of the base flood; unless approved  
23 by the Floodplain Administrator, fill slopes shall be protected by vegetation if the expected  
24 velocity is less than 10 pounds and no more than 20 pounds per square foot, five feet per  
25 second, and by other means if the expected velocity is five feet per second or more; and  
26 (a) ~~Glass walls are not to be considered breakaway walls.~~

27 **Areas**

- 28 (6) Be designed with provisions for adequate drainage and no adverse effect on adjacent  
29 properties.  
30

31 c. Enclosures Below the Lowest Floor  
32

- 33 (1) Enclosures below the flood protection elevation lowest floor shall be used solely for parking of  
34 vehicles, building access, crawl/underfloor spaces, or limited storage, and building access. If  
35 such areas are,  
36  
37 (2) Enclosures below the lowest floor shall be constructed using flood damage-resistant materials.  
38  
39 (3) Enclosures below the lowest floor shall be provided with flood openings which shall meet the  
40 following criteria:  
41  
42 (b)(a) There shall be a minimum of two flood openings on different sides of each  
43 enclosed as permitted herein, a non-conversion agreement, described in Section  
44 76.4.4.b must be signed by the applicant area; if a building has more than one  
45 enclosure below the lowest floor, each such enclosure shall have flood openings  
46 on exterior walls.

47 ~~f. Fill and Excavation:~~

- 48 (1) ~~The use of fill for the structural support of buildings is prohibited.~~  
49 (2) ~~Earth or sand removed for the proper placement of pilings or columns shall be~~  
50 ~~replaced.~~  
51 (3) ~~Excavation under existing structures or excavation within any enclosed space is~~  
52 ~~prohibited.~~  
53 (4) ~~Excavation to create a basement is prohibited.~~

54 **Location of Structures:**

1 The

2 (5) ~~New~~ construction within the boundary of mean high tide is prohibited.

3 ~~New construction within the 50-foot drainageway protection buffer is prohibited.~~

4 ~~Alteration of a dune system is prohibited.~~

5 (6) ~~Manufactured~~ homes are not permitted in the coastal high hazard area.

6 g. ~~Existing Structures.~~ Existing structures located in the V zone shall not be substantially improved  
7 or expanded vertically or horizontally unless the entire foundation system is certified by a  
8 professional engineer or architect as capable of supporting the existing building and the proposed  
9 improvement during the 100-year storm as specified in Section 76.6.6.b. Permits for incremental  
10 improvements shall be tracked and, when cumulative improvements constitute substantial  
11 improvement, the entire building must comply with Section 76.6.6.b.

12 ~~3. Additional Specific Requirements. In addition to the requirements outlined in Section 76.6.6 the~~  
13 ~~following specific requirements must be applied.~~

14 a. ~~Placement of Buildings and Materials.~~ In addition to all other zoning, environmental, water  
15 quality, and sanitary regulations, as well as applicable state and federal requirements, the  
16 following standards shall apply to construction and fill in the floodplain:

17 (1) ~~All structures permitted in the floodplain shall be oriented so as to offer the least~~  
18 ~~resistance to the flow of floodwaters.~~

19 (2) ~~Materials that are buoyant, flammable, explosive, hazardous to health, or which at~~  
20 ~~times of flooding may be injurious to human, animal, or plant life shall not be placed~~  
21 ~~or stored below the flood protection elevation.~~

22 (3) ~~All structures shall be firmly anchored in accordance with acceptable engineering~~  
23 ~~practices to prevent flotation, collapse, and lateral movement during flooding. All air~~  
24 ~~ducts, large pipes, and storage tanks located below the flood protection elevation~~  
25 ~~shall be firmly anchored to resist flotation.~~

26 (4) ~~Enclosures Below Lowest Floor.~~

27 (a) ~~Buildings that have been elevated and have fully enclosed areas below the flood~~  
28 ~~protection elevation, as well as garages and accessory structures which are not~~  
29 ~~elevated shall be constructed with water-equalizing vents that meet or exceed~~  
30 ~~the following standards:~~

31 1. ~~A minimum of two openings shall be located on different walls having~~  
32 ~~a total net area of not less than one all flood openings shall be at least 1~~  
33 ~~square inch for every each square foot of enclosed area subject to~~  
34 ~~flooding.~~

35 2. ~~The bottom of all openings shall be no higher than one foot above~~  
36 ~~grade; and~~

37 (b) ~~Openings may be equipped with screens, louvers, valves, or other coverings or~~  
38 ~~devices provided they permit the automatic (non-engineered flood openings), or~~  
39 ~~the flood openings shall be engineered flood openings that are designed and~~  
40 ~~certified by a licensed professional engineer to automatically allow entry and~~  
41 ~~exit of floodwaters to equalize hydrostatic forces on the walls; the certification~~  
42 ~~requirement may be satisfied by an individual certification or an Evaluation~~  
43 ~~Report issued by the ICC Evaluation Service, Inc.~~

44 (c) ~~Fully enclosed areas below the flood protection elevation shall be used solely for~~  
45 ~~parking vehicles, access to the building, or storage. If such areas are enclosed, a~~  
46 ~~non-conversion agreement as described in Section 76.4.4.b must be signed by~~  
47 ~~the applicant.~~

48 (d) ~~In coastal high hazard areas, enclosures below the flood protection elevation~~  
49 ~~shall comply with the provisions of Sections 76.6.6 of this Ordinance.~~

50 (5) ~~Mobile Homes and Manufactured Home Parks.~~

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- ~~(a) New mobile homes and mobile home parks are not permitted in the coastal high hazard area or the floodway.~~
- ~~(b) Where mobile homes and mobile home parks already exist in the coastal high hazard area or the floodway, no new, replacement, or substantially improved mobile homes shall be permitted, whether in a mobile home park or not. Existing mobile homes if not shall comply with the following:
  - ~~1. Methods of anchoring shall include use of over the top and frame ties to ground anchors. Pilings or column foundations shall be used. Concrete block support pilings must be reinforced by placing reinforcing bars inside and extending them into the footing, filling the hollows with cement, and using mortar to cement the blocks together. FEMA Publication 85, "Manufactured Home Installation in Flood Hazard Areas", should be consulted for specific recommendation.~~
  - ~~2. Mobile homes repaired or replace because of substantial damage due to flooding or other causes must fully comply with Section 76.6.6.b.~~
  - ~~3. Owners of mobile home parks or subdivisions that are partially or fully within the floodplain must file an evacuation plan with the local emergency management agency. In nontidal floodplains, a flood-free access road shall be provided in all new manufactured home parks and subdivisions.~~~~
- ~~(6) Anchoring. All structures shall be firmly anchored in accordance with acceptable engineering practices to prevent flotation, collapse, and lateral movement during flooding. All air ducts, large pipes, and storage tanks located below the flood protection elevation shall be firmly anchored to resist flotation.~~
- ~~(7) Utilities.
  - ~~(a) Electric. All electric utilities to the building side of the meter, both inside and outside the building, are regulated by this Ordinance. Distribution panel boxes must be at least two feet above the flood protection elevation. All outlets and electrical installations, such as heat pumps, air conditioners, water heater, furnaces, generators, and distribution systems, must be installed at or above the flood protection elevation.~~
  - ~~(b) Plumbing. Toilets, sinks, showers, water heaters, pressure tanks, furnaces, and other permanent plumbing installations must be installed at or above the flood protection elevation.~~
  - ~~(c) Gas. Gas meters, distribution lines, and gas appliances must be installed at or above the flood protection elevation.~~
  - ~~(d) Water Supply and Sanitary Facilities. Water supply distribution and sanitary disposal collection systems must be designed to minimize or eliminate the infiltration of flood waters into the systems or discharges from the systems into flood waters and shall be located and constructed so as to minimize or eliminate flood damage. On site sewage disposal systems shall meet these same standards.~~~~



(c) The bottom of each flood opening shall be 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.

~~b.~~ ~~d.~~ Accessory Structures and Garages:

~~(1) Where feasible, accessory structures and garages shall be located out of the regulated floodplain or elevated to or above the flood protection elevation. When these measures are not feasible the following standards apply:~~

~~(a) The floor of the structure must be at or above grade; and~~

~~(b) The structure must be located, oriented, and constructed so as to minimize flood damage; and~~

~~(c) The structure must be firmly anchored to prevent flotation.~~

~~(2) Attached Garages:~~

A garage that is attached to or within the main exterior walls of a residential structure shall be elevated to the greatest extent possible, but may be permitted as an exemption to the strict elevation requirement if:

~~It is used solely for parking of vehicles, storage, or building access and~~

~~(1) The garage complies with Section 76.5.4.d for enclosures below the lowest floor.~~

The maximum area is

~~(3)(2) Is no more than 600 square feet in area.~~

~~(4)(3) Attached garages must meet the venting requirements of Section 76.6.7 have~~ All interior walls, ceilings, and floors below the flood protection elevation unfinished and made of flood resistant materials, and

~~(5)(4) have~~ No machinery or electric devices or appliances located are installed or stored below the flood protection elevation.

~~(a) A non-conversion agreement, as described in Section 76.4.4 must be signed by the property owner stating that the garage may never be used for human habitation without first becoming fully compliant with this Ordinance.~~

Detached Garages and Accessory

~~(6) 5. Nonresidential Structures:~~

~~(a) An accessory structure or detached garage may be permitted below the flood protection elevation if:~~

~~1. It is less than 300 square feet; and~~

It is used solely for parking Nonresidential Portions of vehicles and limited storage; and Mixed Use Structures

It meets the venting requirements of Section 76.6.7;

~~2. New nonresidential structures and~~

~~3. All interior wall, ceiling nonresidential portions of mixed use structures, and floor elements below the flood protection elevation unfinished; and~~

~~4. The structure or garage has no machinery, electric devices, or appliances located below the flood protection elevation; and~~

~~5. A non-conversion agreement is executed by the property owner.~~

(b) ~~An accessory structure or a detached garage between 300 square feet and 600 square feet may be permitted below the flood protection elevation only by a conditioned permit described in Section 76.4.4.~~

(c) ~~An accessory structure or garage larger than 600 square feet in area must be elevated properly or be able to meet all substantial improvement (including repair of substantial damage) of existing nonresidential structures and nonresidential portions of mixed use structures shall comply with the applicable requirements under the variance procedure in Section 24 of Section 76.4 and the requirements of this section. See Section 76.5 of this Ordinance.~~

(7) ~~.6 for Recreational Vehicles.~~

(a) ~~Recreational vehicles located within the floodplain may be exempted from the elevation and anchoring requirements provided they are:~~

- ~~1. Located on the site less than 180 consecutive days per year; or~~
- ~~2. Conform to the use provisions of Section 51.3.118; and~~
- ~~3. Fully licensed and ready for highway use; and~~
- ~~4. Properly permitted.~~

(b) ~~A recreational vehicle is ready for highway use if it is on its wheels and jacking system, is attached to the site only by quick disconnect type utilities and securing devices, and has no permanently attached additions. If it cannot meet all of these criteria, the recreational vehicle must be considered a mobile home for purposes of this chapter, and is subject to the elevation and construction standards of Section 76.6.7.~~

(8) ~~Fill.~~

(a) ~~Fill within the regulated floodplain is discouraged because it diminishes the natural storage capacity of the floodplain. Other methods of elevating structures should be considered first, and fill used only if other methods are not feasible. Fill may not be placed in the floodway. Fill may not be used for structural support in coastal high hazard areas. Fill may not be placed in tidal or nontidal wetlands without the required state and federal permits.~~

(b) ~~Fill must consist of soil and rock materials only. Dredged material may be used as fill only upon certification of suitability by a registered professional geotechnical engineer. Landfills, rubble fills, dumps and sanitary fills are not permitted in the floodplain.~~

~~Fill used to support structures must be compacted to 95 percent of the maximum density obtainable by the American Society for Testing and Materials (ASTM Standard D-698, and its suitability to support structures certified by a registered professional engineer. Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where flood velocities may result in erosion to proposed slopes additions.~~

~~The use of fill~~

~~a. Elevation Requirements~~

~~Elevated structures shall not increase:~~

~~(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 76.5.4.c; or~~

1  
2           (4) If proposed to be elevated on fill, meet the limitations on fill in Section 76.5.4.b.

3  
4           b. Floodproofing Requirements

5  
6           (1) Floodproofing of new nonresidential buildings:

7  
8                   (a) Is not allowed in nontidal waters of the State (COMAR 26.17.04.11(B)(7)).

9  
10                   (b) Is not allowed in Coastal A Zones.

11  
12           (2) Floodproofing for substantial improvement of nonresidential buildings:

13  
14                   (a) Is allowed in nontidal waters of the State.

15  
16                   (b) Is allowed in Coastal A Zones.

17  
18           (3) If floodproofing is proposed, structures shall:

19  
20                   (a) Be designed to be dry floodproofed such that the building or structure is  
21                   watertight with walls and floors substantially impermeable to the passage of  
22                   water to the level of the flood protection elevation plus 1.0 foot, or

23  
24                   (b) If located in an area of shallow flooding (Zone AO), be dry floodproofed at least  
25                   as high above the highest adjacent grade as the depth number specified on the  
26                   FIRM plus three (3) feet, or at least five (5) feet if a depth number is not  
27                   specified; and

28  
29                   (c) Have structural components capable of resisting hydrostatic and hydrodynamic  
30                   loads and effects of buoyancy;

31  
32                   (d) Have floodproofing measures that are designed taking into consideration the  
33                   nature of flood-related hazards; frequency, depth and duration of flooding; rate  
34                   of rise and fall of floodwater; soil characteristics; flood-borne debris; at least 12  
35                   hours of flood warning time from a credible source; and time necessary to  
36                   implement any measures that require human intervention;

37  
38                   (e) Have at least one door above the applicable flood elevation that allows human  
39                   ingress and egress during conditions of flooding;

40  
41                   (f) Have an operations and maintenance plan that is filed with local emergency  
42                   management officials and that specifies the owner/occupant's responsibilities to  
43                   monitor flood potential; the location of any shields, doors, closures, tools, or  
44                   other goods that are required for implementation; maintenance of such goods;  
45                   methods of installation; and periodic inspection; and

46  
47                   (g) Be certified by a licensed professional engineer or licensed architect, through  
48                   execution of a Floodproofing Certificate that states that the design and methods  
49                   of construction meet the requirements of this section. The Floodproofing  
50                   Certificate shall be submitted with the construction drawings as required in  
51                   Section 76.3.5a(13).

52  
53           **6. Horizontal Additions**

54  
55           a. A horizontal addition proposed for a building or structure that was constructed after February 19,  
56           1987 shall comply with the applicable requirements of Section 76.4 and this section.

- 1  
2 b. In nontidal waters of the State that are subject to the regulatory authority of MDE, all horizontal  
3 additions shall comply with the applicable requirements of Section 76.4 and this section and:  
4  
5 (1) If the addition is structurally connected to the base building, the requirements of paragraph c.  
6 below.  
7  
8 (2) If the addition has an independent foundation and is not structurally connected to the base  
9 building and the common wall with the base building is modified by no more than a doorway,  
10 the base building is not required to be brought into compliance.  
11  
12 c. For horizontal additions that are structurally connected to the base building:  
13  
14 (1) If the addition combined with other proposed repairs, alterations, or modifications of the base  
15 building constitutes substantial improvement, the base building and the addition shall comply  
16 with the applicable requirements of Section 76.4 and this section.  
17  
18 (2) If the addition constitutes substantial improvement, the base building and the addition shall  
19 comply with all of the applicable requirements of Section 76.4 and this section.  
20  
21 d. For horizontal additions with independent foundations that are not structurally connected to the  
22 base building and the common wall with the base building is modified by no more than a doorway,  
23 the base building is not required to be brought into compliance.  
24  
25 e. A horizontal addition to a building or structure that is not substantial improvement, and is not  
26 located in nontidal waters of the State, is not required to comply with this section.  
27

### 7. Accessory Structures

- 28  
29  
30 a. Accessory structures, including detached garages, shall be limited to not more than 300 square feet  
31 in total floor area.  
32  
33 b. Accessory structures shall comply with the elevation requirements and other requirements of  
34 Section 76.4, the floodproofing requirements of Section 76.5.5.b, or shall:  
35  
36 (1) Be useable only for parking of vehicles or limited storage;  
37  
38 (2) Be constructed with flood damage-resistant materials below the base flood elevation;  
39  
40 (3) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;  
41  
42 (4) Be anchored to prevent flotation;  
43  
44 (5) Have electrical service and mechanical equipment elevated to or above the base flood  
45 elevation; and  
46  
47 (6) Have flood openings that meet the requirements of Section 76.5.4.c.  
48  
49 c. A conditional permit, for up to a total size of 600 square feet may be issued at the discretion of the  
50 Floodplain Administrator when the 300 square foot exemption is exceeded for accessory  
51 structures. In order to qualify, the structure's use must be incidental to the primary structure, and it  
52 can only be used for limited storage and parking of vehicles. This conditional permit is subject to  
53 the completion of a Declaration of Land Restriction (Non-Conversion Agreement).

1 d. A permit issued for any accessory structure that does not comply with the elevation requirements  
2 and other requirements of Section 76.5.4, or the floodproofing requirements of Section 76.5.5.b  
3 shall require:

4  
5 (1) The recording of a Declaration of Land Restriction (Non-Conversion Agreement) on a form  
6 approved by the Floodplain Administrator that states that the use of the accessory structure  
7 may not change from that permitted and that the permitted structure may not be used for  
8 human habitation without first complying with the requirements of this Ordinance.

9  
10 (2) Have a statement of the greater flood risk and potential for higher flood insurance premiums  
11 printed on the permit.

## 12 **76.6 REQUIREMENTS IN COASTAL HIGH HAZARD AREAS (V ZONES) AND COASTAL A** 13 **ZONES**

### 14 **1. General Requirements**

15  
16 In addition to the general requirements of Section 76.4, the requirements of this section shall:

17  
18  
19 a. Apply in flood hazard areas that are identified as coastal high hazard areas (V Zones) and Coastal A  
20 Zones.

21  
22 b. Apply to all development, new construction, substantial improvements (including repair of  
23 substantial damage), and placement, replacement, and substantial improvement  
24 (including repair of substantial damage) of manufactured homes in the V Zone.

25  
26 c. In Coastal A Zones, apply to new and replacement structures. The requirements of Section 76.5  
27 shall apply to substantial improvements (including any repair of a substantially damaged structure),  
28 and substantial improvement of manufactured homes (including any repair of substantial damage).

### 29 **2. Location and Site Preparation**

30  
31  
32 a. The placement of structural fill for the purpose of elevating buildings is prohibited.

33  
34 b. Buildings shall be located landward of the reach of mean high tide.

35  
36 c. ~~Minor or cause grading~~, and the placement of minor quantities of fill, shall be permitted for  
37 landscaping and for ~~drainage problems on neighboring purposes~~ under and around buildings and for  
38 support of parking slabs, pool decks, patios and walkways.

39  
40 d. Site preparations shall not alter sand dunes unless an engineering analysis demonstrates that the  
41 potential for flood damage is not increased.

### 42 **3. Residential and Nonresidential Structures**

43  
44 New structures and substantial improvement (including repair of substantial damage) of existing structures shall  
45 comply with the applicable requirements of Section 76.4 and the requirements of this section.

#### 46 **a. Foundations**

47  
48  
49  
50 (1) Structures shall be supported on pilings or columns and shall be adequately anchored to such  
51 pilings or columns. Pilings shall have adequate soil penetrations to resist the combined wave  
52 and wind loads (lateral and uplift). Water loading values used shall be those associated with  
53 the base flood. Wind loading values shall be those required by applicable building codes. Pile  
54 embedment shall include consideration of decreased resistance capacity caused by scour of  
55 soil strata surrounding the piling.

1           (2) Slabs, pools, pool decks and walkways shall be located and constructed to be structurally  
2           independent of structures and their foundations to prevent transfer of flood loads to the  
3           structures during conditions of flooding, scour, or erosion from wave-velocity flow  
4           conditions, and shall be designed to minimize debris impacts to adjacent properties- and  
5           public infrastructure.

6  
7           b. Elevation Requirements

8  
9           (1) The bottom of the lowest horizontal structural member that supports the lowest floor shall be  
10           located at or above the flood protection elevation.

11           (2) Basement floors that are below grade on all sides are prohibited.

12           (3) The space below an elevated building shall either be free-of-obstruction or, if enclosed by  
13           walls, shall meet the requirements of paragraph d, below.

14  
15  
16  
17           c. Certification of Design

18           As required in Section 76.3.5.a.(13), the applicant shall include in the application a certification  
19           prepared by a licensed professional engineer or a licensed architect that the design and methods of  
20           construction to be used meet the requirements of paragraph a, and paragraph b, above, paragraph d  
21           below, and the building code.

22  
23  
24           d. Enclosures Below the Lowest Floor

25  
26           (1) Enclosures below the lowest floor shall be used solely for parking of vehicles, building access  
27           or limited storage. Installation of utility stub outs is prohibited within enclosures below the  
28           lowest floor.

29           (2) Enclosures below the lowest floor shall be less than 299 square feet in area (exterior  
30           measurements).

31           (3) Walls and partitions are permitted below the elevated floor, provided that such walls and  
32           partitions shall be designed to break away under flood loads and shall not be part of the  
33           structural support of the building or structure

34           (4) Electrical, mechanical, and plumbing system components shall not be mounted on, attached  
35           to, or penetrate through walls that are designed to break away under flood loads.

36           (5) Walls intended to break away under flood loads shall be constructed with insect screening or  
37           open lattice, or shall be designed to break away or collapse without causing collapse,  
38           displacement or other structural damage to the elevated portion of the building or supporting  
39           foundation system. Such walls, framing and connections shall have a design safe loading  
40           resistance of not less than 10 pounds per square foot and no more than 20 pounds per square  
41           foot; or

42           (6) Where wind loading values of the building code exceed 20 pounds per square foot, the  
43           applicant shall submit a certification prepared and sealed by a licensed professional engineer  
44           or licensed architect that:

45                   a. The walls and partitions below the lowest floor have been designed to  
46                   collapse from a water load less than that which would occur during the base  
47                   flood.

48                   b. The elevated portion of the building and supporting foundation system have  
49                   been designed to withstand the effects of wind and flood loads acting  
50

1 simultaneously on all building components (structural and nonstructural). Water  
2 loading values used shall be those associated with the base flood; wind loading  
3 values used shall be those required by the building code.

4  
5 c. In Coastal A Zones, in addition to the requirements of this section, walls  
6 below the lowest floor shall have flood openings that meet the requirements of  
7 Section.76.5.4.c.3.

8  
9 **4. Horizontal Additions to Structures**

10  
11 a. A horizontal addition proposed for a building or structure that was constructed after February 19,  
12 1987 shall comply with the applicable requirements of Section 76.4 and this section.

13  
14 b. For horizontal additions, whether structurally connected or not structurally connected, to the base  
15 building:

16  
17 (1) If the addition combined with other proposed repairs, alterations, or modifications of the base  
18 building constitutes substantial improvement, the base building and the addition shall comply  
19 with the applicable requirements of Section 76.4 and this section.

20  
21 (2) If the addition constitutes substantial improvement, the base building and the addition shall  
22 comply with all of the applicable requirements of Section 76.4 and this section. The base  
23 building is required to comply otherwise it is an obstruction that does not comply with the  
24 free-of-obstruction requirement that applies to the elevated addition.

25  
26 c. A horizontal addition to a building or structure that is not substantial improvement is not required to  
27 comply with this section.

28  
29 **5. Accessory Structures**

30  
31 a. Accessory structures shall be limited to not more than 300 square feet in total floor area.

32  
33 b. Accessory structures shall comply with the elevation requirements and other requirements of  
34 Section 76.6.3 or, if not elevated, shall:

35  
36 (1) Be useable only for parking of vehicles or limited storage;

37  
38 (2) Be constructed with flood damage-resistant materials below the base flood elevation;

39  
40 (3) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;

41  
42 (4) Be anchored to prevent flotation;

43  
44 (5) Have electrical service and mechanical equipment elevated to or above the base flood  
45 elevation; and

46  
47 (6) If larger than 100 square feet in size, have walls that meet the requirements of Section  
48 76.6.3.d.3 through 6, as applicable for the flood zone; and have flood openings that meet the  
49 requirements of Section 76.5.4.c.3.

50  
51 c. A permit issued for any accessory structure that does not comply with the elevation and other  
52 requirements shall require:

53  
54 (1) The recording of a Declaration of Land Restriction (Non-Conversion Agreement) on a form  
55 approved by the Floodplain Administrator that states that the use of the accessory structure

1 may not change from that permitted and that the permitted structure may not be used for  
2 human habitation without first complying with the requirements of this Ordinance.

- 3  
4 (2) Have a statement of the greater flood risk and potential for higher flood insurance premiums  
5 printed on the permit.

6  
7 **6. Other Structures and Development**

8  
9 a. Decks and Patios

10  
11 In addition to the requirements of the building code or the residential code, decks and patios shall  
12 be located, designed, and constructed in compliance with the following:

- 13  
14 (1) A deck that is structurally attached to a building or structure shall have the bottom of the  
15 lowest horizontal structural member at or above the flood protection elevation and any  
16 supporting members that extend below the design flood elevation shall comply with the  
17 foundation requirements that apply to the building or structure, which shall be designed to  
18 accommodate any increased loads resulting from the attached deck.
- 19  
20 (2) A deck or patio that is located below the flood protection elevation shall be structurally  
21 independent from structures and their foundation systems, and shall be designed and  
22 constructed either to remain intact and in place during base flood conditions or to break apart  
23 into small pieces that will not cause structural damage to adjacent elevated structures.
- 24  
25 (3) A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with  
26 more than the minimum amount of fill that is necessary for site drainage shall not be approved  
27 unless an analysis demonstrates no harmful diversion of floodwaters or wave runup and wave  
28 reflection that would increase damage to adjacent elevated structures.
- 29  
30 (4) A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or  
31 on fill material that is similar to and compatible with local soils and is the minimum amount  
32 necessary for site drainage may be approved without requiring analysis of the impact on  
33 diversion of floodwaters or wave runup and wave reflection.

34  
35 b. Other Development

36  
37 Other development activities shall be permitted only if located outside the footprint of, and not  
38 structurally attached to, structures, and only if an analysis demonstrates no harmful diversion of  
39 floodwaters or wave runup and wave reflection onto adjacent elevated structures. Other  
40 development includes but is not limited to:

- 41  
42 (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;  
43  
44 (2) Solid fences, privacy walls, and fences prone to trapping debris, unless designed and  
45 constructed to fail under base flood conditions; and  
46  
47 (3) Mounded septic systems.

48  
49 **76.7 VARIANCES**

50  
51 The Floodplain Administrator shall request comments on variance applications from MDE (NFIP State  
52 Coordinator) and shall provide such comments to the Board of Appeals.



1       1. In considering *variance* applications, the Board of Appeals shall consider and make findings of fact on  
2       all evaluations, all relevant factors, requirements specified in other sections of these regulations, and  
3       the following factors:

4       (A) The danger that materials may be swept onto other lands to the injury of others.

5       (B) The danger to life and property due to *flooding* or erosion damage.

6       (C) The susceptibility of the proposed *development* and its contents (if applicable) to flood damage  
7       and the effect of such damage on the individual owner.

8       (D) The importance of the services to the *community* provided by the proposed *development*.

9       (E) The availability of alternative locations for the proposed use which are not subject to, or are  
10       subject to less, *flooding* or erosion damage.

11       (F) The necessity to the facility of a waterfront location, where applicable, or if the facility is a  
12       *functionally dependent use*.

13       (G) The compatibility of the proposed use with existing and anticipated *development*.

14       (H) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.

15       (I) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.

16       (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the  
17       effects of wave action, if applicable, expected at the site.

18       (K) The costs of providing government services during and after flood conditions, including maintenance  
19       and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets  
20       and bridges.

21       (L) The comments provided by MDE (NFIP State Coordinator).

22       **2. Limitations for Granting Variances**

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

24       (A) A showing of good and sufficient cause. Good and sufficient cause deals solely with the physical  
25       characteristics of the property and cannot be based on the character of the improvement, the personal  
26       characteristics of the owner/inhabitants, or local provision that regulate standards other than health and  
27       public safety.

28       (B) A determination that failure to grant the *variance* would result in exceptional hardship due to the  
29       physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of  
30       these regulations does not constitute an exceptional hardship to the applicant.

1        (C) A determination that the granting of a variance for development within any designated floodway, or  
2        flood hazard area with base flood elevations but no designated floodway, will not result in increased  
3        flood heights beyond that which is allowed in these regulations.

4        (D) A determination that the granting of a variance will not result in additional threats to public safety;  
5        extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing  
6        local laws.

7        (E) A determination that the building, structure or other development is protected by methods to minimize  
8        flood damages.

9        (F) A determination that the variance is the minimum necessary to afford relief, considering the flood  
10       hazard.

11        **76.8 ENFORCEMENT**

12        **1. Compliance Required**

- 13  
14  
15  
16        a. No building, structure or development shall hereafter be located, erected, constructed,  
17        reconstructed, improved, repaired, extended, converted, enlarged or altered without full compliance  
18        with these regulations and all other applicable regulations.
- 19  
20        b. Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties in  
21        accordance with Section 76.8.3
- 22  
23        c. Permits issued on the basis of plans and applications approved by the Floodplain Administrator  
24        authorize only the specific activities set forth in such approved plans and applications or  
25        amendments thereto. Use, arrangement, or construction of such specific activities that are contrary  
26        to that authorization shall be deemed a violation of these regulations.

27  
28        **2. Notice of Violation and Stop Work Order**

29  
30        If the Floodplain Administrator determines that there has been a violation of any provision of these  
31        regulations, the Floodplain Administrator shall give notice of such violation to the owner, the owner's  
32        authorized agent, and the person responsible for such violation, and may issue a stop work order. The  
33        notice of violation or stop work order shall be in writing and shall:

- 34  
35        a. Include a list of violations, referring to the section or sections of these regulations that have been  
36        violated;
- 37  
38        b. Order remedial action which, if taken, will effect compliance with the provisions of these  
39        regulations;
- 40  
41        c. Specify a reasonable period of time to correct the violation;
- 42  
43        d. Advise the recipients of the right to appeal; and
- 44  
45        e. Be served in person; or
- 46  
47        f. Be posted in a conspicuous place in or on the property and sent by registered or certified mail to the  
48        last known mailing address, residence, or place of business of the recipients.
- 49

1     **3. Violations and Penalties**  
2

3     Any person responsible for a violation shall comply with the notice of violation or stop work order. Failure  
4     to comply shall be a fine not less than One Thousand Dollars (\$1,000.00) per day. Each day a violation  
5     continues shall be considered a separate offense. Nothing herein contained shall prevent St. Mary's County  
6     from taking such other lawful action as is necessary to prevent or remedy any violation.

- 7  
8     a.     No citation for a civil infraction shall be issued until the expiration of thirty (30) days after the  
9     issuance of a Notice of Violation.
- 10  
11     b.     After the expiration of thirty (30) days after the issuance of a Notice of Violation, the Department  
12     shall issue a citation for a municipal infraction equal to the per day fine unless remediation has been  
13     commenced and is diligently pursued. The citation for a civil infraction shall be prosecuted in the  
14     same manner and to the same extent as set forth in the Local Government Article of the Annotated  
15     Code of Maryland.

16     **4. Good Faith Effort**  
17

18  
19     A good faith effort, in the opinion of the Floodplain Administrator, at compliance with the provisions herein  
20     regarding correcting the conditions identified in the Notice of Violation shall be sufficient to halt the penalties  
21     proscribed in these regulations.