

CODE OF ALLEGANY COUNTY MARYLAND

CHAPTER 130 FLOODPLAIN MANAGEMENT

§ 130-1. Legislative purpose.

- A. Purpose. This chapter is adopted to establish measures to minimize flood damage to public and private property and to establish procedures by which these measures are to be administered and enforced.
- B. Authority. This chapter is adopted under the authority of and in compliance with the National Flood Insurance Program (44. CFR 59-79) and the Flood Control and Watershed Management Act, §8-9A-01, Natural Resources Article of the Annotated Code of Maryland.
- C. Jurisdiction. This chapter shall apply to the unincorporated part of Allegany County and any incorporated municipality which may enter into an agreement with the county to enforce floodplain management regulations within municipal boundaries.
- D. Applicability. Any person or entity proposing to do any development within the floodplain zone regulated by this chapter must first obtain a permit. for that development from the local permitting agency and must comply with all provisions of this chapter.

130-2. Definitions.

For the purposes of this chapter, the following definitions describe the meaning of items used in this chapter:

ACCESSORY/APPURTENANT STRUCTURE - A structure which is on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure; e.g., a shed or garage.

APPLICANT - Any person, firm, developer, landowner or agent who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

BASE FLOOD - The one-hundred-year-frequency flood event as indicated in the Flood Insurance Study, as amended, the elevation of which is used for regulatory purposes in this chapter.

BASEMENT - An enclosed area which is below grade on all four (4) sides.

CERTIFICATE OF COMPLETION - An official form issued by Allegany County certifying that the structure has been built consistent with approved plans and With the Floodplain Management Ordinance and may be legally inhabited or used for the intended purpose.

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, dredging, filling, clearing, excavation, dumping, extraction or storage of equipment or materials. "Development" includes subdivision of land.

ELEVATION CERTIFICATE - An official form supplied by the Federal Emergency Management Agency using mean sea level, as established by the National Geodetic Vertical Datum of 1929, to certify

as-built elevations of structures above mean sea level. FEMA - The Federal Emergency Management Agency.

FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland waters, or the rapid unusual accumulation of runoff from any source.

FLOOD INSURANCE RATE MAP (FIRM) - The map which depicts the minimum special flood hazard area to be regulated by this chapter (unless a Floodway Map is available).

FLOODPLAIN - That land typically adjacent to a body of water with ground surface elevations that are inundated by the base flood.

FLOODPROOFING - Any combination of structural or nonstructural changes which reduce or eliminate flood damage to improved property.

FLOODPROOFING CERTIFICATE - The form supplied by FEMA to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

FLOOD PROTECTION ELEVATION (FPE) - The elevation of the base flood plus one (1) foot freeboard.

FLOODWAY - The channel and adjacent land area required to discharge the waters of the one-hundred- year flood of a watercourse without increasing the water surface elevations more than a specified height.

FLOODWAY FRINGE - That portion of the floodplain outside the floodway.

FLOODWAY MAP - The map which depicts floodways and special flood hazard areas to be regulated by this chapter.

FREEBOARD - An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, wave actions, subsidence or other unpredictable effects.

HISTORIC STRUCTURE - A structure listed individually on the National Register of Historic Places, the Maryland Inventory of Historic Properties, a local inventory of historic places certified by the Maryland Historic Trust or the Secretary of the Interior, or preliminarily determined as meeting the requirements for such listing by the Maryland Historic Trust or the Secretary of the Interior, or determined as contributing to the historic significance of a historic district registered with Secretary of the Interior.

LOCAL PERMITTING OFFICIAL - An official designated by the Allegany County Commissioners to have the authority and responsibility to implement the terms of this chapter.

LOWEST FLOOR - The lowest floor of the lowest enclosed area, including the basement. An unfinished enclosure constructed of flood-resistant materials used solely for parking of vehicles, storage or building access in an area other than a basement is not the "lowest floor," as long as it is supplied with water-equalizing vents.

MANUFACTURED HOME - A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

NEW CONSTRUCTION - A structure for which the start of construction commenced on or after the effective date of the adoption of a floodplain Management Ordinance, and includes any subsequent improvements.

NGVD - National Geodetic Vertical Datum of 1929 elevation reference points set by the National Geodetic Survey, based on mean sea level.

ONE-HUNDRED- YEAR-FREQUENCY FLOOD - The base flood, having one (1) chance in one hundred (100) (a one-percent chance) of being equaled or exceeded in any year.

PERMANENT CONSTRUCTION - Any structure occupying a site for more than one hundred eighty (180) days per year.

RECREATION VEHICLE - A vehicle built on a single chassis which is four hundred (400) square feet or less at the longest horizontal projection, self-propelled or towable and designed primarily for temporary living while traveling or camping.

START OF CONSTRUCTION - The date of issue of the building permit for any development, including new construction and substantial improvements, provided that the actual start of the construction or improvement was within one hundred eighty (180) days of permit issuance. The actual start of construction is the placement of slab or footings, piles, columns or actual placement of a manufactured home. For substantial improvement, the "start of construction" is the first alteration of any structural part of the building.

STRUCTURE - A walled and roofed building, including but not limited to manufactured homes, gas and liquid storage tanks, garages, barns and sheds.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure (less land value) either before the improvement or repair is started or, if the structure has incurred substantial damage and been restored, before the damage occurred. "Substantial improvement" occurs when the first alteration of any wall, ceiling, floor or other structural part of the building commences. The minimum repairs needed to correct previously identified violations of local health, safety or sanitary codes and alterations to historic structures which do not preclude their continued designation as historic structures are not considered "substantial improvements. "

TEMPORARY STRUCTURE - Any structure completely removed within one hundred eighty (180) days from issuance of the permit.

VARIANCE - A modification to the terms of this chapter wherein a strict interpretation of the ordinance would prevent the necessary improvement of essential public services or the improvement, replacement or repair of buildings or structures or other development.

§ 130-3. Permit procedure.

A. General. A permit is required for all development in any Floodplain Zone. It shall be granted only after all necessary permit applications are submitted to federal and state agencies. A permit issued by the local permitting official under this chapter is not valid until all necessary permits for development are obtained. Receipt of federal or state permits does not exempt development from the provisions of this chapter.

B. Information for a permit.

- (1) Applications for a building permit shall contain, at a minimum, the following information:
 - (a) The name, address and phone number of the applicant (owner or agent of owner);
 - (b) The name, address and phone number of the owner, if different;
 - (c) The name, address and phone number of the contractor;
 - (d) A legal description of the site location;
 - (e) Proposed uses for the site;
 - (f) The type, dimensions and estimated cost of development proposed;
 - (g) Site characteristics and improvements; and
 - (h) Other information deemed appropriate by the local permitting official.
 - (2) All permit applications must have a site plan drawn to scale which shows:
 - (a) Dimensions of the site;
 - (b) The size and location of existing and proposed structures or alterations;
 - (c) Setbacks;
 - (d) Elevation contours in mean sea level (NGVD);
 - (e) Delineation of the one-hundred-year flood elevation and boundary; and
 - (f) The proposed elevation of the lowest floor and the method of elevation, if applicable.
 - (3) The local permit official may require plans for stormwater management, tree maintenance, revegetation, establishment of vegetated buffers and final grading as part of the permit application process.
 - (4) All applicants shall agree in writing to provide an elevation certificate completed by a registered professional engineer or surveyor licensed to practice in the State of Maryland to certify the as-built lowest floor of a structure which must be elevated to or above the flood protection elevation. An elevation certificate must be submitted before a certificate of occupancy or use 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 nonconversion agreement may be required, in addition to an agreement to install water equalizing vents as specified in § 130-6.B. of this chapter.
 - (5) If an improvement to an existing structure is proposed, adequate information on the cost of the improvement and the market value of structure before the improvement must be supplied to the local permitting official to allow a determination of substantial improvement. The local permitting official may use tax assessment records to determine substantial improvement. In floodway areas, permits shall be tracked by property location to determine if the cumulative value of improvements constitutes substantial improvement of a structure.
- C. Subdivision proposals.
- (1) In addition to the information required in § 130-3.B., an applicant for subdivision in the nontidal floodplain zone shall submit a plan to demonstrate that a building site for each lot is outside of the one-hundred-year floodplain. The local permitting official shall assure that a plan for the

perpetual protection of the floodplain areas in their natural state as required under § 130-5.B.(5) is included.

- (2) Plans for maintenance of forest cover, flood protection setbacks, revegetation, accommodation of stormwater runoff, prevention of erosion and other plans required by the local permitting official must be submitted with subdivision proposals. The plans shall be evaluated as a whole to achieve maximum preservation of the natural and beneficial floodplain functions, desirable resources and characteristics of each site. The plan for utility ingress, stormwater drainage structures, road access and other rights of way shall be evaluated in light of the site characteristics.

D. Issuance of permit.

(1) Considerations

- (a) Prior to issuance of a permit, the local permitting official shall determine the location of the project relative to floodways and floodplains and shall note on the permit the proper elevation to which the lowest floor of proposed structures must be elevated. In approximate floodplains where an elevation is not available, the applicant shall be required to obtain such elevation, which must be certified by a registered professional engineer or surveyor licensed to practice in the State of Maryland. The applicant must agree to secure all other required permits, an elevation certificate, floodproofing certificate, engineering analysis or other required verifications deemed appropriate by the local permitting official.
- (b) Any proposed development within the floodway area downstream from a state-designated high-hazard dam will be denied unless the dam meets the design criteria for such dams. This determination will be made by the State Dam Safety Division.
- (c) Permits shall be granted by the local permitting official only after determining that the proposed development will be in complete conformance with the requirements of this chapter and all other applicable local codes and ordinances. All other necessary permits or approvals must be obtained prior to permit issuance. Permits are valid only after all other necessary permits are granted.

(2) After issuance and during construction.

- (a) After issuance of a permit, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written approval of the local permitting official. A copy of the permit or other verification must be displayed at the construction site during construction activity.
- (b) Work on the permitted activity shall begin within one hundred eighty (180) days of the issuance of the permit, or the permit shall expire, unless a written extension is granted by the local permitting official. Work shall be completed within one (1) year of the date of the permit unless a greater time is specified in the permit or a written extension is granted.
- (c) During construction, the local permitting official or an authorized representative shall inspect the site to determine that the work is in compliance with the permit. Any work found to be noncompliant must be corrected before any additional work is undertaken.

E. Record of permits. A record of all floodplain permits shall be maintained and be available upon request by the Federal Emergency Management Agency or its authorized agent (Water Resources Administration) during periodic assessments of this community's participation in the National

Flood Insurance Program. All documents needed to support any permit action, such as elevation certificates, map amendments or revisions or variance actions, shall be available for review during these assessments.

F. Conditional permits for accessory structures and garages.

- (1) A conditional permit may be issued at the discretion of the local permitting official when the three- hundred-square-foot exemption noted in § 130-6.F. is exceeded for accessory structures up to a total size of nine hundred (900) square feet. In order to qualify, the structure's use must be incidental to the primary structure, and it can be used only for limited storage and parking of vehicles. The provisions of § 130-6.F. must be met.
- (2) A conditional permit is subject to the applicant's completion of a nonconversion agreement stating that the use of the accessory structure may not change from that permitted. A statement of the greater flood risk and possibly higher flood insurance premiums must be included. In addition, a recordation on the deed or memorandum of land permits for structures restriction must be made as described in § 130-7B, stating that the permitted structure may not be used for human habitation without first complying with the construction requirements of this chapter and must be equipped with the proper water equalizing vents.

G. Penalties.

- (1) A person who does not comply with the conditions of a permit issued pursuant to the provisions of this chapter is guilty of a misdemeanor. Each day a violation continues is a separate offense. A fine not to exceed five hundred dollars (\$500.) per day may be imposed for the violation, but does not excuse the violation. The violation must be corrected prior to any further work progressing on the project.
- (2) Alternatively, the county may pursue civil fines or penalties to ensure compliance with this chapter and may also institute injunction, mandamus or other appropriate action or proceedings at law or equity for the enforcement of violations or to correct violations, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions or mandamus or other appropriate forms of remedy or relief.
- (3) The Federal Insurance Administrator and the Water Resources Administration must be notified by the local permitting official within thirty (30) days after issuance of the citation of any violation which requires a fine or court appearance. New or renewal federal flood insurance may be denied any structure remaining in violation of this chapter. The violation may also violate state law, may be subject to separate action and may incur a separate penalty.

§ 130-4. Establishment of floodplain zones.

- A. Identification of flood zones. The regulatory floodplain shall be those areas of Allegany County which are subject to the one-hundred-year flood, delineated on the most recent revision of the community's Floodway Maps and Flood Insurance Rate Maps (FIRM) and described in the Flood Insurance Study (FIS) prepared by the Federal Emergency Management Agency (FEMA). Floodway Maps and the FIS, if available for the community, must be used. Areas along nontidal streams that do not have FEMA delineations as described above are subject to regulation by this chapter and the state.
- B. Floodplain zones.

- (1) A community may have these nontidal floodplain zones:
 - (a) Floodway fringe: that part of the floodplain outside of the floodway.
 - (b) Floodway: reserved to carry the waters of the one-hundred-year flood.
- (2) Nontidal floodplains may have detailed engineering study data, profiles and water surface elevations, or may have approximate delineations only.

C. Floodplain boundaries.

- (1) Floodplain zone determination. The local permitting official will determine the floodplain zone in which the development activity is proposed using the Floodway Maps and FIS if available, or, if not, by using the FIRM. Without prior approval from FEMA, the community shall use no other data to enforce floodplain management regulations. Where map boundaries and elevations disagree, elevations prevail, with no approval from FEMA required.
- (2) Approximate floodplain determination. For development proposed in the approximate floodplain (no water surface elevations or floodway data provided), the applicant must use the best available information to determine the elevation of the one-hundred-year flood and the extent of the flood way , and must delineate these on the site plan submitted for approval. For new major subdivisions, as defined in the County Subdivision Regulations, the applicant must have the one-hundred-year flood elevations certified by a registered professional engineer or surveyor licensed to practice in the State of Maryland, based on hydrologic and hydraulic analyses which include a floodway analysis. For individual lot development or minor subdivisions containing five (5) acres or less as defined in the County Subdivision Regulations, 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 one-hundred-year floodplain boundary indicated on the FIRM. An elevation of the one- hundred-year flood is determined at that point by survey by a registered professional engineer or surveyor licensed to practice in Maryland. In those instances where the one-hundred-year-flood boundary is obviously not consistent with the actual topographic relief of the land surface at the edge of the floodplain boundary, the surveyor or engineer may be required by the local permitting official to select several points within a one-thousand-foot length of the affected stream reach to create a stream and floodplain boundary profile through that reach and interpolate to determine the elevation to be used for the floodplain boundary at the point of survey.
- (3) Unmapped streams. In cases in which development is proposed in the vicinity of unmapped streams, which have no delineated one-hundred-year floodplain, the flood protection setbacks from the stream described in § 130-5.B.(4) are to be used. State permits may be required and applicants are advised to seek a determination from the Water Resources Administration.

§ 130-5. Development regulations in floodplain zones.

- A. In order to prevent excessive flood damage and to allow for the protection of the natural and beneficial floodplain functions, the following provisions shall apply to all development, new construction and substantial improvements to existing structures in all floodplain zones. If a structure is in more than one (1) zone, the more stringent provisions shall apply to the entire structure. The specific requirements contained in § 130-6. also apply to development in this section.

Any approved development shall comply with all other zoning, environmental, water quality and sanitary regulations, as well as applicable state and federal requirements.

- (1) Watercourses. In all floodplain zones, any development which proposes to alter a watercourse must obtain a variance. All conditions for encroachment in the floodway must be net and adverse impacts to aquatic resources must be minimized. When required by FEMA and Water Resources Administration, adjacent communities and property owners, FEMA and the Maryland Water Resources Administration must be notified by the applicant before any modification may occur to watercourses. Any activity falling within the one-hundred-year nontidal floodplain may require a waterway construction permit from the Water Resources Administration.
- (2) Wetlands. Encroachment by development into wetlands is not allowed without state and federal permits. It is state and federal policy that disturbance of wetlands shall be avoided. The applicant must demonstrate to the State Water Resources Administration that no alternatives exist and the encroachment is the minimum necessary. Mitigation may be required by the appropriate regulatory authorities.
- (3) Sediment and stormwater management. Any land disturbance permitted in the floodplain must have a Stormwater Management and Sediment and Erosion Control Plan as required by state and local regulations. The plan must include design of land contours that will not increase surface water runoff onto neighboring properties. Ground cover must be established immediately after disturbance, and a plan for permanent plantings, including trees, should provide for adequate vegetative cover within the flood protection setback from watercourses to prevent erosion.

B. Part A. Floodway fringe.

- (1) General. Development may not occur in the floodplain where alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the floodplain and that encroachments onto the floodplain are minimized.
- (2) Elevation requirements: new and substantially improved structures. All new or substantially improved residential and nonresidential structures, including manufactured homes, shall have the lowest floor elevated to or above the Flood Protection Elevation. Basements are not permitted. Additions which increase the first floor size and are less than substantial improvements [less than fifty percent (50%) of the original value] shall also have the lowest floor elevated to or above the flood protection elevation. The elevation of the lowest floor shall be certified by a registered surveyor or professional engineer licensed to practice in Maryland, on the elevation certificate, after the lowest floor is in place. Enclosures below the flood protection elevation must be constructed with water-equalizing vents to meet the specifications of § 130-6B. Improvements which are less than substantial shall be constructed to minimize damage during flooding or shall be elevated to the greatest extent possible.
- (3) Fill.
 - (a) The placement of more than six hundred (600) cubic yards of fill per parcel/lot in the floodplain is prohibited except by variance. Elevating buildings by other methods must be considered unless six hundred (600) cubic yards or less of fill are required. An applicant shall demonstrate that fill is the only alternative to raising the building to at least the flood

- protection elevation and that the amount of fill used will not affect the flood storage capacity or increase flooding onto neighboring properties.
- (b) In the event buildings on adjacent properties are known or determined to be subject to flooding under current conditions, the local permitting official may require submission of hydrologic and hydraulic analyses to adequately demonstrate the effects of the proposed fill. The conditions described in § 130-6.H. must be met whenever fill is used.
- (4) Flood protection setback requirement.
- (a) A minimum one-hundred-foot flood protection setback shall be maintained from the edge of the banks of any watercourse delineated as having a floodplain on the Floodway Map or FIRM, except where the setback may extend beyond the floodplain. To prevent erosion, natural vegetation shall be maintained in this area. Where- natural vegetation does not exist along the watercourse and conditions for replanting are suitable, high priority shall be given to planting trees in the setback area to stabilize banks and to enhance aquatic resources.
 - (b) A minimum fifty-foot flood protection setback shall be maintained from the top of the bank of any stream which has no designated floodplain and has a basin larger than four hundred (400) acres. A twenty-five-foot setback shall be maintained from the center line of all other streams and drainways, including intermittent streams. Natural vegetation shall be maintained and, if needed, trees planted.
 - (c) The local permitting official may consider a variance if the applicant demonstrates that it is impossible to allow any development without encroachment into the flood protection setback area. The variance shall be the minimum necessary and shall be made only after due consideration is given to varying other siting standards, such as side, front and back lot line setbacks. Necessary public works and temporary construction may be exempted from this section.
- (5) Subdivision requirements.
- (a) To achieve long-term flood damage avoidance and protection of the natural and beneficial floodplain functions, creation of any new flood-prone building sites shall not be permitted in any new subdivisions regardless of size, number of lots and location. Within new subdivisions, the floodplain areas and their natural vegetation shall be preserved and dedicated to natural buffer areas, open space, recreation and similar compatible uses by deed restriction, restrictive covenants or donation to a land trust. At a minimum, the area preserved shall include the flood protection setback area and, to the greatest extent possible, other floodplain areas. Steep slopes and forested areas adjacent to watercourses shall also be given high priority for preservation.
 - (b) In new subdivisions in nontidal, floodplains, each lot platted must have a suitable building site outside the floodplain. Consideration must be given to clustering development out of the floodplain. The flood protection setback requirement of § 130-5.B.(4). shall be met. An access road at or above the elevation of the one-hundred-year flood shall be provided from all newly created lots to the nearest county, municipal or state maintained road or previously dedicated public right-of-way.

C. Part B. Floodways

- (1) General. Floodways shall be preserved to carry the discharge of the one-hundred-year flood. Floodways present increased risks to human life and property because of their relatively faster and deeper flowing waters. Fill shall not be permitted. New structures shall not be permitted. New development shall not be permitted in the floodway where alternatives exist elsewhere or if any increase in water surface elevations will result from the one- hundred-year flood.
 - (a) Any development in the floodway which may result in any increase in water surface elevations or change to the floodway must be submitted to FEMA for a conditional letter of map revision. Hydrologic and hydraulic analyses based on existing floodway models and performed in accordance with standard engineering practices and certified by a registered professional engineer licensed to practice in Maryland must be submitted. Failure to receive this letter shall be grounds for denial of the permit.
 - (b) An alternative analysis must be prepared for any development in the floodway before a permit may be issued. The provisions of Subsection B above, as well as Subsection C, apply to floodways.
- (2) Alternative analysis requirement. Before a permit may be issued, an applicant shall submit an alternative analysis which demonstrates that:
 - (a) No reasonable alternatives exist outside the floodway;
 - (b) Encroachment in the floodway is the minimum necessary;
 - (c) The development will withstand the one- hundred-year flood without significant damage; and
 - (d) The development will not increase downstream or upstream flooding or erosion.
- (3) Existing structures.
 - (a) Existing structures in the floodway shall be substantially improved only by variance and if they can be brought into conformance with this chapter without increasing the footprint of the structure. To be permitted, additions which are less than substantial must be elevated to the flood protection elevation on pilings or columns. In the event of substantial damage, the applicant shall submit an alternative analysis to determine if the structure can be relocated to a less hazardous site.
 - (b) Where replacement structures cannot be relocated, they shall be limited to the footprint of the previous structure and must comply with the elevation requirements of § 130-5.B.(2). of this chapter. Permits for incremental improvements shall be tracked by the local permitting official, and if cumulative improvements constitute substantial improvement, no further permits may be issued unless the structure conforms to the provisions of his chapter.
- (4) Maintenance of natural channel. The natural watercourse shall be maintained for protection of aquatic resources. A variance is required for alteration of watercourses. Any variance issued must assure that the c9nditions for encroachment in the floodway are met, adverse impacts to aquatic resources are minimized and the public good outweighs the adverse impacts. The provisions of § 130-5A(1), pertaining to altering a watercourse, must be met.

- (5) Obstructions. Structures or fill which may impede, retard or change the direction of the flow of floodwaters, or any materials that may be carried downstream to cause damage shall not be placed in the floodway. Fences, except two-wire fences, shall not be placed in the floodway.

§ 130-6. Specific requirements.

In addition to the requirements outlined in § 130-5, the following specific requirements must be applied.

- A. Placement of buildings and materials. In general, buildings and accessory structures should be located entirely out of the floodplain, out of the flood protection setback or on land that is least susceptible to flooding. All structures permitted in the floodplain shall be oriented so as to offer the least resistance to the flow of floodwaters. Materials which are buoyant, flammable, explosive or hazardous to health, or which at times of flooding may be injurious to human, animal or plant life, shall not be stored below the flood protection elevation.
- B. Enclosures below lowest floor.
 - (1) Buildings which have been elevated and have fully enclosed areas below the flood protection elevation (other than basements), as well as garages and accessory structures which are not elevated (§ 130-6.F.), shall be constructed with water- equalizing vents which meet or exceed the following standards:
 - (a) A minimum of two (2) openings on different walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (b) The bottom of all openings shall be no higher than one (1) foot above grade; and
 - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters to equalize hydrostatic forces on the walls.
 - (2) Fully enclosed areas below the flood protection elevation shall be used solely for parking of vehicles, access to the building or storage. If such areas are enclosed, a nonconversion agreement as described in § 130-3.E. must be signed by the applicant.
- C. Manufactured homes and manufactured home parks.
 - (1) New manufactured homes and manufactured home parks are prohibited in the floodway. In the floodway fringe, all new, replacement or substantially improved manufactured homes, whether in a manufactured home park or not, shall comply with § 130-5.B.(2). of this chapter. Methods of anchoring shall include use of over-the-top and frame ties to ground anchors. Pilings or columns shall be used to maintain storage capacity of the floodplain. Concrete block support pilings must be reinforced by filling the hollows with cement, placing reinforcing bars inside and extending them into the footing and using mortar to cement the blocks together. FEMA Publication 85, Manufactured Home Installation in Flood Hazard Areas, should be consulted for specific recommendations.
 - (2) Manufactured homes repaired or replaced because of substantial damage due to flooding or other causes must fully comply with § 130-5.B.(2).

- (3) Owners of manufactured home parks or subdivisions that are partially or fully within the floodplain must file an evacuation plan with the local Civil Defense and Emergency Management Agency. Any new mobile home park or subdivision must have a buildable site for each mobile home outside the one-hundred-year floodplain boundary. A flood-free access road shall be provided in all new manufactured home parks and subdivisions as noted in § 130-5.B.(5).
- D. 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.
- E. Utilities.
- (1) Electric. All electric utilities to the building side of the meter, both interior and exterior to the building, are regulated by this chapter. Distribution panel boxes must be at least two (2) feet above the flood protection elevation. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators and distribution systems, must be installed at or above the flood protection elevation.
 - (2) Plumbing. Toilets, sinks, showers, water heaters, pressure tanks, furnaces and *other* permanent plumbing installations must be installed at or above the flood protection elevation.
 - (3) Gas. Gas meters, distribution lines and gas appliances on the building side of the meter must be installed at or above the flood protection elevation.
 - (4) Water supply and sanitary facilities. Water supply distribution and sanitary disposal collection systems must be designed to minimize or eliminate the infiltration of floodwaters into the systems or discharges from the systems into floodwaters and shall be located and constructed so as to minimize or eliminate flood damage. On-site sewage disposal systems shall meet these same standards.
- F. Accessory structures and garages.
- (1) Where feasible, accessory structures and garages should be located out of the floodplain or elevated to or above the flood protection elevation. When these measures are not feasible, the following apply:
 - (a) The floor of the structure must be at or above grade;
 - (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 attached to the main 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 is no more than nine hundred (900) square feet in area. Attached garages must meet the venting requirements of § 130-6.B., have all interior walls, ceilings and floors below the flood protection elevation unfinished and have no machinery or electric devices or appliances located below the flood protection elevation. A nonconversion agreement as described in § 130-3.E. 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 chapter.

(3) Detached garages and accessory structures.

- (a) An accessory structure or detached garage may be permitted as an exemption to the elevation requirement if it is less than three hundred (300) square feet, used solely for parking of vehicles and limited storage, meets the venting requirements of § 130-6.B., has all interior wall, ceiling and floor elements below the flood protection elevation unfinished and has no machinery, electric devices or appliances located below the flood protection elevation. A nonconversion agreement must be signed by the property owner.
- (b) An accessory structure or a detached garage between three hundred (300) square feet and nine hundred (900) square feet may be permitted below the flood protection elevation only by a conditional permit described in § 130-3.E.
- (c) An accessory structure or garage larger than nine hundred (900) square feet in area must be elevated properly or be able to meet all applicable requirements under the variance procedure in § 130-7.A. of this chapter.

G. Recreational vehicles.

- (1) Recreational vehicles temporarily parked within the floodplain may be exempted from the elevation and anchoring requirements, provided that they are:
 - (a) Located on the site less than one hundred eighty (ISO) consecutive days.
 - (b) Fully licensed and ready for highway use.
- (2) 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 manufactured home and is subject to the elevation and construction standards of this chapter.

H. Fill. Fill to elevate structures is discouraged because storage capacity is removed from floodplains. 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 placed in nontidal wetlands without the required state and federal permits.

- (1) 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.
- (2) Fill used to support structures must be compacted to ninety-five percent (95%) of the maximum density obtainable by the Standard Proctor Test (ASTM Standard D-698), and its suitability to support structures certified by a registered professional engineer licensed to practice in Maryland. Fill slopes shall be not greater than two (2) horizontal to one (1) vertical. Flatter slopes may be required where velocities may result in erosion.
- (3) The use of fill shall not increase flooding or cause drainage problems on neighboring properties.

§ 130-7. Variances.

- A. Reasons for granting. The local permitting official shall review requests for variances from the requirements of this chapter. Conditions may be attached to the variance action, and variance actions must be consistent with sound floodplain management. Variances may not be issued except as specified below, nor shall variances be issued for any encroachment in floodways if any increase in the one-hundred-year-flood levels will result.
- (1) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant a variance would result in exceptional hardship (other than economic) to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud or victimization of the public or conflict with existing local and state laws or ordinances.
 - (2) The variance action shall be the minimum necessary, considering the flood hazard, to afford relief. In considering a variance action, comments from the State Coordinating Office of the Water Resources Administration, the Allegany Soil Conservation District and the County Engineer must be taken into account and maintained with the permit file.
- B. Conditions.
- (1) Variances may not be granted for the following:
 - (a) Placement of fill or any development in the floodway if any increase in flood levels would result; or
 - (b) New principle structures in the floodway.
 - (2) For any variance issued, a letter shall be sent to the applicant indicating the terms and conditions of the variance, the increased risk to life and property in granting the variance, and the increased premium rates for National Flood Insurance coverage. The applicant shall be notified in writing of the requirement for recordation of these conditions on the deed or memorandum of land restriction prior to obtaining a permit, and of the need to secure all necessary permits as conditions for granting a variance. The memorandum is described in Article 3-102 and 3-103 of the Real Property Article of the Annotated Code of Maryland.
 - (3) The local permitting official shall maintain a record of all variance actions and the justification for their issuance, as well as all correspondence. This record must be submitted as a part of the biennial report to FEMA and be available for periodic review. The number of variance actions should be kept to a minimum.
- C. Functionally dependent uses. Variances may be issued for new construction and substantial improvements for the conduct of a functionally dependent use. A functionally dependent use cannot perform its intended purpose unless it is located or carried out in close proximity to water. It includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities, but does not include long-term

storage or related manufacturing facilities. The variance may be issued only upon sufficient proof of the functional dependence. The provisions of Subsections A and B must be met and the structure must be protected by methods that minimize flood damage up to the flood protection elevation and must create no additional threats to public safety. This may require methods of "wet floodproofing" which allow the structure to flood without significant damage. Methods of floodproofing must not require human intervention.

§ 130-8. Liability.

- A. The granting of a permit, variance or a certificate of occupancy is not a representation, guaranty or warranty of any kind and shall create no liability upon Allegany County, its officials or employees.
- B. The degree of flood protection provided by this chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Floods of greater magnitude may occur, or flood heights may be increased by man-made or natural causes. This chapter does not imply that flooding will not occur outside of the delineated floodplain zone or that permitted development and land uses within the floodplain will be free of flooding and associated flood damage. This chapter does not create liability on the part of Allegany County, any officer or employee thereof for any damage which may result from reliance on this chapter.

§ 130-9. Administrative fees.

Allegany County may impose additional application fees commensurate with those costs incurred in the processing, review and evaluation of permit applications for development in the floodplain area by resolution passed by the County Commissioners.

§ 130-10. Abrogation and greater restrictions.

This chapter supersedes any County Floodplain Ordinance currently in effect in the floodplain area. However, any other state or county ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.

§ 130-11. Interpretation of provisions; disputes.

- A. In their interpretation and application, the provisions of this chapter shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of proper flood hazard management.
 - (3) Deemed neither to limit nor repeal any other powers granted to the county under the Annotated Code of Maryland.
- B. Should a dispute arise concerning the interpretation of this chapter, the counsel of the Federal Emergency Management Agency or Federal Emergency Management Agency, 44 Code of Federal Regulations, or the Maryland Department of Natural Resources shall prevail.

§ 130-12. Effective date; future amendments.

- A. This chapter is hereby enacted and shall become effective October 15, 1991.
- B. This chapter shall be amended as required by the Federal Emergency Management Agency, 44 Code of Federal Regulations. All subsequent amendments to this chapter are subject to approval of the Federal Emergency Management Agency and the Maryland Department of Natural Resources.

History:

Adopted by the Board of Commissioners of Allegany County 10/2/1992. Amendments noted where applicable.

General Reference:

Building Construction - See Chapter 101

Building Permits - See Chapter 103

Land Development - See Chapter 141, Part 1, Subdivision.

Land Development - See Chapter 141, Part 2, Sediment Control

Land Development - See Chapter 141, Part 3, Stormwater.

Land Development - See Chapter 141, Part 4, Zoning.

Editor's Notes:

1. This ordinance also superseded former Chapter 130, adopted 11/18/1988. It also provided that it shall take effect October 15, 1992.

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