

CHAPTER 153: FLOODPLAIN MANAGEMENT

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GENERAL PROVISIONS

§ 153.001 PURPOSE AND AUTHORITY.

(A) The purpose of this chapter is to secure the public safety, promote health and general welfare, minimize property damage, encourage appropriate construction practices to minimize future damage, and to protect water supply, sanitary sewage disposal, and natural drainage. The Maryland General Assembly, in Md. Code, 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.

(B) These regulations are not intended to repeal or abrogate any existing regulations and ordinances, including subdivision regulations, zoning ordinances, building codes, or any existing easements, covenants, or deed restrictions. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

(C) Floodplains are an important asset to the community. They perform vital natural functions such as temporary storage of flood waters, moderation of peak flood flows, maintenance of water quality, prevention of erosion, provision of habitat for diverse natural wildlife populations, and improved aesthetics. These functions are best served if all floodplains are kept in their natural state. The natural characteristics of floodplains and their associated wetlands and water bodies should be preserved and enhanced.

(D) This chapter provides a unified, comprehensive approach to floodplain management, which addresses the following: natural floodplain functions, the federal and state programs concerned with floodplain management, and correction of existing deficiencies in the program.

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

(2004 Code, § 114-1) (Ord. 04-04, passed 4-5-2004; Ord. 2014-10, passed 10-30-2014; Ord. 2015-07, passed 9-3-2015)

§ 153.002 APPLICABILITY.

Any person proposing to conduct development within the floodplain regulated by this chapter shall obtain approval for that development from the county, and shall comply with all provisions of this chapter prior to conducting the development.

(2004 Code, § 114-2) (Ord. 04-04, passed 4-5-2004)

 **§ 153.003 DISCLAIMER OF LIABILITY.**

(A) 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.

(B) Floods of greater magnitude may occur and flood heights may be increased by human-made or natural causes.

(C) This chapter does not imply that flooding will not occur outside of the delineated floodplain, nor that permitted development and land uses within the floodplain will be free of flooding and associated flood damage.

(D) Implementation of the provisions of this chapter does not create liability on the part of the county, any officer, or employee thereof for any damage that may result from reliance on this chapter.

(2004 Code, § 114-3) (Ord. 04-04, passed 4-5-2004)

 **§ 153.004 INCORPORATION BY REFERENCE.**

For the purposes of this chapter, the following documents are incorporated by reference:

(A) Carroll County Floodplain Management Manual (Manual);

(B) Federal Highways Administration *Hydraulic Design of Highway Culverts*, FHWA-IP-85-15, September, 1980, as amended;

(C) Federal Highways Administration *HY-8, Hydrain Integrated Drainage Design*, February, 1990, as amended;

(D) U.S. Army Corps of Engineers, *HEC-RAS River Analysis System*, July, 1995, as amended;

(E) U.S. Army Corps of Engineers, *HEC-2 Water Surface Profiles*, September, 1982, as amended;

(F) U.S.D.A., Natural Resources Conservation Service, *Maryland Conservation Practice Standard Pond Code 378*, January, 2000, as amended (MD-378);

(G) U.S.D.A., Natural Resources Conservation Service, *TR-20 Project Formulation - Hydrology*, May, 1983, as amended;

(H) U.S.D.A., Natural Resources Conservation Service, *TR-55 Urban Hydrology for Small Watersheds*, June, 1986, as amended;

(I) Chapter 38, Floodplain Construction of the County Code;

(J) Carroll County, Maryland and Incorporated Areas Flood Insurance Rate Map (FIRM), with an effective date of October 2, 2015, and all subsequent amendments and revisions to the FIRMs; and

(K) Carroll County, Maryland and Incorporated Areas Flood Insurance Study (FIS), with an effective date of October 2, 2015, or the most revision thereof.

(2004 Code, § 114-4) (Ord. 04-04, passed 4-5-2004; Ord. 07-08, passed 5-3-2007; Ord. 2014-10, passed 10-30-2014; Ord. 2015-07, passed 9-3-2015)

§ 153.005 DEFINITIONS.

In this chapter the following terms have the meanings indicated. Any term not defined in this chapter shall have the meaning as defined in any chapter of the County Code. Any term not defined in the County Code in any chapter shall have its generally accepted meaning.

ACCESSORY STRUCTURE. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure

ALTERATION OF A WATERCOURSE. For the purpose of these regulations, alteration of a watercourse includes, but is not limited to widening, deepening or relocating the channel, including excavation or filling of the channel. Alteration of a watercourse does not include construction of a road, bridge, culvert, dam, or in-stream pond, unless the channel is proposed to be realigned or relocated as part of such construction.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, the runoff that results from the 100-year storm event.

BASE FLOOD ELEVATION. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map.

BUFFER. A regulated area left undisturbed adjacent to a specific natural feature or resource.

CAPITAL IMPROVEMENT PROJECT. Any construction project by the county, incorporated municipalities, or Carroll County Board of Education, including but not limited to roads, storm drains, sewers, water lines, reservoirs, schools, and associated appurtenances.

CRITICAL AND ESSENTIAL FACILITIES. Buildings and other structures that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes. Critical and essential facilities typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.

CROSS-SECTION. The ground line measured and plotted perpendicular to the flow of water.

COUNTY. The Board of County Commissioners of Carroll County or its designee; the Department of Land and Resource Management, or its successor agency.

DAM BREACH INUNDATION AREA. The area potentially inundated by a sudden dam failure.

DEVELOPMENT. The subdivision of land; any man-made change to improved or unimproved real estate, including but not limited to structures, mining, dredging, filling, grading, paving, excavation or storage of materials and equipment.

DISTURBANCE. Any activity on a development site requiring the grading, grubbing, excavating, filling, or otherwise modifying the existing topography.

FEMA. Federal Emergency Management Agency.

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

FILL Includes but is not limited to earthen soils, rock, rubble, construction debris, woody debris, and trash.

FLOOD INSURANCE RATE MAP (FIRM). An official map on which the Federal Emergency Management Agency has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMs that have been prepared in digital format, or converted to digital format, are referred to as Digital FIRMs (DFIRM).

FLOOD INSURANCE STUDY (FIS). The official report in which the Federal Emergency Management Agency has provided flood profiles and water surface elevations.

FLOOD ZONE. A designation for areas that are shown on Flood Insurance Rate Maps:

- (1) **Zone A.** Special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood; base flood elevations are not determined.
- (2) **Zone AE.** Special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood; base flood elevations are determined.
- (3) **Zone X (shaded):** Areas subject to inundation by the 0.2-percent annual chance (500-year) flood.
- (4) **Zone X (unshaded):** Areas outside of Zones designated A, AE, X (shaded).

FLOODPLAIN. Any land area susceptible to being inundated by water from any source.

FLOODPLAIN PROTECTION ELEVATION (FPE). The elevation of the base flood plus three feet of freeboard.

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.

INSTITUTION. A school, church, day care center, hospital, medical clinic, library, public safety facility, public office, or similar facility.

INUNDATION. To be completely covered with water from the base flood or dam breach.

MANUAL. The Carroll County Floodplain Management Manual.

ONE HUNDRED- (100-) YEAR STORM EVENT. A storm that has a 1% chance of being equaled or exceeded in any given year, as determined by the National Oceanographic and Atmospheric Administration and the National Weather Service.

PERSON. Includes the federal government, the state, any county, municipal corporation, or other political subdivision of the state, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

PRE-EXISTING LOT. Any property created by record plat prior to April 23, 1963 or created by deed prior to July 1, 1989.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE as shown on the FIRMs for Carroll County.

STREAM. A part of a water conveyance, either naturally or artificially created, that contains intermittent or perennial base flow of groundwater origin, but not including a ditch, pipe, or other structure that conveys surface runoff exclusively from storm events.

STREAM BUFFER. All lands lying within a variable distance measured from the top of each normal bank of any stream as defined in the Water Resource Management Manual (see [Chapter 154](#)).

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

SUBDIVISION. Any division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development, including those divisions referred to as off conveyances.

ULTIMATE STUDY. A hydrologic analysis prepared by a professional engineer or land surveyor and performed to determine the base flood after full development of the contributing watershed, based on existing zoning (ultimate development), and a corresponding hydraulic analysis performed to delineate the ultimate development floodplain (ultimate floodplain).

VARIANCE. A grant of relief from the strict application of one or more technical requirements of these regulations.

VIOLATION. Any construction or development in a floodplain that is being performed without an issued permit or approval. The failure of a structure or other development for which a permit or approval is issued to be fully compliant with these regulations and the conditions of the issued permit or approval. A structure or other development without the required design certifications, the Elevation Certificate, or other evidence of compliance required is presumed to be a violation until such time as the required documentation is provided.

WATER-CONVEYING STRUCTURE. A water conveyance, including but not limited to bridges, culverts, dikes, flumes, or levees.

WATERCOURSE. The channel, including channel banks and bed, of nontidal waters of the state.

WETLAND. An area that meets the conditions for a wetland according to the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, dated January, 1987, or subsequent revisions.

WSEL. Water surface elevation.

(2004 Code, § 114-5) (Ord. 04-04, passed 4-5-2004; Ord. 07-08, passed 5-3-2007; Ord. 2014-10, passed 10-30-2014; Ord. 2015-07, passed 9-3-2015)

§ 153.006 JURISDICTION.

(A) The delineation of all floodplains shall be approved by the county as part of the building permit process or the subdivision and site plan review process for development.

(B) The county shall review, approve, deny, or make recommendations for any development, obstructions, dams, and changes in cross-section or other modification of the floodplain.

(2004 Code, § 114-6) (Ord. 04-04, passed 4-5-2004; Ord. 2014-10, passed 10-30-2014; Ord. 2015-07, passed 9-3-2015)

§ 153.007 GENERAL REGULATIONS.

(A) The reduction of the hydraulic cross-section of any stream or body of water, including reduction of the floodplain, is contrary to the public interest.

(B) Floodplain impacts shall be avoided and minimized.

(C) Fill in the floodplain is prohibited unless compensatory storage is provided at a ratio of 1.5:1 for the material in a hydraulically equivalent location. A variance cannot be requested for relief from this requirement.

(D) Grading or placing fill to create buildable lots in the floodplain is prohibited.

(E) Construction of new residential, industrial, institutional, commercial, or accessory structures within the floodplain is prohibited. Water-conveying structures are not included in this prohibition but must address all other requirements in this chapter. A variance cannot be requested for relief from this prohibition. Critical and essential facilities such as wastewater treatment plants and pumping stations are exempt from this prohibition but must address all other requirements of this chapter. CLOMR-Fs and LOMR-Fs cannot be used to circumvent this prohibition and will not be recognized by the County.

(F) Where field surveyed topography or digital topography indicates that ground elevations are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard on the FIRM, the area shall be considered as special flood hazard area.

(G) Floodplain protection elevation:

(1) If lots in a proposed subdivision are served by a publicly maintained street, the publicly maintained street and access to all lots shall be at or above the FPE, unless a variance is granted in accordance with § [153.081](#); and

(2) Any subdivision lot served by a use-in-common driveway not at or above the FPE shall be noted on the plat.

(H) If the 100-year floodplain is increased, then:

(1) A CLOMR/LOMR shall be obtained from FEMA, where applicable;

(2) A variance shall be obtained from the county, where applicable;

(3) Appropriate easements shall be obtained from all affected property owners; and

(4) The design shall be approved by the county, and where necessary, by the Maryland Department of the Environment, Water Management Administration, FEMA and the U.S. Army Corps of Engineers.

(I) No final approval may be granted until the county has received a copy of all federal and state approvals and permits.

(J) Natural streams shall be maintained for protection of aquatic resources.

(K) Forest harvest operations are permitted in floodplains and buffer areas when conducted in accordance with a custom erosion and sediment control plan, approved by the county.

(L) Floodplain and buffer areas where natural vegetation has been removed shall be given the highest priority for reforestation or afforestation.

(M) New residential, industrial, institutional, or commercial structures or additions are prohibited within any dam breach inundation area, unless the dam was previously approved as a high hazard dam.

(N) A proposed roadway within a dam breach inundation area shall not increase the hazard classification of the dam.

(2004 Code, § 114-7) (Ord. 04-04, passed 4-5-2004; Ord. 05-07, passed 6-14-2005; Ord. 2014-10, passed 10-30-2014; Ord. 2015-07, passed 9-3-2015)

§ 153.008 DELINEATIONS.

(A) All floodplains.

(1) Except as provided in divisions (A)(2) and (A)(3) below, the floodplain shall be shown on the subdivision or site plan for all on site and adjacent streams and bodies of water where the floodplain may extend onto the property.

(2) Floodplains within remainders or remaining portions are exempt provided no disturbance or construction are proposed within the floodplain, as determined by FEMA or 153.008(A)(3). If any drainage from the development passes through the remainder, remaining portion or tracts, a note shall be added to the plat.

(3) Non-FEMA floodplains determined to have a drainage area of less than one square mile are exempt, provided that no soil disturbance or construction are proposed within ten vertical feet from the top of the stream bank.

(B) FEMA floodplains.

(1) FEMA floodplains on or adjacent to the property shall be delineated using the greater of the FIS profile elevation or FIRMs for the county and the Towns of Hampstead, Manchester, Mount Airy, New Windsor, Sykesville, Union Bridge, and the Cities of Taneytown and Westminster, with an effective date of October 2, 2015, as well as amendments and revisions thereto; and

(2) In areas where delineations are contested, an ultimate study shall be performed and the greatest floodplain from the FIS, FIRM, or ultimate study shall be used until the FIS or FIRM, is officially revised by FEMA.

(C) Dam breach inundation areas.

(1) The dam breach inundation areas that may extend onto the property shall be shown on the subdivision or site plan.

(2) The dam breach inundation area shall be delineated downslope from existing or proposed dams until the dam breach floodwave enters an adequate ultimate floodplain, is captured by a closed storm drain system, or is reduced to a depth less than six inches. Any off-site area potentially inundated by the breach of a dam, constructed as part of the development, shall be delineated. The applicant shall acquire protective easements for areas delineated outside of the property limits unless the dam was approved as a high hazard dam.

(2004 Code, § 114-8) (Ord. 04-04, passed 4-5-2004; Ord. 07-08, passed 5-3-2007; Ord. 2011-03, passed 5-17-2011; Ord. 2014-10, passed 10-30-2014; Ord. 2015-07, passed 9-3-2015)

📖 § 153.009 ADMINISTRATION.

The Department of Land and Resource Management, or its successor agency, is hereby appointed to administer and implement these regulations and is responsible for Floodplain Administration in Carroll County.

(Ord. 2015-07, passed 9-3-2015)

PROCESS

📖 § 153.020 APPROVALS.

(A) **Approval required.** No development may occur in a floodplain without prior county approval. Review and approval procedures for subdivision and site plans shall be as stated in the Manual.

(B) **Pre-existing lots.**

(1) An applicant for a building permit for a pre-existing lot shall meet the requirements of § [170.15](#) of the Code; and

(2) In addition to review by the Code Official, an individual building lot may be evaluated for proximity to inundation areas. If the building lot is within a potential inundation area, a plan for the individual building site may be required in consultation with the Code Official.

(C) **Capital improvement projects.**

(1) A capital improvement project that may be located within a floodplain shall comply with provisions in this chapter.

(2) A state project which is not located on state property shall comply with the provisions of this chapter.

(2004 Code, § 114-9) (Ord. 04-04, passed 4-5-2004; Ord. 2014-10, passed 10-30-2014; Ord. 2015-07, passed 9-3-2015)

SETBACKS AND EASEMENTS

📖 § 153.035 FLOODPLAIN SETBACK.

(A) The property owner shall grant to the county an easement in perpetuity to preserve the natural vegetation and to prevent alteration of floodplains and the setbacks wherever floodplains are delineated.

(B) The floodplain setback shall be the maximum of:

(1) The floodplain width;

(2) The stream buffer; or

(3) One hundred feet from the top of the stream bank on any mapped FEMA stream.

(C) Existing impervious areas are excluded from the easement area.

(2004 Code, § 114-10) (Ord. 04-04, passed 4-5-2004; Ord. 07-08, passed 5-3-2007)

§ 153.036 PLATS; EASEMENTS.

(A) All floodplains, floodplain setbacks, and dam breach inundation areas shall be platted.

(B) Floodplains and their setbacks shall be protected by a floodplain easement that is conveyed to the county and recorded in the Land Records of Carroll County.

(C) Easements protecting dam breach inundation areas below publicly owned dams shall be conveyed to the county and recorded in the Land Records of Carroll County.

(D) Easements, beyond the property limits, protecting dam breach inundation areas below privately owned dams shall be conveyed to the SWM facility owner and recorded in the Land Records of Carroll County.

(E) Prior to acceptance by the county of an easement, the county may require that adequate fencing or other protective measures be implemented to prevent violations of the easement from occurring.

(F) Linear features such as driveways, trails, paths, or underground utilities may be excluded from the easement area to allow for future maintenance without disturbing the easement area.

(2004 Code, § 114-11) (Ord. 04-04, passed 4-5-2004; Ord. 07-08, passed 5-3-2007; Ord. 2015-07, passed 9-3-2015)

WATERCOURSES

§ 153.050 WATERCOURSES.

(A) Watercourses shall not be altered. Development that proposes to alter a watercourse in the floodplain may obtain a variance, provided it addresses **§ 153.050, § 153.065, and § 153.081**:

(1) Adverse impacts to aquatic resources are minimized;

(2) The public good outweighs the adverse impacts; and

(3) The need for any perpetual maintenance necessitated by the alteration is minimized and an assurance for such maintenance is provided.

(B) The applicant shall notify adjacent communities, property owners, the county, the U.S. Army Corps of Engineers, FEMA, Maryland National Flood Insurance Program (NFIP) Coordinating Office, and Maryland Department of the Environment in writing in conjunction with any application for a variance pursuant to this section and in writing 90 days prior to any modifications being made to a watercourse.

(C) Alteration of a watercourse. For any proposed development that involves alteration of a watercourse, , the applicant shall develop hydrologic and hydraulic engineering analyses and technical data and submit such technical data to the Floodplain Administrator and follow the review and approval process as required in the Manual. The analyses shall be prepared by a

licensed professional engineer, in a format accepted by MDE and if 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 the responsibility of the applicant. Alteration of a watercourse may be approved only upon submission, by the applicant, of the following:

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

(2) 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

(3) An approved CLOMR received from FEMA, if applicable.

(2004 Code, § 114-12) (Ord. 04-04, passed 4-5-2004; Ord. 2014-10, passed 10-30-2014; Ord. 2015-07, passed 9-3-2015)

ALTERNATIVES ANALYSIS

§ 153.065 ALTERNATIVES ANALYSIS.

Prior to approval being granted for development that may impact a floodplain or watercourse, an applicant shall submit an alternatives analysis in accordance with the Manual that demonstrates:

(A) No reasonable alternatives exist outside the floodplain or watercourse;

(B) Encroachment in the floodplain or watercourse will be minimized;

(C) The development will withstand the base flood without significant damage; and

(D) The development will not increase downstream or upstream flooding or erosion.

(2004 Code, § 114-14) (Ord. 04-04, passed 4-5-2004; Ord. 2015-07, passed 9-3-2015)

SUBMITTAL STANDARDS

§ 153.080 SUBMITTAL STANDARDS.

A floodplain study and plat shall be based upon the Maryland Coordinate System and comply with the submittal standards found in the Manual.

Certifications and/or technical analyses prepared or conducted by a licensed professional engineer or licensed architect, as appropriate, including:

(A) The determination of the base flood elevations or hydrologic and hydraulic engineering analyses prepared by a licensed professional engineer that are required by the Floodplain Administrator or are required by these regulations for: certain subdivisions and development; development in flood hazard areas with base flood elevations but no designated floodways; and deliberate alteration or relocation of watercourses.

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

(2004 Code, § 114-15) (Ord. 04-04, passed 4-5-2004)

§ 153.081 VARIANCES.

(A) The county may grant a variance from technical requirements of this chapter provided the variance is consistent with sound floodplain management. The following factors will be considered as part of the variance request:

- (1) The danger that materials may be swept onto other lands to the injury of others.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services to the community provided by the proposed development.
- (5) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
- (6) The compatibility of the proposed use with existing and anticipated development.
- (7) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
- (8) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (9) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters.
- (10) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (11) The comments provided by MDE (NFIP State Coordinator) if applicable.

(B) A variance may be granted upon:

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

;

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

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

(4) A determination that the proposed structure or other development is protected by methods to minimize flood damages.

(C) The variance granted shall be the minimum necessary, considering the flood hazard, to afford relief and may contain specific conditions.

(D) In considering a variance application, comments from the NFIP Coordinating Office, Maryland Department of the Environment, shall be taken into account and maintained with the permit file.

(E) A variance may not be granted for the review process in this chapter.

(F) A letter shall be sent by the county to the applicant indicating the terms of the variance. If quantifiable and applicable, a statement relating the increased risk to life and property in granting the variance, and the increased premium rates for flood insurance coverage in any case in which the National Flood Insurance Program minimum regulations are not met will be included.

(2004 Code, § 114-16) (Ord. 04-04, passed 4-5-2004; Ord. 2014-10, passed 10-30-2014; Ord. 2015-07, passed 9-3-2015)

ADMINISTRATION AND ENFORCEMENT

§ 153.095 INSPECTION.

The county may enter any property subject to regulation under this chapter for the purpose of inspection and enforcement of the provisions of this chapter.

(2004 Code, § 114-17) (Ord. 04-04, passed 4-5-2004)

§ 153.096 VIOLATIONS.

(A) When the county determines that a violation of the approved floodplain plan has occurred, on site personnel and the permittee shall be notified in writing of the violation. The notice shall describe the required corrective action and specify the time period in which the violation shall be corrected.

(B) If the violation persists after the date specified for corrective action in the notice of violation, the county shall post a stop work order on the site.

(1) The county shall determine the extent to which work shall be stopped, which may include all work on the site except that work necessary to correct the violation.

(2) At the discretion of the county, a citation may be issued to any person in violation of this chapter after the date specified for corrective action in the notice of violation. The citation shall impose upon the individual in violation a penalty as indicated by the county. Payment of the penalty shall be made to the county and may not be in lieu of correction of the violation.

(C) The county may deny the issuance of any permit on any project to an applicant when it determines that the applicant has failed to comply with the provisions of any floodplain plan or this chapter.

(D) If a person is working without floodplain approval, the county shall post a stop work order on the site, except activity necessary to provide erosion and sediment control. The stop work order shall remain in effect until approval is obtained.

(E) The Federal Insurance Administrator and the NFIP Coordinating Office, Maryland Department of the Environment (MDE), shall be notified within 30 days after issuance of the notice of any violation that may result in a fine or court action.

(2004 Code, § 114-18) (Ord. 04-04, passed 4-5-2004) Penalty, see § [153.999](#)

§ 153.097 JUDICIAL RELIEF.

(A) The county may institute injunctive or other appropriate action or proceedings of law to correct violations of this chapter.

(B) Any court of competent jurisdiction shall have the right to issue temporary or permanent restraining orders, injunctions, or other appropriate forms of relief.

(2004 Code, § 114-20) (Ord. 04-04, passed 4-5-2004)

§ 153.098 RECORD-KEEPING.

(A) A record of all approvals, disapprovals, and variances granted under the provisions of this chapter shall be maintained by the county.

(B) The Code Official shall maintain a record of all floodplain building permits granted by the Code Official.

(C) All records shall be available for inspection upon request and shall contain all documents needed to support any permit action.

(2004 Code, § 114-21) (Ord. 04-04, passed 4-5-2004)

§ 153.099 APPEALS.

(A) Any person aggrieved by issuance of a written notice of violation or denial of a variance of the technical requirements of this chapter may appeal the action to the County Commissioners or a Board of Appeals appointed by the County Commissioners, which shall hold a hearing on the appeal.

(B) The appeal shall:

(1) Be filed in writing within 30 days of the date of written transmittal of the final decision or determination to the applicant, or notice of violation; and

(2) State clearly the grounds on which the appeal is based.

(C) Appeal fees are as follows:

(1) The appellant shall pay a nonrefundable filing fee as determined by the county; and

(2) The appellant shall pay all costs of the appeal as assessed by the County Commissioners or Board of Appeals.

(2004 Code, § 114-22) (Ord. 04-04, passed 4-5-2004)

§ 153.100 FEES.

The county may establish a fee schedule to cover the costs of administration of this chapter.

(2004 Code, § 114-23) (Ord. 04-04, passed 4-5-2004)

§ 153.101 FLOODPLAIN MANAGEMENT FUND.

(A) The county shall create a Floodplain Management Fund (“the Fund”).

(B) All fees, penalties, fines, or other charges levied herein or paid pursuant to this chapter shall be deposited into the Fund.

(C) Interest shall be deposited into the Fund.

(2004 Code, § 114-24) (Ord. 04-04, passed 4-5-2004)

§ 153.999 PENALTY.

(A) Violations.

(1) Any person convicted of violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$50,000 or imprisonment not exceeding one year or both for each violation, with costs imposed in the discretion of the court. Each day that a violation continues shall be a separate offense.

(2) Any person who violates a provision of this chapter or fails to comply with any of the requirements of this chapter, will be subject by the county for performing all necessary corrective actions. If satisfactory corrections of a Notice of Violation (NOV) are not made by the owner within a reasonable period of time as determined by the county, not exceeding 30 days after issuance of the notice of violation, the County has the right to enter onto the property and perform the work necessary to correct the violation and the owner of the facility shall be assessed the cost of the work. Penalties may be collected by placing a lien on the property or by including the cost of the work on the property tax bill and collecting the cost as ordinary taxes.

(B) Additional penalties; civil penalties.

(1) In addition to any other penalty set forth in this chapter, the county may institute injunctive or other appropriate action or proceedings of law to correct violations of this chapter. Any court of competent jurisdiction shall have the right to issue temporary or permanent restraining orders, injunctions, or other appropriate forms of relief.

(2) The county may issue a civil fine/penalty of not more than \$10,000 per day. Each day that a violation continues shall be a separate offense.

(3) A court of competent jurisdiction may consider the cost of restoring the area unlawfully disturbed.

(2004 Code, § 114-19)