

Filed and recorded
August 23, 2013.

GARRETT COUNTY FLOODPLAIN
MANAGEMENT ORDINANCE

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GARRETT COUNTY, MARYLAND, A BODY POLITIC AND CORPORATE, AND GOVERNING BODY OF GARRETT COUNTY, MARYLAND (THE "BOARD"), IN ACCORDANCE WITH THE PROVISIONS OF THE CODE OF FEDERAL REGULATIONS, AMENDING THE PROVISIONS OF CHAPTER 151 OF THE CODE OF ORDINANCES OF GARRETT COUNTY, MARYLAND, THE SAME BEING THE MARYLAND CODE OF PUBLIC LOCAL LAWS OF MARYLAND, ARTICLE XV (THE "COUNTY CODE"), ACCEPTING AMENDMENTS TO THE GARRETT COUNTY FLOODPLAIN MANAGEMENT ORDINANCE ACTING WITH THE ADVICE AND ASSISTANCE OF THE DEPARTMENT OF PLANNING AND LAND DEVELOPMENT AND THE CITIZENS OF GARRETT COUNTY.

EXPLANATION

WHEREAS, The Board of County Commissioners of Garrett County, Maryland (the "County") is required by the provisions of the National Flood Insurance Act of 1968 and the Flood Hazard Management Act of 1976 and the Environmental Article Title 5, Subtitle 8 of the Annotated Code of Maryland to adopt a flood management ordinance, and the Code of Federal Regulations - 44 C.F.R. Section 60.3 establishes standards for floodplain management; and

WHEREAS, The Board has received and reviewed the recommendations of the Department of Planning and Land Development Office and has proceeded, in accordance with the provisions of the Federal Code, to conduct a public hearing and to obtain the advice and assistance of the citizens of Garrett County with respect to proposed amendments to the Flood Management Ordinance; and

WHEREAS, The Board, pursuant to the Code of Federal Regulations 44 C.F.R. Section 60.3, and the provisions of the State Code, has determined, after input from the Department of Planning and Land Development and after review of public comments and the information presented at the public hearing, has determined the flood management standards established by the Federal Government, as amended, are necessary and desirable to promote the health, safety, and welfare of the citizens of Garrett County.

NOW, THEREFORE, be it enacted and ordained by the County Commissioners of Garrett County that the Flood Management Ordinance adopted by the Board of County Commissioners and incorporated within the County Code of Ordinance Title XV, Chapter 151 is hereby repealed; and

NOW THEREFORE, be it enacted and ordained that the Board of County Commissioners do hereby enact the following ordinance with amendments to be included within the County Code of Ordinance, Title XV, Chapter 151.

~~0007~~ ~~0530~~

CHAPTER 15I: FLOOD HAZARD AREAS

Section

General Provisions

- 15I.001 Purpose, authority and jurisdiction
- 15I.002 Abrogation and greater restrictions
- 15I.003 Applicability
- 15I.004 Partial invalidity and severability
- 15I.005 Disclaimer of liability
- 15I.006 Definitions
- 15I.007 Amendments

Administration

- 15I.010 Designation of the Floodplain Administrator
- 15I.011 Duties and responsibilities of the Floodplain Administrator

Floodplain Zones

- 15I.020 Identification of floodplain zones
- 15I.021 Floodplain zones
- 15I.022 Floodplain boundaries
- 15I.023 Development regulations

Permit Procedures

- 15I.030 General
- 15I.031 Information for a permit
- 15I.032 Subdivision proposals
- 15I.033 Issuance of permit
- 15I.034 Fees

Development - Floodplain

- 15I.055 General
- 15I.056 Elevation requirements
- 15I.057 Fill
- 15I.058 Subdivision requirements

Development - Floodway

- 15I.070 General

- 151.071 Alternative analysis requirement
- 151.072 Existing structures
- 151.073 Maintenance of natural channels
- 151.074 Obstructions

007 0531

Specific Requirements

- 151.085 Placement of buildings and materials
- 151.086 Enclosures below lowest floor
- 151.087 Manufactured homes and parks
- 151.088 Anchoring
- 151.089 Utilities
- 151.090 Accessory structures and garages
- 151.091 Recreational vehicles
- 151.092 Fill

Variances

- 151.100 General
- 151.101 Floodplain - Variance Application
- 151.102 Conditions Granting the Variance
- 151.103 Natural Channel and Watercourses
- 151.104 Denial of Variance
- 151.105 Issuance of Floodplain Variances
- 151.106 Functionally Dependent Uses
- 151.999 Penalty

GENERAL PROVISIONS ~~007~~ 0532

§ 151.001 PURPOSE, AUTHORITY AND JURISDICTION

- (A) The purposes of this chapter are to protect human life and health, minimize property damage, encourage appropriate construction practices to minimize future damage, protect individuals from unwittingly buying land subject to flood hazards, and to protect water supply, sanitary sewage disposal, and natural drainage. The prevention of unwise development in areas subject to flooding will reduce financial burdens to the community and the State, and will prevent future displacement and suffering of its residents. This protection is achieved through this review of all activities proposed within identified floodplains and by the issuance of permits for those activities that comply with the objectives of this chapter.
- (B) Floodplains are an important asset to the community. They perform vital natural functions such as temporary storage of floodwaters, moderation of peak flood flows, maintenance of water quality, groundwater recharge, prevention of erosion, habitat for diverse natural wildlife populations, recreational opportunities, and aesthetic quality. These functions are best served if floodplains are kept in their natural state. Wherever possible, the natural characteristics of floodplains and their associated wetlands and water bodies should be preserved and enhanced.
- (C) This chapter provides a unified, comprehensive approach to floodplain management which addresses these natural floodplain functions and the Federal and State programs concerned with floodplain management.
- (D) This chapter is adopted under authority of the National Flood Insurance Act of 1968 and the Flood Hazard Management Act of 1976, Environmental Article, Title 5 of the Annotated Code of Maryland and in compliance with the National Flood Insurance Program as set forth in the Code of Federal Regulations - 44 C.F.R. Section 59.22.
- (E) This chapter shall apply to the unincorporated part of the County and any incorporated municipality which may enter into an agreement with the County to enforce floodplain management regulations within municipal boundaries.

§ 151.002 ABROGATION AND GREATER RESTRICTIONS

This chapter supersedes and is intended to replace the County Floodplain Management Ordinance adopted on February 21, 1989. However, any other ordinance shall remain in full force to the extent that its provisions are more restrictive.

§ 151.003 APPLICABILITY

Any person or entity proposing to do any development within floodplain zones as defined and regulated by this chapter must first obtain a permit for that development from the Garrett County Permits and Inspections office and must comply with all provisions of this chapter.

§ 151.004 PARTIAL INVALIDITY AND SEVERABILITY

If any part of this chapter is declared invalid, the remainder of the chapter shall not be affected and shall remain in force.

§ 151.005 DISCLAIMER OF LIABILITY

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 and natural causes. This chapter does not imply that flooding will not occur outside of the delineated floodplain zone, nor 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 the community, any officer, or employee thereof for any damage which may result from reliance on this chapter.

§ 151.006 DEFINITIONS

007 0533

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

100-YEAR FREQUENCY FLOOD. The base flood, having a 1% chance of being equaled or exceeded in any year.

ACCESSORY STRUCTURE. A detached structure on the same parcel of property as the principal structure, the use of which is incidental to the principal structure, such as a shed or detached garage.

BASE FLOOD. The 100-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.

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

BASEMENT. An enclosed area which is below grade on all 4 sides.

CERTIFICATE OF OCCUPANCY. An official form issued by the Permits and Inspections office certifying that the structure has been built consistent with approved plans and with this chapter and may be legally inhabited or used for the intended purpose.

DECLARATION OF LAND RESTRICTION. A document ("Declaration") signed by the owner agreeing to not convert or modify certain enclosures below the lowest floor of an elevated building or accessory structure as may be permitted by this chapter. The form is required to be recorded among the land records of Garrett County.

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

DIRECTORS. The Directors of the Departments of Planning and Land Development, Engineering and Public Safety and Emergency Management.

ELEVATION CERTIFICATE. Form supplied by the Federal Emergency Management Agency (FEMA) to certify as-built elevations of structures above mean sea level (NAVD).

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

FLOOD INSURANCE RATE MAP (FIRM) The official maps published by the Federal Emergency Management Agency (FEMA) delineating the special flood hazard areas to be regulated by this chapter. FIRMs that have been prepared in digit format or converted to digital format are referred to as Digital FIRMs (DFIRMs).

FLOOD INSURANCE STUDY (FIS). The official report published the Federal Emergency Management Agency (FEMA) providing flood profiles, flooding information and water surface elevations.

FLOODPLAIN. A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation and is mapped by FEMA as being in a floodway, detailed floodplain, or approximate floodplain.

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

FLOODPROOFING CERTIFICATE. 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) is the elevation of the base flood plus 1 foot freeboard.

FLOODWAY. The channel and adjacent land area required to discharge the waters of the 100-year flood of a watercourse without increasing the water surface elevations more than a specified height: as shown on a FIRM or DFIRM.

FLOOD ZONE. Designation of areas as shown on Flood Insurance Rate Maps:

- (1) **Zone A:** *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) flood; *base flood elevations* are not determined.
- (2) **Zone AE and Zone AI-30:** *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) flood; *base flood elevations* are determined; *floodways* may or may not be determined.
- (3) **Zone AH and Zone AO:** *Areas of shallow flooding*, with *flood depths* of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or designated *flood depths*.
- (4) **Zone B and Zone X (shaded):** Areas subject to inundation by the 0.2-percent annual chance (500-year) flood; areas subject to the 1-percent annual chance (100-year) flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected from the *base flood* by levees.
- (5) **Zone C and Zone X (unshaded):** Areas outside of Zones designated A, AE, AI-30, AO, VE, VI-30, B, and X(shaded).

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.

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities; port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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.

LETTER OF MAP CHANGE (LOMC). A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated *special flood hazard area*. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a specific property or *structure* is not located in a *special flood hazard area*.

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

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood insurance Study*; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

LOWEST FLOOR. The lowest floor of the lowest enclosed area, including 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. The lowest floor of a manufactured home shall be the bottom of the lowest horizontal supporting member (chassis beam).

MANUFACTURED HOME. A transportable structure with or without a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

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

MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE). A principal department of the State of Maryland that is charged with, among other responsibilities, the coordination of the National Flood Insurance Program in Maryland (NFIP State Coordinator) and the administration of regulatory programs for *development* and construction that occur within the waters of the State, including nontidal wetlands, nontidal waters and floodplains, and State and private tidal wetlands (Tidal Wetlands). Unless otherwise specified, "MDE" refers to the Department's Wetlands and Waterways Program.

NAVD. North American Vertical Datum of 1988 – elevation datum set by the National Geodetic Survey.

NEW CONSTRUCTION. A structure for which the start of construction commenced on or after June 5, 1985, the initial effective date of the Garrett County Flood Insurance Rate Map, and includes any subsequent improvements.

NONTIDAL WETLAND. Any land which is considered a nontidal wetland pursuant to the Environmental Article Title 5, Subtitle 9 of the Annotated Code of Maryland.

PERMANENT CONSTRUCTION. Any structure occupying a site for more than 180 days per year.

RECREATIONAL VEHICLE. A vehicle built on a single chassis which is 400 square feet or less at the longest horizontal projection, self-propelled or towable, and designed primarily for temporary living while traveling, camping, recreating or for seasonal use.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1-percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in flood insurance studies and on flood insurance rate maps as zones A, AE, AH, AO, AI-30 and A99.

START OF CONSTRUCTION. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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.

SUBDIVISION. The division or redivision of lots, tracts, parcels or other divisions of land, including a change in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership, building or lot development.

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 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENTS. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 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 180 days from issuance of the permit.

VARIANCE. The grant of relief from a term or terms of this chapter.

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

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

§ 151.007 AMENDMENTS

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 (FEMA) and the Maryland Department of Environment (MDE).

ADMINISTRATION

§ 151.010 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Chief of the Permits and Inspections office is hereby appointed as the Floodplain Administrator or Local Permitting Officer and shall be responsible to administer and enforce this chapter. The Administrator may delegate duties and responsibilities to qualified technical personnel, plan examiners, inspectors and other employees as outlined within this chapter and provide the same for any municipality that may enter into an agreement with Garrett County to administer this chapter.

§ 151.011 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

- (A) Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
- (B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (C) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of this chapter.
- (D) Review applications to determine whether all necessary permits have been approved from all applicable Federal, State or local agencies from which prior or concurrent approval is required.
- (E) Verify that applicants proposing an alteration of a special flood hazard area have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
- (F) Approve applications and issue permits to develop in special flood hazard areas if the provisions of this chapter have been met, or disapprove applications if the provisions of these regulations have not been met.
- (G) Inspect or cause to be inspected buildings, structures, and other development for which permits have been issued to determine compliance with this chapter or to determine if non-compliance has occurred or violations have been committed.

- (H) Review elevation certificates and require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- (I) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- (J) Maintain and permanently keep records that are necessary for the administration of this chapter, including:
- (1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - (2) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of this chapter.
- (K) Enforce the provisions of this chapter, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (L) Administer the requirements related to proposed work on existing buildings:
- (1) Make determinations as to whether buildings and structures that are located in special flood hazard areas and that are damaged by any cause have been substantially damaged.
 - (2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (M) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; and provide owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas
- (N) Notify the Federal Emergency Management Agency when the corporate boundaries of Garrett County or any of its municipalities have been modified and provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to this chapter has either been assumed or relinquished through annexation.
- (O) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

FLOODPLAIN ZONES

§ 151.020 IDENTIFICATION OF FLOODPLAIN ZONES

The regulatory floodplain shall be those areas of the County delineated as Special Flood Hazard Areas and base flood elevations within the Flood Insurance Study (FIS) for Garrett County, Maryland and incorporated areas dated October 2, 2013 as may be revised and the accompanying Flood Insurance Rate Maps (FIRMs) and all subsequent amendments and revisions to the FIRMs. The FIS and FIRMs are retained on file and available to the public at the Permits & Inspections office.

§ 151.021 FLOODPLAIN ZONES

- (A) A community may have these nontidal floodplain zones:
- (1) Floodplain: that part of the floodplain outside of the floodway.
 - (2) Floodway: that area of the floodplain reserved to discharge the waters of the 100-year flood.
- (B) Nontidal floodplains may have detailed engineering study data, profiles, and water surface elevations, or may have approximate delineations only.

§ 151.022 FLOODPLAIN BOUNDARIES

07 0538

- (A) *Floodplain zone determination.* The local permitting official will determine the floodplain zone in which the development activity is proposed using the FIRMs and FIS if applicable. 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 approval from FEMA through the issuance of a letter of map change or amendment.
- (B) *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 100-year flood and the extent of the floodway, and must delineate these on the site plan submitted for approval. For new subdivisions, the applicant must have the 100-year flood elevations certified by a registered professional engineer based on hydrologic and hydraulic analyses which include a floodway analysis.

§ 151.023 DEVELOPMENT REGULATIONS IN FLOODPLAIN ZONES

- (A) *Generally.* 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 1 zone, the more stringent provisions shall apply to the entire structure. The specific requirements contained in §151.085 through §151.092 also apply to development in this subchapter. Any approved development shall comply with all other zoning, environmental, water quality and sanitary regulations, as well as applicable State and Federal requirements.
- (B) *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 met and adverse impacts to aquatic resources must be minimized. Adjacent communities and property owners, the U.S. Army Corps of Engineers, FEMA, and the MDE must be notified by the applicant before any modification may occur to watercourses. Any activity falling within the 100-year nontidal floodplain may require a waterway construction permit from the MDE.
- (C) *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 that no alternatives exist and the encroachment is the minimum necessary. Mitigation may be required by the appropriate regulatory authorities.
- (D) *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.

PERMIT PROCEDURES

§ 151.030 GENERAL

A floodplain management permit is required for all development in any designated floodplain area. It shall be granted only after all necessary permit applications are approved by applicable 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.

§ 151.031 INFORMATION FOR A PERMIT

- (A) Applications for a floodplain management permit shall contain, at a minimum, the following information:
 - (1) Name, address, and phone number of applicant (owner or contract vendee);
 - (2) Name, address, and phone number of owner, if different;
 - (3) Name, address, and phone number of contractor;
 - (4) Legal description of site location;
 - (5) Proposed uses for the site;
 - (6) Type, dimensions, and estimated cost of development proposed;
 - (7) Site characteristics and improvements; and
 - (8) Other information deemed appropriate by the local permitting official.

- 0007, 0539
- (B) All permit applications must have a site plan drawn to scale which shows:
 - (1) Dimensions of site;
 - (2) Size and location of existing and proposed structures or alterations;
 - (3) Setbacks;
 - (4) Elevation contours in mean sea level (NAVD);
 - (5) Delineation of the 100-year flood elevation and boundary; and
 - (6) Proposed elevation of the lowest floor and method of elevation, if applicable.
 - (C) Building plans as required by the County building code.
 - (D) All applicants shall agree in writing to provide an elevation certificate completed by a registered professional engineer or surveyor 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 declaration of land restriction recorded among the land records of Garrett County shall be required, in addition to an agreement to install water equalizing vents as specified in § 151.086.
 - (E) 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 floodplain areas, permits shall be tracked by property location to determine if the cumulative value of improvements constitutes substantial improvement of a structure.

§ 151.032 SUBDIVISION PROPOSALS

In addition to the information required in § 151.031, an applicant for subdivision in the nontidal floodplain zone shall submit a plan to demonstrate that a building site and on-site sewerage disposal for each lot is outside of the 100-year floodplain. The plan for utility ingress, stormwater drainage structures, road access, and other rights of way shall be evaluated in light of the site characteristics. Subdivision requirements are outlined in § 151.058.

§ 151.033 ISSUANCE OF PERMIT

- (A) *Considerations.*
 - (1) 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 the elevation. 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.
 - (2) 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 granted. Permits are valid only after all other necessary permits are granted.
- (B) *Dam safety.* Caution should be exercised when approving development downstream of existing or proposed dams. The condition of the dam, as well as the design criteria, hazard class, and the danger reach, should be investigated to avoid increasing potential hazards. Dams must meet design criteria based on the potential impacts downstream of the dam. Downstream development within the dam break flood wave shall be denied unless the dam meets the design standards for a high hazard dam.
- (C) *After issuance and during construction.*
 - (1) 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.

- 2007 1110540
- (2) Work on the permitted activity shall begin within 180 days of the issuance of the permit, or the permit shall expire, unless a written extension is granted by the local permitting official.
 - (3) 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.
- (D) *Record of permits.* A record of all floodplain permits shall be maintained in the Permits and Inspections office and be available upon request for the Federal Emergency Management Agency or its authorized agent (MDE) 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, variance actions, shall be available for review during these assessments.

§ 151.034 FEES

A fee may be charged at the time of application.

DEVELOPMENT – FLOODPLAIN

§ 151.055 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.

§ 151.056 ELEVATION REQUIREMENTS

- (A) *Residential structures.* All new or substantially improved residential structures, including manufactured homes, shall have the lowest floor elevated to or above the flood protection elevation. Basements are not permitted. The elevation of the lowest floor shall be certified by a registered surveyor or professional engineer on the 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 § 151.086. Improvements which are less than substantial shall be constructed to minimize damage during flooding or shall be elevated to the greatest extent possible.
- (B) *Nonresidential structures.* All new or substantially improved nonresidential structures shall either be elevated as set forth above for residential structures or shall be floodproofed. 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 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 the design and specifications and certify that the nonresidential structure will meet this standard. State regulations do not allow basements in nonresidential buildings in the nontidal floodplain.

§ 151.057 FILL

- (A) The placement of more than 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 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. A Conditional Letter of Map Revision Based on Fill issued by FEMA shall be required before a permit shall be issued by the County. Following completion of the project, a Letter of Map Revision Based on Fill shall be obtained from FEMA.
- (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 requirements described in § 151.092

must be met whenever fill is used.

007 10541

§ 151.058 SUBDIVISION REQUIREMENTS

- (A) In any floodplain area, lots may be subdivided only if each new lot has a buildable site outside the boundary of the 100-year floodplain. All proposals and applications for the subdivision of land and/or new development in any floodplain area shall include a plan drawing showing the location of all existing and proposed public and private utilities, facilities, drainage structures, and road access. If the 100-year flood elevation(s) have been determined by the Flood Insurance Study or other reliable source approved by the MDE, such flood elevation(s) shall be delineated on the proposed plan. If the proposal involves more than 5 lots or greater than 5 acres and the 100-year flood elevation has not been determined for the land area, the developer shall determine the 100-year flood elevation and delineate such flood elevation on the proposed plan.
- (B) All plans shall be certified by a registered professional engineer and shall be reviewed by the County to assure that:
- (1) All such proposals are consistent with the need to minimize flood damage;
 - (2) All necessary permits have been received from the MDE and appropriate Federal agencies;
 - (3) All public and private utilities and facilities (including sewer, water, telephone, electric, gas, and the like) are located, constructed and floodproofed to minimize or eliminate flood damage;
 - (4) Adequate drainage is provided to reduce exposure to flood hazards;
 - (5) At least 1 access which, during the 100-year flood, shall provide safe vehicular access to and egress from the subdivision and/or new development; and
 - (6) Adequate measures have been taken to minimize adverse environmental impacts of the proposed development.

DEVELOPMENT - FLOODWAY

§ 151.070 GENERAL

Floodways shall be preserved to carry the discharge of the 100-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 residential structures shall not be permitted. Other new development shall not be permitted in the floodway except where the lowest floor of the new structure is at or above the flood protection elevation (FPE) and the effect of the development on flood heights is fully offset by accompanying stream modification in accord with § 151.072 and the development is approved by the MDE through the issuance of a waterway construction permit and when necessary, the U.S. Army Corps of Engineers. 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, and Letter of Map Revision shall be obtained from FEMA following completion of the project. Hydrologic and hydraulic analyses based on existing floodway models and performed in accordance with standard engineering practices and certified by a registered professional engineer must be submitted. Failure to receive this letter shall be grounds for denial of the permit. An alternative analysis must be prepared for any development in the floodway before a permit may be issued. The provisions of § 151.055 through § 151.058, as well as § 151.070 through § 151.074, apply to floodways.

§ 151.071 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 100-year flood without significant damage; and
- (D) The development will not increase downstream or upstream flooding or erosion.

§ 151.072 EXISTING STRUCTURES

- HER007 PHOTO 542
- (A) Existing structures in the floodway shall not be substantially improved (more than 50% of market value) or replaced unless the lowest floor of the structure is elevated at or above the flood protection elevation (FPE) and the effect of the proposed development or improvement on flood heights is fully offset by accompanying stream modifications. All proposals to offset the effects of building in the floodway by construction of stream modifications, shall be documented by an engineering study prepared by a registered professional engineer which fully evaluates the effects of such construction and shall be submitted to MDE. The report shall use the flood insurance study and the flood insurance rate maps as prepared by the Federal Emergency Management Agency and adopted herein as the basis of the analysis. The County shall not issue any permit for construction in the floodway until it has received written notice from MDE that a waterway construction permit for the proposal has been approved.
 - (B) The placement of any manufactured homes or buildings in the floodway shall be prohibited except where the manufactured home is replacing an existing manufactured home of equal dimensions, has a lowest floor which is 1 foot above the elevation of the 100-year flood, and has no effect on flood heights. Such replacement must be approved by MDE through the issuance of a waterway construction permit.

§ 151.073 MAINTENANCE OF NATURAL CHANNELS

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 conditions 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 § 151.023 through § 151.074 pertaining to altering a watercourse must be met.

§ 151.074 OBSTRUCTIONS

Structures or fill which may impede, retard, or change the direction of the flow of flood waters, or any materials that may be carried downstream to cause damage shall not be placed in the floodway. Fences, except 2 wire fences, shall not be placed in the floodway.

SPECIFIC REQUIREMENTS

§ 151.085 PLACEMENT OF BUILDINGS AND MATERIALS

- (A) In general, buildings and accessory structures should be located entirely out of the floodplain, 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 flood waters. Materials which are buoyant, flammable, explosive, 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) New buildings and structures (including the placement and replacement of manufactured homes) and substantial improvement of existing structures (including manufactured homes) that are located, in whole or in part, in any special flood hazard area shall:
 - (1) Be constructed by methods and practices that minimize flood damage.
 - (2) Use flood damage-resistant material below the elevation of the lowest floor required in § 151.056.

§ 151.086 ENCLOSURES BELOW LOWEST FLOOR

- (A) 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 (§ 151.090), shall be constructed with water equalizing vents which meet or exceed the following standards:
 - (1) A minimum of 2 openings on different walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding;
 - (2) The bottom of all openings shall be no higher than 1 foot above grade; and
 - (3) 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.

- 007 0343
- (B) 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 declaration of land restriction recorded among the land records of Garrett County shall be required, in addition to an agreement to install water equalizing vents as specified in § 151.086.

§ 151.087 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS

- (A) New manufactured homes and manufactured home parks are prohibited in the floodway except for replacement units as specified in § 151.072. In the floodplain, all new, replacement, or substantially improved manufactured homes, whether in a manufactured home park or not, shall comply with § 151.056.
- (B) 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.
- (C) Manufactured homes repaired or replaced because of substantial damage due to flooding or other causes must fully comply with § 151.056.
- (D) Owners of manufactured home parks or subdivisions that are partially or fully within the floodplain must file an evacuation plan with the local emergency management agency. A flood free access road shall be provided in all new manufactured home parks and subdivisions.

§ 151.088 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.

§ 151.089 UTILITIES

- (A) *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 2 feet above the flood protection elevation. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators, 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 including septic tanks, cesspools, seepage pits, and drain fields are prohibited in all floodplain zones.

§ 151.090 ACCESSORY STRUCTURES AND GARAGES

- (A) *Generally.* 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:
 - (1) The floor of the structure must be at or above grade;
 - (2) The structure must be located, oriented, and constructed so as to minimize flood damage; and
 - (3) The structure must be firmly anchored to prevent flotation.

- 007 0544
- (B) *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 600 feet in area. Attached garages must meet the venting requirements of § 151.086, 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 declaration of land restriction recorded among the land records of Garrett County shall be required.
- (C) *Detached garages and accessory structures.*
- (1) An accessory structure or detached garage may be permitted as an exemption to the elevation requirement if it is less than 300 square feet, used solely for parking of vehicles and limited storage, meets the venting requirements of § 151.086 and anchoring requirements of §151.088, 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.
 - (2) A permit may be issued at the discretion of the local permitting official when the 300 square foot exemption is exceeded for accessory structures up to a total size of 600 square feet. In order to qualify the structures use must be incidental to the primary structure, and it can be used only for limited storage and parking of vehicles. The venting requirements of § 151.086 must be met. In addition, a declaration of land restriction recorded among the land records of Garrett County shall be required. A statement of the greater flood risk and possibly higher flood insurance premiums must be included.
 - (3) An accessory structure or garage larger than 600 square feet in area must be elevated to or above the flood protection elevation or be able to meet all applicable requirements under the variance procedure in this chapter.

§ 151.091 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;
 - (2) Fully licensed and ready for highway use; and
 - (3) 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 manufactured home and is subject to the elevation and construction standards of this chapter.

§ 151.092 FILL

- (A) Fill 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.
- (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.
- (C) Fill used to support structures must be compacted to 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. Fill slopes shall be no greater than 2 horizontal to 1 vertical. Flatter slopes may be required where velocities may result in erosion.
- (D) The use of fill shall not increase flooding or cause drainage problems on neighboring properties.

VARIANCES

007 0545

§ 151.100 GENERAL

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

Upon consideration of the purposes of these regulations, the individual circumstances, and the circumstances and limitation of this section, The Directors may attach such conditions to *variances* as it deems necessary to further the purposes of these regulations.

The Local Permitting Official shall notify, in writing, any applicant to whom a *variance* is granted to construct or substantially improve a building or *structure* with its *lowest floor* below the elevation required by these regulations that the *variance* is to the floodplain management requirements of these regulations only, and the cost of Federal flood insurance will be commensurate with the increased risk, with rates up to \$25 per \$100 of insurance coverage. A record of all *variance* actions, including justification for issuance shall be maintained pursuant to § 151.011 (J) of these regulations.

§ 151.101 FLOODPLAIN VARIANCE APPLICATION

In order to obtain relief from the requirements of this Chapter, a request for a Floodplain Variance must be submitted to the local permitting official. The request shall include the following:

- A. The location and description of the project.
- B. Justification for the development.
- C. An engineering analysis with supporting documentation to meet the conditions set forth in §152.102.
- D. An acknowledgment that an increased premium rate for flood insurance may occur and that construction below the base flood increases risk to life and property.

§ 151.102 CONDITIONS GRANTING THE VARIANCE

Floodplain variances shall only be granted upon findings by the local permitting official, with the concurrence of the Directors, that the development complies with each of the following conditions which are consistent with sound floodplain management:

- A. Good and sufficient cause is demonstrated.
- B. Exceptional hardship exists (economic hardship shall not be considered exceptional).
- C. The proposed development is the minimum necessary to afford relief.
- D. Development shall not increase flood heights, shall not increase upstream or downstream flooding and shall not cause or aggravate drainage problems or stormwater management problems on off-site properties.
- E. Additional threats to public safety are not posed.
- F. A determination that the granting of a floodplain variance will not result in extraordinary public expense or create nuisances, cause fraud or victimization of the public.
- G. No conflicts occur with existing local laws or ordinances.
- H. Comments from the State National Flood Insurance Program Coordinator are received.

- I. Floodproofing requirements in FEMA regulations are met. 007 0546
- J. Any other conditions that the Directors may deem necessary for the protection of the health, safety and welfare of the public.

§ 15L.103 NATURAL CHANNEL AND WATERCOURSES

The natural watercourse shall be maintained for protection of aquatic resources. In all floodplain zones, any development, which proposes to alter a watercourse, must obtain a Floodplain Variance. Any Floodplain Variance issued for the alteration of watercourses must assure that:

- A. The conditions for encroachment in the floodway are approved by FEMA, adverse impacts to aquatic resources are minimized and the public good outweighs the adverse impacts;
- B. A certification by a licensed professional engineer that the flood-carrying capacity of the *watercourse* will not be diminished;
- C. Evidence that adjacent communities, the U.S. Army Corps of Engineers, and MDE have been notified of the proposal, and evidence that such notifications have been submitted to FEMA.
- D. Evidence that the applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the *watercourse* so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the applicant to enter into an agreement with Garrett 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.

§ 15L.104 DENIAL OF VARIANCE

Floodplain variances shall not be granted for:

- A. The placement of fill in the floodway except for that associated with public roads. Compensatory storage must be provided.
- B. New structures in the floodway except for that associated with necessary infrastructure.
- C. Storage of materials or storage of equipment in the floodway.
- D. Substantial improvements of nonconforming structures in the floodway except for historic buildings.
- E. Encroachment in the floodway if any increase in the base flood will result.

§ 15L.105 ISSUANCE OF FLOODPLAIN VARIANCES

- A. The variance granted by the Directors shall be the minimum necessary, considering the flood hazard, to afford relief.
- B. For any floodplain variance issued, a letter shall be sent to the applicant indicating the terms and conditions of the floodplain variance, the increased risk to life and property in granting the variance and the increased premium rates for National Flood Insurance coverage.
- C. The applicant shall be notified in writing of the requirement for recordation of these conditions in the land records of Garrett County prior to obtaining a permit.

The granting of a floodplain variance does not exempt the applicant from all required Federal and State permits. The applicant must secure all necessary State and Federal permits before proceeding with the development project.

§ 15L.106 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 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 §151.101 and §151.102 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.

§ 151.999 PENALTY

- (A) Any person who fails to comply with any or all of the requirements or provisions of this chapter or direction of the County Planning and Zoning Office or any other authorized employee of the County shall be guilty of a misdemeanor and subject to a fine of not more than \$500.
- (B) Each day during which any violation of this chapter continues shall constitute a separate offense.
- (C) The imposition of a fine or penalty for any violation of or noncompliance with this chapter shall not excuse the violation or non-compliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and non-compliance within a reasonable time.
- (D) Any structure constructed, reconstructed, enlarged, altered, or relocated in non-compliance with this chapter shall be declared by the County to be a public nuisance and abatable as such.
- (E) The Federal Insurance Administrator and MDE shall be notified immediately in writing of any structure or property built or being used in violation of this chapter, including failure to submit as-built elevation certificates.
- (F) New or renewal National Flood Insurance shall be denied for any structure remaining in violation or situated on property in violation of this chapter.

EFFECTIVE DATE

NOW, THEREFORE, be it further enacted that this act shall become effective on the 2ND day of OCTOBER 2013.

WITNESS the corporate name of the BOARD OF COUNTY COMMISSIONERS OF GARRETT COUNTY, MARYLAND, by Robert G. Gatto, its Chairman, attested to by R. Lamont Pagenhardt, its County Administrator, this 20th day of AUGUST, 2013.

**BOARD OF COMISSIONERS
GARRETT COUNTY, MARYLAND**


Robert G. Gatto, Chairman


Gregan T. Crawford, Commissioner


James M. Raley, Commissioner

ATTEST:



R. Lamont Pagenhardt
County Administrator