

**COUNTY COUNCIL OF CECIL COUNTY, MARYLAND
LEGISLATIVE SESSION 2022-19**

BILL NO. 2022-12

Title of Bill: Amendment – Zoning Ordinance – Floodplain District

Synopsis: A Bill to amend Article XI, Part III (Floodplain District) of the Cecil County Zoning Ordinance including: updates to references to federal statutes, updates to definitions, clarifications in administration and procedures, clarifications to requirements in all flood zones, clarifications to requirements in flood zones that are not high hazard or coastal A zones (A zones), clarifications to requirements to high hazard or coastal A flood zones(V zones or Coastal A zones), and updates to variance requirements within a flood zones.

Introduced by: Council President on behalf of County Executive

Introduced and order posted on: September 6, 2022

Public hearing scheduled on: October 4, 2022 at 7:00 p.m.

Consideration scheduled on: October 18, 2022

By: _____
Council Manager

Notice of time and place of public hearing and title of Bill having been posted by (date) at the County Administration Building, 200 Chesapeake Blvd., Elkton, and having been published according to the Charter on (date), a public hearing was held on (date) and concluded on (date).

By: _____
Council Manager

Explanation: CAPITAL LETTERS INDICATE LANGUAGE ADDED TO EXISTING DOCUMENT
~~Strike through~~ indicates language deleted from existing document
Underlining indicates language added to document by amendment.
~~Double Strike through~~ indicates language stricken from document by amendment.

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Amendment – Zoning Ordinance – Floodplain District

1 **WHEREAS**, pursuant to the Annotated Code of Maryland, Division 1, Title 4, Subtitle 1,
2 Section 4-101(a)(1), Land Use Article it is the policy of the State that orderly development and use
3 of land and structure requires comprehensive regulation through the implementation of planning
4 and zoning controls; and

5 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-102, Land Use Article, a
6 legislative body may regulate to promote the health, safety, and general welfare of the
7 community; and

8 **WHEREAS**, pursuant to Annotated Code of Maryland Section 4-103, Land Use Article, a
9 legislative body may impose any additional conditions or limitations that the legislative body
10 considers appropriate to improve or protect the general character and design of the land and
11 improvements being zoned or rezoned; and

12 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-202, Land Use Article, the
13 legislative body shall adopt zoning regulations in accordance with the plan, with reasonable
14 consideration for the character of the district or zone and it uses and with a view to conserve the
15 value of property and encourage the orderly development of the most appropriate use of land;
16 and

17 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-203(a), Land Use Article, a
18 legislative body shall provide for the manner in which its zoning regulations and the boundaries of
19 the districts and zones shall be established, enforced and amended; and

20 **WHEREAS**, the Maryland Department of the Environment (MDE) requires floodplain district
21 standards in said ordinance to meet the minimum standards prescribed by Federal Emergency
22 Management Administration (FEMA) and MDE; and

23 **WHEREAS** the MDE has developed Maryland Model Floodplain Management Ordinance
24 which incorporates the minimum FEMA and MDE standards and recommended practices to assist
25 and local jurisdictions; and

26 **WHEREAS**, Article XI, Part III - Floodplain District of the Cecil County Zoning Ordinance has
27 incorporated the minimum FEMA and MDE standards and some recommended practices from the
28 Model Floodplain Management Ordinance; and

29 **WHEREAS**, there have been updates to the minimum standards and recommended
30 practices from MDE since the 2015 update to the Article XI, Part III of the Cecil County Zoning
31 Ordinance; and

32 **WHEREAS**, the Department of Land Use and Development Services recommends updating
33 Article XI, Part III of the Cecil County Zoning Ordinance to remain compliant with the minimum
34 standards and recommended practices; and

35 **WHEREAS** pursuant to Annotated Code of Maryland, Section 4-203(b)(1), Land Use Article,
36 a legislative body shall hold at least one public hearing on a proposed zoning regulation or
37 boundary at which parties of interest and citizens have an opportunity to be heard; and

38 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-203(b)(2), Land Use Article,
39 the legislative body shall publish notice of the time and place of the public hearing, together with a
40 summary of the proposed zoning regulations or boundary, in at least one newspaper of general
41 circulation in the local jurisdiction once each week for 2 successive weeks; and

42 **WHEREAS**, the Cecil County Planning Commission reviewed the proposed amendments on
43 August 15, 2022.

44 **NOW, THEREFORE, BE IT HEREBY ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY,**
45 **MARYLAND**, that the proposed amendments to Article XI, Part III Floodplain District of the Zoning
46 Ordinance is hereby amended as follows:

47 **Part III Floodplain District**

48 **Section 224. General Provisions and Purpose**

49 *1. – 2. No Changes*

50 3. The Maryland General Assembly in ~~Article 25A, Section 5(x), General Development Regulations~~
51 ~~and Zoning (Annotated Code of Maryland)~~ **LAND USE ARTICLE, TITLE 4, ANNOTATED CODE OF**

52 **MARYLAND**, has established as policy of the State that the orderly development and use of land
53 and structures requires comprehensive regulation through the implementation of planning and
54 zoning control, and that planning and zoning controls shall be implemented by the County in order
55 to , among other purposes, secure the public safety, promote health and general welfare, and
56 promote the conservation of natural resources.

57 It is the purpose of this Part to promote the public health, safety and general welfare, and to:

58 *(A) – (M) No Changes*

59 (N) Meet community participation requirements of the National Flood Insurance Program as set
60 forth in the Code of Federal Regulations (**CFR**) at 44 CFR Section 59.22.

61 **Section 225. Applicability and Basis for Establishing Special Flood Hazard Areas and Base Flood**
62 **Elevations.**

63 1. These regulations shall apply to all special flood hazard areas within Cecil County and identified
64 herein.

65 (A) For the purposes of this Part, the minimum basis for establishing special flood hazard areas and
66 base flood elevations is the Flood Insurance Study for Cecil County, Maryland and Incorporated
67 Areas dated July 8, 2013 and May 4, 2015, or the most recent version thereof, and the
68 accompanying Flood Insurance Rate Maps and all subsequent amendments and revisions to the
69 FIRMs. The FIS and FIRMs are retained on file and available to the public at the Cecil County ~~Office~~
70 ~~of Planning & Zoning~~ **DEPARTMENT OF LAND USE AND DEVELOPMENT SERVICES**, County
71 Administration Building, ~~Suite 2300~~, 200 Chesapeake Boulevard, Elkton, Maryland 21921.

72 *(B) No Changes*

73 (C) To establish base flood elevations in special flood hazard areas that do not have such elevation
74 shown on the FIRM, the Floodplain Administrator may provide the best available data for base
75 flood elevations, may require the applicant to obtain available information from Federal, State, or
76 other sources, or may require the applicant to establish special flood hazard areas and base flood
77 elevation as set forth in Section ~~228~~ **229** of this Ordinance.

78 *2. – 3. No Changes*

79 **Section 226. Severability** *No changes*

80 **Section 227. Warning and Disclaimer of Liability** *No changes*

81 **Section 228. Definitions**

82 In addition to the definitions in Article II, and unless specifically defined below, words or phrases
83 used in these regulations shall be interpreted to have the meaning they have in common language
84 and to give these regulationS the most reasonable application. The following definition pertain
85 specifically to the Flood District:

86 *Accessory Structure – No changes*

87 *Agreement to Submit an Elevation Certificate – No changes*

88 *Alteration of a Watercourse – No changes*

- 89 *Area of Shallow Flooding – No changes*
- 90 *Base Building – No changes*
- 91 *Base Flood – No changes*
- 92 *Base Flood Elevation – No changes*
- 93 *Basement – No changes*
- 94 *Breakaway Wall – No changes*
- 95 *Building Code(s) – No changes*
- 96 Coastal A Zone: An area within the special flood hazard area, landward of the coastal high hazard
- 97 areas (V Zone) or landward of a shoreline without a mapped coastal high hazard area, in which the
- 98 principal source(s) of flooding are astronomical tides and storm surges, and in which, during base
- 99 flood conditions, the potential exists for breaking waves with heights greater than or equal to 1.5
- 100 feet. The inland limit of Coastal A zone may be delineated on FIRMs as the “Limit of Moderate
- 101 Wave Action **(LiMWA).**”
- 102 *Coastal High Hazard Area – No changes*
- 103 *Community – No changes*
- 104 *Critical and Essential Facilities – No changes*
- 105 *Declaration of Land Restriction (Non-conversion Agreement) – No changes*
- 106 *Development – No changes*
- 107 Elevation Certificate: FEMA Form ~~81-31~~, on which surveyed elevations and other data pertinent to
- 108 a property and a building are identified and which shall be completed by a licensed professional
- 109 land surveyor or a licensed professional engineer, as specified by the Floodplain Administrator.
- 110 When used to document the height above grade of building in special flood hazard area for which
- 111 base flood elevation data are not available, the Elevation Certificate shall be completed in
- 112 accordance with the instructions issued by FEMA. **(NOTE: FEMA FORM 086-0-33 AND**
- 113 **INSTRUCTIONS ARE AVAILABLE ONLINE AT**
- 114 [HTTPS://WWW.FEMA.GOV/MEDIA-LIBRARY/ASSETS/DOCUMENTS/160.](https://www.fema.gov/media-library/assets/documents/160))
- 115 *Enclosure Below the Lowest Floor – No changes*
- 116 *Federal Emergency Management Agency (FEMA) – No changes*
- 117 *Flood or Flooding – No changes*
- 118 *Flood Damage-Resistant Materials – No changes*

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119 *Flood Insurance Rate Map (FIRM): No changes*

120 *Flood Insurance Study (FIS): No changes*

121 Flood Opening: A flood opening (non-engineered) is an opening that is used to meet the
122 prescriptive requirement of one (1) square inch of net open area for every square foot of enclosed
123 area. An engineered flood opening is an opening that is designed and certified by a licensed
124 professional engineer or licensed architect as meeting certain performance characteristics,
125 including providing automatic entry and exit of flood waters; ~~the~~ **THIS** certification requirement
126 may be satisfied by an individual certification **FOR A SPECIFIC STRUCTURE** or issuance of an
127 Evaluation Report by the ICC Evaluation Service, Inc. {Note: See NFIP Technical Bulletin #1,
128 “Openings in Foundation Walls and Walls of Enclosures.”}

129 *Floodplain – No changes*

130 Floodproofing or Floodproofed: Any combination of structural and nonstructural additions,
131 changes, or adjustments to buildings for structures which reduce or eliminate flood damage to real
132 estate or improved real property, water, and sanitary facilities, structures and their contents, such
133 that the buildings or structures are watertight with walls substantially, impermeable and the
134 passive of water and with structural components having the capability of resisting hydrostatic and
135 hydrodynamic loads and effects of buoyancy. {Note: State regulations at COMAR 26.17.04.11(B)(7)
136 do not allow new nonresidential buildings in nontidal waters of the State to be floodproofed.}

137 Floodproofing Certificate: FEMA Form ~~81-65~~ that is to be completed, signed and sealed by a
138 licensed professional engineer or licensed architect to certify that building has been designed and
139 constructed to be structurally dry floodproofed to the Flood Protection Elevation. The design of
140 floodproofing and proposed methods on construction shall be in accordance with the applicable
141 requirements of COMAR 26.17.04.11(B)(7) (**NOTE: FEMA FORM 086-0-33 AND INSTRUCTIONS ARE**
142 **AVAILABLE ONLINE AT [HTTPS://WWW.FEMA.GOV/MEDIA-LIBRARY/ASSETS/DOCUMENTS/2478.](https://www.fema.gov/media-library/assets/documents/2478)**)

143 *Flood Protection Elevation (FPE) – No changes*

144 *Flood Protection Setback – No changes*

145 *Floodway – No changes*

146 *Floodway Fringe – No change*

147 *Flood Zone – No changes*

148 *Freeboard – No changes*

149 *Free-of-Obstruction – No changes*

150 *Functionally Dependent Use – No changes*

151 *Highest Adjacent Grade – No changes*

152 *Historic Structure – No changes*

153 *Hydrologic and Hydraulic Engineering Analyses – No changes*

154 Letter of Map Change (LOMC): A Letter of Map Change is an official FEMA determination, by letter,
155 that amends or revises an effective Flood Insurance Rate Map (FIRM) of Flood Insurance Study.

156 *Letters of Map Change* include:

157 *1) -2) No changes*

158 3) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a
159 proposed flood protection project or other project complies with the minimum NFIP requirements
160 for such project with respect to delineation of special flood hazard areas. **A CONDITIONAL LETTER**

161 **OF MAP REVISION BASE ON FILL (CLOMR-F) IS A DETERMINATION THAT A PARCEL OF LAND OR**
162 **PROPOSED STRUCTURE THAT WILL BE ELEVATED BY FILL WOULD NOT BE INUNDATED BY THE**
163 **BASE FLOOD IF FILL IS PLACED ON THE PARCEL AS PROPOSED OR THE STURCTURE IS BUILT AS**
164 **PROPOSED.** A CLOMR does not revise the effective Flood Insurance Rate Map (FIRM) or Flood
165 Insurance Study; upon submission and approval of certified as-built documentation, a Letter of
166 Map Revision may be issued by FEMA to revise the effective FIRM.

167 **LIMIT OF MODERATE WAVE ACTION (LIMWA): INLAND LIMIT OF THE AREA AFFECTED BY WAVES**
168 **GREATER THAN 1.5 FEET DURING THE BASE FLOOD. BASE FLOOD CONDITIONS BETWEEN THE VE**
169 **ZONE AND THE LIMWA WILL BE SIMILAR TO, BUT LESS SEVRE THAN THOSE IN THE VE ZONE.**

170 *Licensed – No changes*

171 *Lowest Floor – No changes*

172 *Manufactured Home – No changes*

173 *Market Value – No changes*

174 *Maryland Department of Environment (MDE) – No changes*

175 **MIXED-USE STRUCTURE: ANY STRUCTURE THAT IS USED OR INTENDED FOR USE FOR A MIXTURE**
176 **OF NONRESIDENTIAL AND RESIDENTIAL USES IN THE SAME STRUCTURE.**

177 *National Flood Insurance Program (NFIP) – No changes*

178 *NAVD – No changes*

179 *New Construction – No changes*

180 *NFIP State Coordinator – No changes*

181 *Nontidal Waters of the State – No changes*

182 *Person – No changes*

183 *Recreational Vehicle – No changes*

184 Special Flood Hazard Area (SFHA): The land in the floodplain subject to a one (1)- percent or
185 greater change of flooding in any given year. Special flood hazard areas are designated by the
186 Federal Emergency Management Agency (FEMA) in Flood Insurance Studies and on Flood
187 Insurance Rate Maps as Zones A, AE, AH, A0, A1-30, and A99 and Zones VE and V1-30. The term
188 includes area shown on other flood maps that are specifically listed **IN SECTION 225** or otherwise
189 described in COMAR 26.17.04.03(C).

190 *Start of Construction – No changes*

191 *Structure – No changes*

192 Substantial Damage: Damage of any origin sustained by a building or structure whereby the cost of
193 restoring the building or structure to its before damaged condition would equal or exceed fifty
194 (50) percent of the market value of the building or structure before the damage occurred. Also
195 used as “substantially damaged” structures. **(NOTE: SEE “SUBSTANTIAL**
196 **IMPROVEMENT/SUBSTANTIAL DAMAGE DESK REFERENCE” (FEMA P-758).)**

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

202 *(1) No changes*

203 *(2) Any alteration of an historic structure, provided that the alteration will not preclude the*
204 *structure’s continued designation as a historic structure. (NOTE: SEE “SUBSTANTIAL*
205 **IMPROVEMENT/SUBSTANTIAL DAMAGE DESK REFERENCE” (FEMA P-758).)**

206 *Temporary Structure – No changes*

207 *Variance – No changes*

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

214 *Watercourse – No changes*

215 *Waters of the State – No changes*

216 *Wetland – No changes*

217 **Section 229. Administration and Procedures**

218 1. Designation of the Floodplain Administrator.

219 The Director of ~~Planning & Zoning~~ **LAND USE AND DEVELOPMENT SERVICES** is designated to
220 administer and implement these regulations and is referred to herein as the Floodplain
221 Administrator. The Floodplain Administrator may:

222 *(A) No Changes*

223 (B) Enter into a written agreement or written contract with another Maryland community or
224 private sector entity to administer specific provisions of these regulations. Administration of any
225 part of these regulations by another entity shall not relieve the County of its responsibilities
226 pursuant to the participation requirement of the Nation Flood Insurance Program as set forth in
227 the Code of Federal Regulations (**CFR**) at 44 CFR Section 59.22.

228 2. Duties and Responsibilities of the Floodplain Administrator.

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

230 *(A) –(I) No changes*

231 (J) Submit to FEMA, or required applicants to submit to FEMA, data and information necessary to
232 maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the
233 County within six months after such data and information becomes available if the analyses
234 indicate changing the base flood elevations **OR BOUNDARIES**.

235 *(K)-(N) No Changes*

236 (O) Undertake, as determined appropriate by the Floodplain Administrator due to the
237 circumstances, other actions which may include but are not limited to: issuing press releases,

238 public service announcements, and other public information material related to permit requests
239 and repair of damaged structures; coordination with other Federal, State, and County agencies to
240 assist with substantial damage determination; providing owner of damaged structures information
241 related to the documentation necessary to file claims for Increased Cost of Compliance (**ICC**)
242 coverage under NFIP flood insurance policies.

243 *(P)-(Q) No Changes*

244 3. Use and Interpretation of FIRMs

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

248 *(A)-(D) No Changes*

249 (E) If a Preliminary Flood Insurance Rate Map and/or Preliminary Flood Insurance Study has been
250 provided by FEMA:

251 (1) Upon the issuance of the Letter of Final Determination by FEMA, **IF** the preliminary flood
252 hazard data **IS MORE RESTRICTIVE THAN THE EFFECTIVE DATA, IT** shall be used and shall replace
253 the flood hazard data previously provide from FEMA for the purposes of administering these
254 regulations.

255 (2) Prior to the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard
256 data shall be deemed the best available data pursuant to Section 225.1**(C)** and used where no base
257 flood elevations and/or flood way areas are provided on the effective FIRM.

258 (3) Prior to issuance of the Letter of Final Determination by FEMA, the use of the preliminary flood
259 hazard date is permitted where the preliminary base flood elevations ~~or floodway areas,~~
260 **FLOODPLAIN OR FLOODWAY BOUNDARIES** exceed the base flood elevations and/or designated
261 floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be
262 subject to change and/or appeal to FEMA.

263 4. Permits Required and Expiration

264 *(A) No changes*

265 (B) In addition to the permits required in paragraph (A), applicants for permits in nontidal water of
266 the State are advised to contact MDE. Unless waived by MDE, pursuant to Code of Maryland
267 Regulations 26.17.04, Construction on Nontidal Waters and Floodplains, MDE regulates the “100-

268 year frequency floodplain of free-flowing waters,” also referred to as non-tidal water of the State.
269 To deter the 100-year frequency floodplain, hydrologic calculations are based on the ultimate
270 development of the watershed, assuming existing zoning. The resulting flood hazard areas are
271 delineated using the results of such calculation may be different than the special flood hazard
272 areas established in Section 225 of these regulations. **A PERMIT FROM CECIL COUNTY IS STILL**
273 **REQUIRED IN ADDITION TO ANY STATE REQUIREMENTS.**

274 *(C) No changes*

275 5. Application Required

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

279 (A) Application Contents

280 *(1)-(9) No changes*

281 (10) For accessory structure that are three hundred (300) square feet or larger in area (footprint)
282 **BUT NO LARGER THAN SIX HUNDRED (600) SQUARE FEET IN AREA (FOOTPRINT) AND** that are
283 below the base flood elevation, **A VARIANCE IS REQUIRED AS SET FORTH IN SECTION 233. IF A**
284 **VARIANCE IS GRANTED**, a **SIGNED** Declaration of Land Restriction (Non-conversion agreement)
285 shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.

286 *(11)-(12) No Changes*

287 (13) Certification and/or technical analyses prepared or conducted by a license professional
288 engineer or licensed architect, as appropriate, including:

289 (a) The determination of the base flood elevations or hydrologic and hydraulic engineering
290 analyses prepared by a licensed professional engineer that are required by the Floodplain
291 Administrator or are required by these regulations in: Section 230.2 for certain subdivisions and
292 development; Section 231.4(A) for development in designated floodways; Section 231.4~~(B)~~(C) for
293 development in flood hazard areas with base flood elevations but no designated floodways; and
294 Section 231.4~~(D)~~ (E) for deliberate alteration or relocation of watercourses.

295 (b) The Floodproofing Certificate for nonresidential structures that are floodproofed as required in
296 Section 231.4- **6(B)**.

297 *(c)-(d) No changes*

298 *(14)-(15) No changes*

299 *(B) No changes*

300 *6. -7. No changes*

301 8. Submission Required Prior to Final Inspection.

302 Pursuant to the Agreement to Submit an Elevation Certificate submitted with the application as
303 required in Section 229.5(A) **(9)**, the permittee shall have an Elevation Certificate prepared and
304 submitted prior to final inspection and issuance of the Certificate of Occupancy for elevated
305 structures and manufactured homes, including new structures and manufactured homes,
306 substantially-improved structures and manufactured home, and addition to structures and
307 manufactured homes.

308 **Section 230. Requirements in All Flood Hazard Areas**

309 *1. – 3. No changes*

310 4. Buildings and Structures.

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

314 *(A)-(B) No changes*

315 (C) Use flood damage-resistant materials below the elevation of the lowest floor required in
316 Section 231.6– **5 (A) OR SECTION 231.6 (A)** (for A Zones) or Section 232.3(B) (for V Zones and
317 Coastal A Zones).

318 (D) Have electrical systems, equipment, equipment and components, and mechanical, heating,
319 ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other
320 service equipment located at or above the elevation of the lowest floor required in
321 Section 231.6– **5(A) OR SECTION 231.6 (A)** (for A zones) or Section 232.3 (B) (for V Zones **AND**
322 **COASTAL A ZONES**). Electrical wiring systems are permitted to be located below elevation of the
323 lowest floor provide they conform to the provisions of the electrical part of the building code for
324 wet locations. If replaced as part of a substantial improvement, electrical systems, equipment and
325 components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing
326 fixtures, and duct systems and other service equipment shall meet the requirements of this
327 Section.

328 ~~(E) As an alternative to paragraph (D), electrical systems, equipment and components, and heat,~~
329 ~~ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems and~~
330 ~~other service equipment are permitted to be located below the elevation of the lowest floor~~
331 ~~provided they are designed and installed to prevent water from entering or accumulation within~~
332 ~~the components and to resist hydrostatic and hydrodynamic and loads and stresses, including~~
333 ~~the effects of buoyancy, during the occurrence of the base flood.~~

334 ~~(F)~~ (E) No changes to text

335 ~~(G)~~ (F) No changes to text

336 ~~(H)~~ (G) No changes to text

337 ~~(I)~~ (H) No changes to text

338 ~~(J)~~ (I) No changes to text

339 5. Placement of Fill.

340 ~~(A)-(B)~~ No changes

341 (C) Fill proposed to be placed to elevated structures in flood hazard areas (A Zones) that are not
342 Coastal A Zones or coastal high hazard areas (V Zones) shall comply with the **FLOODWAYS**
343 **REQUIREMENTS IN SECTION 231.4(A), SECTION 231.4(B), SECTION 231.4(C) AND THE** limitation in
344 Section 231.4– **5(B)**.

345 6. -8. No Changes

346 9. Critical and Essential Facilities.

347 Critical and essential facilities shall:

348 (A) Not be located in coastal high hazard areas (V Zones), **COASTAL A ZONES OR FLOODWAYS; OR**

349 (B) If located in flood hazard areas other than coastal high hazard areas, **COASTAL A ZONES OR**
350 **FLOODWAYS;** be elevated to the higher elevation required by these regulations plus one (1) foot,
351 the elevation required by the building code, or the elevation of the 0.2 percent chance (500-year)
352 flood.

353 10. -12. No changes

354 **Section 231. Requirements in Flood Hazard Areas (A zones) That Are Not Coastal High Hazard**
355 **Areas or Coastal A Zones.**

356 1. – 3. No Changes

357 4. Development that Affects Flood Carrying Capacity of Nontidal Waters of the State.

358 (A) Development in Designated Floodways

359 For proposed development that will encroach into a designated floodway, Section 229.5(A)(7)
360 requires the applicant to submit an evaluation of alternative to such encroachment, including
361 different uses of the site or the portion of the site within the floodways, and minimization of such
362 encroachment. This requirement does not apply to fences that does not block the flow of
363 floodwaters or trap debris. Proposed development in a designated floodway may be permitted if:

364 *(1)-(2) No changes*

365 (3) If the analyses demonstrate that the proposed activities will result in an increase in the base
366 flood elevation, the applicant has obtained a Conditional Letter of Map Revision ~~or~~ **AND A** Letter
367 of Map Revision from **FEMA UPON COMPLETION OF THE PROJECT**. Submittal requirements and
368 fees shall be the responsibility of the applicant.

369 *(B) No changes*

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

371 For development in special flood hazard areas of nontidal waters of the Sate with base flood
372 elevations but no designated floodways:

373 (1) The applicant shall develop hydrologic and hydraulic engineering analyses and technical data
374 reflecting the proposed activity and shall submit such technical data to the Floodplain
375 Administrator as required in Section ~~230.4(A)~~ **229.5(A)(6)**. These analysis shall be prepared by a
376 licensed professional engineer in a format required by FEMA for a Conditional Letter of Map
377 Revision ~~or~~ **AND A** Letter of Map Revision **UPON COMPLETION OF THE PROJECT. SUBMITTAL**
378 **REQUIREMENTS AND FEES SHALL BE THE RESPONSIBILITY OF THE APPLICANT.**

379 *(2) No changes*

380 *(D) No changes*

381 (E) Alteration of a Watercourse

382 For any proposed development that involves alteration of a watercourse not subject to paragraph
383 (C), unless waived by MDE, the applicant shall develop hydrologic and hydraulic engineering
384 analyses and technical data reflecting such changes, including the floodway analysis required by
385 Section ~~230.4(A)~~ **229.5(A)**, and submit such technical data to the Floodplain Administrator and
386 FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by
387 MDE and by FEMA for a Conditional Letter of Map Revision ~~or~~ **AND A** Letter of Map Revision **UPON**

388 **COMPLETION OF THE PROJECT.** Submittal requirements and fees shall be the responsibility of the
389 applicant.

390 Alteration of a watercourse may be permitted only upon submission, by the applicant, of the
391 following:

392 *(1)-(4) No changes*

393 5. Residential Structure and Residential Portions of Mixed-Use Structures.

394 New residential structures and residential portions of mixed-use structures, and substantial
395 improvement (including repair of substantial damage) of existing residential structures and
396 residential portions of mixed-use structures shall comply with the applicable requirements of
397 Section 230 and this Section. See Section 231.7 for the requirements for horizontal additions.

398 (A) Elevation Requirements

399 *(1)-(3) No changes*

400 **(4) BASEMENT FLOORS THAT ARE BELOW GRADE ON ALL SIDES ARE PROHIBITED.**

401 *(B) No changes*

402 (C) Enclosures Below the Lowest Floor

403 *(1)-(2) No changes*

404 (3) Enclosures below the lowest floor shall be provided with flood openings which shall meet the
405 following criteria: [Note: See NFIP Technical Bulletin #1, "Openings in Foundation Walls **AND**
406 **WALLS** of Enclosures ~~Below Elevated Buildings.~~"]

407 *(a)-(e) No Changes.*

408 6. Nonresidential Structures and Nonresidential Portions of Mixed-Use Structures.

409 New nonresidential structures and nonresidential portions of mixed-use structures, and
410 substantial improvement (including repair of substantial damage) of existing residential structures
411 and residential portions of mixed-use structures shall comply with the applicable requirements of
412 Section 230 and the requirements of this Section. See Section 231.7 for the requirements for
413 horizontal additions.

414 (A) Elevation Requirements

415 Elevated structures shall:

416 *(1)-(4) No changes*

417 **(5) BASEMENT FLOORS THAT ARE BELOW GRADE ON ALL SIDES ARE PROHIBITED.**

418 (B) No changes

419 7. Horizontal Additions

420 (A) A horizontal addition proposed for a building or structure that was constructed after the date
421 specified in Section 224.1 2 shall comply with the applicable requirements of Section 230 and this
422 Section.

423 (B)-(D) No changes

424 **(E) A HORIZONTAL ADDITION TO A BUILDING OR STRUCTURE THAT IS NOT A SUBSTANTIAL
425 IMPROVEMENT AND IS NOT LOCATED IN NON-TIDAL WATERS OF THE STATE, IS NOT REQUIRED
426 TO COMPLY WITH THIS SECTION.**

427 **(NOTE: SEE “SUBSTANTIAL IMPROVEMENT/SUBSTANTIAL DAMAGE DESK REFERENCE” (FEMA P-
428 758)**

429 8. Accessory Structures.

430 (A) Accessory structures shall be limited to **NOT MORE THAN SIX HUNDRED (600) SQUARE FEET IN
431 TOTAL FLOOR AREA.**

432 ~~(1) No more than six hundred (600) square feet in floor area; and~~

433 ~~(2) A cost of less than fifty (50) percent of the market value of the building or structure before
434 the start of construction of the improvement.~~

435 (B) No changes

436 **Section 232. Requirements in the Coastal High Hazard Areas (V Zones) and Coastal A Zones**

437 1. General Requirements

438 ~~In addition to the requirements of Section 230, the requirements of this section shall apply to all
439 new construction, substantial improvement (including repair of substantial damage) of
440 manufactured homes, and other development proposed in coastal high hazard (V Zones) and
441 new construction and placement of new manufactured homes in Coastal A Zones. See Section
442 232.4 for requirements for horizontal additions. (Note: See Coastal Construction Manual (FEMA
443 55)~~

444 **IN ADDITION TO THE GENERAL REQUIREMENTS OF SECTION 230, THE REQUIREMENTS OF THIS
445 SECTION SHALL:**

446 **(A) APPLY IN FLOOD HAZARD AREAS THAT ARE IDENTIFIED AS COASTAL HIGH HAZARD AREAS (V
447 ZONES) AND COASTAL A ZONES (IF DELINEATED)**

448 **(B) APPLY TO ALL DEVELOPMENT, NEW CONSTRUCTION, SUBSTANTIAL IMPROVEMENTS**
449 **(INCLUDING REPAIR OF SUBSTANTIAL DAMAGE), AND PLACEMENT, REPLACEMENT, AND**
450 **SUBSTANTIAL IMPROVEMENT (INCLUDING REPAIR OF SUBSTANTIAL DAMAGE) AND**
451 **REPLACEMENT OF MANUFACTURED HOMES.**

452 **EXCEPTION: IN COASTAL A ZONES, THE REQUIREMENTS OF SECTION 231 SHALL APPLY TO**
453 **SUBSTANTIAL IMPROVEMENTS (INCLUDING REPAIR OF SUBSTANTIAL DAMAGE), AND**
454 **SUBSTANTIAL IMPROVEMENT OF MANUFACTURED HOMES (INCLUDING REPAIR OF**
455 **SUBSTANTIAL DAMAGE) AND REPLACEMENT MANUFACTURED HOMES.**

456 **[NOTE: SEE “COASTAL CONSTRUCTION MANUAL” (FEMA P-55).]**

457 *2. No changes*

458 3. Residential and Nonresidential Structures.

459 New structures and substantial improvement (including repair of substantial damage) of existing
460 structures shall comply with the applicable requirements of Section 230 and the requirements of
461 this section.

462 *(A)-(C) No changes*

463 (D) Enclosures Below the Lowest Floor

464 *(1)-(2) No changes*

465 (3) Walls and partitions are permitted below the elevated floor, provided that such walls and
466 partitions are designed to break away from under flood loads and are not part of the structural
467 support of the building or structure. (Note: See NFIP Technical Bulletin #9, “Design and
468 Construction Guidance for Breakaway Walls.”)

469 *(4)-(6) No changes*

470 4. Horizontal Additions **TO STRUCTURES.**

471 (A) A horizontal addition proposed for a building or structure that was constructed after the date
472 specified in Section 224.4 2 shall comply with the applicable requirements of Section 230 and this
473 Section.

474 *(B) No changes*

475 **(C) A HORIZONTAL ADDITION TO A BUILDING OR STRUCTURE THAT IS NOT SUBSTANTIAL**
476 **IMPROVEMENT IS NOT REQUIRED TO COMPLY WITH THIS SECTION.**

477 5. Accessory Structures.

478 (A) Accessory structures shall be limited to noT more than three hundred square feet in total floor
479 area.

480 (B) *No changes*

481 6. *No changes*

482 **Section 233. Variances**

483 1. General.

484 (A) *No changes*

485 **(B) NO VARIANCE SHALL BE GRANTED FOR AN ACCESSORY STRUCTURE EXCEEDING 600 SQUARE**
486 **FEET. A SIGNED DECLARATION OF LAND RESTRICTION (NON-CONVERSION AGREEMENT) IS**
487 **REQUIRED AS A CONDITION OF RECEIVING THE VARIANCE. THE AGREEMENT MUST BE**
488 **RECORDED WITH THE DEED. IF A VARANCE IS GRANTED AND THE ACCESSORY STRUCUTURE IS**
489 **NOT ELEVATED OR DRY FLOOD PROOFED, THE CONDITIONS OF SECTION 231.8 OR SECTION 232.5**
490 **APPLY. ~~Upon consideration of the purposes of these regulations, the individual~~**
491 **~~circumstances, and the consideration and limitations of this section, the Board of~~**
492 **~~Appeals may attach conditions to variances as it deems necessary to further the~~**
493 **~~purposes of these regulations.~~**

494 ~~(B)~~ (C) *No changes to text*

495 ~~(C)~~ (D) *No changes to text*

496 ~~(D)~~ (E) *No changes to text*

497 2. Application for a Variance.

498 (A) *No changes*

499 (B) At a minimum, the application shall contain the following information: name, address, and
500 telephone number of the applicant and property owner; legal description of the property; parcel
501 map; description of existing use; description of proposed use; site map showing the location of
502 flood hazard areas, designated floodway boundaries, flood zones, base flood elevations, and flood
503 protection setbacks; description of the variance sought; and reason for the variance request.

504 Variance applications shall specifically address each of the consideration set forth in § SECTION
505 233.3.

506 (C) *No changes*

507 3. Consideration for Variances.

508 The ~~Office~~ **DIVISION** of Planning and Zoning shall request comments on variance applications from
509 MDE (NFIP State Coordinator) and shall provide such comments to the Board of Appeals.

510 In considering variance applications, the Board of Appeals shall consider and make findings of fact
511 on all evaluations, all relevant factors, requirements specified in other section of these regulations,
512 and the following factors:

513 *(A)-(G) No changes*

514 (H) The relationship of the proposed use to the current Comprehensive Plan **AND HAZARD**
515 **MITIGATION PLAN FOR THAT AREA.**

516 *(I)-(L) No changes*

517 ~~2.~~ **4. Limitations for Granting Variances**

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

519 (A) A showing of good and sufficient cause. **GOOD AND SUFFICIENT CAUSE DEALS SOLEY WITH**
520 **THE PHYSICAL CHARACTERISTITCS OF THE PROPERTY AND CANNOT BE BASED ON THE**
521 **CHARACTER OF THE IMPROVEMENT, THE PERSONAL CHARACTERISTICS OF THE**
522 **OWNER/INHABITANTS, OR LOCAL PROVISION THAT REGULATE STANDARDS OTHER THAN**
523 **HEALTH AND PUBLIC SAFETY.**

524 *(B)-(F) No changes*

525 **Section 234. Fees** *No changes*

526 **Section 235 Enforcement** *No changes*

527 **Section 236. Subsequent Amendments**

528 All ordinances or parts of ordinances that are inconsistent with the provisions of Article XI, Part III
529 are hereby repealed to the extent of such inconsistency. Article XI, Part III shall be amended as
530 required by the Federal Emergency Management Agency, **TITLE 44**, Code of Federal Regulations.

531 All subsequent amendments to this ordinance are subject to the approval of the Federal
532 Emergency Management Agency and the Maryland Department of the Environment.

533 **AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND,**
534 that this Act shall take effect in 60 calendar days from the date it becomes law.

BILL NO. 2022-12
Amendment – Zoning Ordinance – Floodplain District

CERTIFICATION

I, HEREBY CERTIFY that the above Bill was posted for the public on the public bulletin board with the date, time and location of the public hearing meeting, copies were made available for the public, a copy was distributed to the press, and copy was made available on the Cecil County website.

BY: Council Manager