



## MAYOR AND CITY COUNCIL

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### WORK SESSION Tuesday, June 9, 2015 – 1:00 PM

#### AGENDA

1. **CALL TO ORDER**
  2. **NOTICE AND REPORT ON CLOSED SESSION**
    - A. Report on Closed Session - Tuesday, June 9, 2015 - 10:00 a.m. to 1:00 p.m.
  3. **ACKNOWLEDGEMENTS AND RECOGNITIONS**
    - A. Introduction of Assistant Finance Administrator Chuck Bireley
  4. **COMMENTS FROM THE PUBLIC**
    - A. Any person who may wish to speak on a matter scheduled for discussion on the Work Session Agenda may be heard during Comments from the Public for a period of three (3) minutes or such time as may be deemed appropriate by the Council President. Anyone wishing to be heard shall state their name, address and the Agenda item on which he or she wishes to speak.
  5. **NEW BUSINESS**
    - A. Discussion of Board of Supervisors of Elections Communication Regarding Petition to Amend Charter Pertaining to Property Tax Levy
    - B. Further Discussion Regarding Private Event Breeches Buoy presented by Special Events Director
    - C. Request to Bid Solid Waste Front Loader presented by Procurement Manager
    - D. Request to Bid Solid Waste Automated Side Load Refuse Truck presented by Procurement Manager
    - E. Bid Award Recommendation for Ambulance presented by Procurement Manager
    - F. Discussion Regarding Reallocation of FY15 Wastewater Funding for Administrative Building HVAC System Replacement and Bid Notification presented by Wastewater Assistant Superintendent
    - G. Discussion of Chesapeake Utilities/Sandpiper Energy Utility Project and Modifications to System Improvement Rate presented by Public Works Director
    - H. Bid Notification for 1st St Water Tower and Discussion Concerning Tower Logo Selection presented by Public Works Director
    - I. Discussion of Flood Ordinance Changes presented by City Engineer
  6. **ADJOURN**
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TOWN OF  
**OCEAN CITY**

*The White Marlin Capital of the World*

Agenda Item # 2.A

Council Meeting June 9, 2015

**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Diana Chavis, City Clerk  
**RE:** Closed Session Notice and Report  
**DATE:** June 4, 2015

**ISSUE(S):** Closed Session

**SUMMARY:** A closed session is scheduled from 10:00 AM – 1:00 PM to discuss legal, contractual and personnel matters.

**FISCAL IMPACT:** Not Applicable

**RECOMMENDATION:** Not Applicable



Excellent Service through a High Performing Town Organization

**ALTERNATIVES:** Not Applicable

**RESPONSIBLE STAFF:** Not Applicable

**COORDINATED WITH:** Not Applicable

**ATTACHMENT(S):**  
 1. Closed Session Notice  
 2. Closed Session Report

NOTICE OF CLOSED SESSION OF MAYOR & CITY COUNCIL OF OCEAN CITY

DATE AND TIME: Tuesday, June 9, 2015 10:00 a.m.  
 PLACE: City Hall  
 SUBJECT: Legal, Contractual and Personnel Matters  
 VOTE: UNANIMOUS  
 OTHER: FOR: \_\_\_\_\_  
 AGAINST: \_\_\_\_\_  
 ABSTAIN: \_\_\_\_\_  
 ABSENT: \_\_\_\_\_

AUTHORITY: State Government Article: Section 10-508(a) Annotated Code of Maryland  
 PURPOSES:

X	1. To discuss: (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees or officials over whom it has jurisdiction; or (ii) any other personnel matter that affects one or more specific individuals;
	2. To protect the privacy or reputation of individuals with respect to a matter that is not related to public business
	3. To consider the acquisition of real property for the public purpose and matters directly related thereto;
	4. Consider a matter that concerns the proposal for a business or industrial organization to locate, expand or locate in the state;
	5. Consider the investment of public funds;
	6. Consider the marketing of public securities;
X	7. Consult with counsel to obtain legal advice;
	8. Consult with staff, consultants or other individuals about pending or potential litigations;
	9. Conduct collective bargaining negotiations or consider matters that relate to the negotiations;
	10. Discuss public security if the public body determines that public discussion would constitute a risk to the public or public security, including; a) the deployment of fire and police services and staff; and b) the development and implementation of emergency plans
	11. Prepare, administer or grade a scholastic, licensing or qualifying examination;
	12. Conduct or discuss an investigative proceeding on actual or possible criminal conduct;
	13. Comply with a specific constitutional, statutory or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; or
X	14. Before a contract is awarded or bids are opened, discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process

Attachment: Closed Session Notice (1221 : Closed Session Notice and Report)

**REPORT OF CLOSED SESSION**  
**OF THE MAYOR AND CITY COUNCIL OF OCEAN CITY**

Prior to this open session of the Mayor and City Council being held on Tuesday, June 9, 2015, a closed session was held on Tuesday, June 9, 2015 at 10:00 a.m.

The following is a report of the closed session.

1. A statement of the time, place, and purpose of the closed session is attached.
2. A record of the vote of each member as to closing the session is attached.
3. A citation of the authority under the law for closing the session is attached.
4. (a) Topics of Discussion: Legal, Contractual and Personnel Matters

(b) Persons present:

Mayor Richard Meehan  
 Council President Lloyd Martin  
 Council Secretary Mary Knight  
 City Manager David Recor  
 Council Members Doug Cymek; Dennis Dare; Wayne Hartman; Matt James;  
 Tony DeLuca  
 City Solicitor Guy Ayres  
 City Clerk Diana Chavis  
 Public Works Director Hal Adkins  
 Chief Deputy Public Works Director Jim Parsons  
 Public Works Construction Manager Woody Vickers

Action(s) taken:

Motion to close meeting:

End Time:



# TOWN OF OCEAN CITY

*The White Marlin Capital of the World*

Agenda Item # 3.A  
Council Meeting June 9, 2015

**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Martha Bennett, Finance Administrator  
**RE:** Introduction of Chuck Bireley  
**DATE:** June 1, 2015

**ISSUE(S):** Employee Introduction

**SUMMARY:** Mr. Bireley is replacing Roger Baskerville who is retiring. **Chuck Bireley received his Bachelor's Degree in accounting from the University of Delaware.** He has been a licensed Certified Public Accountant for twenty-seven years. Chuck has thirty years of work experience in accounting. His accounting experience includes being assistant controller of a real estate development company, controller of a manufacturing company and finance director of two hospitals. Chuck resides in Ocean View, Delaware.

**FISCAL IMPACT:** Not Applicable

**RECOMMENDATION:** Not Applicable  
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**ALTERNATIVES:** Not Applicable

**RESPONSIBLE STAFF:** Not Applicable

**COORDINATED WITH:** Not Applicable

**ATTACHMENT(S):** None



# TOWN OF OCEAN CITY

*The White Marlin Capital of the World*


Agenda Item # 4.A  
Council Meeting June 9, 2015

**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Diana Chavis, City Clerk  
**RE:** Public Comments  
**DATE:** June 2, 2015

**ISSUE(S):** Comments from the Public

**SUMMARY:** Any person who may wish to speak on a matter scheduled for discussion on the Work Session Agenda may be heard during Comments from the Public for a period of three (3) minutes or such time as may be deemed appropriate by the Council President. Anyone wishing to be heard shall state their name, address and the Agenda item on which he or she wishes to speak.

**FISCAL IMPACT:** Not Applicable

**RECOMMENDATION:** Not Applicable  
 Excellent Service through a High Performing Town Organization

**ALTERNATIVES:** Not Applicable

**RESPONSIBLE STAFF:** Not Applicable

**COORDINATED WITH:** Not Applicable

**ATTACHMENT(S):** None



# TOWN OF OCEAN CITY

*The White Marlin Capital of the World*

Agenda Item # 5.A  
Council Meeting June 9, 2015


**TO:** The Honorable Mayor, Council President and Members of Council  
**FROM:** David Recor, ICMA-CM, City Manager  
**RE:** Petition to Amend Charter Pertaining to Property Tax Levy  
**DATE:** June 3, 2015

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**ISSUE(S):** Charter Amendment Resolution Petition – Title VII, Finances, Section C-712

**SUMMARY:** On May 18, 2015, the City Clerk received a petition from a group known as Ocean City Taxpayers for Social Justice. On June 1, 2015, the Board of Election Supervisors finalized their count and the results will be announced.

**FISCAL IMPACT:** Not Applicable

**RECOMMENDATION:** Not Applicable  
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**ALTERNATIVES:** Not Applicable

**RESPONSIBLE STAFF:** Kelly Allmond, Executive Office Associate

**COORDINATED WITH:** Mary Adeline Bradford, Board of Election Supervisors Chairperson; City Solicitor Guy Ayres

**ATTACHMENT(S):** None



# TOWN OF OCEAN CITY

*The White Marlin Capital of the World*

Agenda Item # 5.B

Council Meeting June 9, 2015

**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Frank Miller, Special Events Director  
**RE:** Breeches Buoy Additions  
**DATE:** June 3, 2015

**ISSUE(S):** Review and approval of additional details and requests for Town assets and support that have been requests by the applicant.

**SUMMARY:** Additional requests as follows:

1. Public Works Construction – Construct wreck pole and anchor. Must be completed, installed and inspected prior to Friday, June 12.
2. Friday, June 12, rehearsal at 8:00 am. Beach will need to be cleared for one (1) hour from the pier to the jetty, from the east edge of the parking lot to the high water line.
3. Saturday, June 20, event at 10:00 am. Beach will need to be cleared for two (2) hours from the pier to the jetty, from the east edge of the parking lot to the high water line.
4. Public Works Maintenance – Provide large bleacher set on the northwest corner of the event footprint, next to the Inlet Lot.
5. Public Works - Potential construction of sand mound.
6. Fire a Lyle Gun, which is a line-throwing cannon. Safety precautions could increase time of beach closure.

**FISCAL IMPACT:** Event holder has paid \$87.50 for Application and one-day City Use fee. Departments have been contacted to determine Asset and Support Fees that may apply. That fee amount will be provided at the Work Session. In addition, the Fire Marshal's office is assessing necessary safety zone and setbacks that may be required at the Inlet beach and parking lot areas.

**RECOMMENDATION:** Defer to Mayor and Council for assessment and consideration.



1st Class Resort and Tourist Destination

**ALTERNATIVES:** No staff alternatives suggested.

**RESPONSIBLE STAFF:** Frank Miller, Special Events Director  
 Elwood Vickers, Public Works Construction Manager

**COORDINATED WITH:** Nancy Howard, OC Museum Society, Inc.

**ATTACHMENT(S):**

1. Additional Requests
2. Breeches Buoy latest email communication to departments
3. Pending Site Map





## Breeches' Buoy Reenactment

This is a reenactment of rope-based rescue technique using a device known as a Breeches Buoy to remove people from wrecked ships. The Breeches Buoy historically was deployed from the shore to the wrecked ship using a Lyle gun, which is a type of line-throwing gun or cannon. The line is attached to the ship's mast and the person/people being rescued is/are placed inside the in the Breeches Buoy, which resembles a round life-preserver with leg harnesses attached, and is/are pulled to the shore, similar to a zip line.

This event has been approved by Council. However, additional details and requests for Town assets and support have been requested by the applicant that need approval by Mayor and City Council.

For the purpose of the reenactment, the Lyle Gun (which looks like a small cannon) will be placed just south of the fishing pier on the beach facing southward down the beach. The "wreck pole", simulating a mast of a wrecked vessel, will be placed approximately 50 yards south of the Lyle Gun. The gun will shoot a projectile up to 220 yards southward with a rescue rope line attached overshooting the "wreck pole". The rope will be carried up the mast and secured allowing for the rescue simulation. This simulation does not involve use of the ocean. This historic reenactment is followed by Coast Guard 21<sup>st</sup> Century rescue reenactment and an Ocean City Beach Patrol rescue reenactment.

The reenactment on Saturday, June 20<sup>th</sup> will require the entire beach south of the fishing pier to be closed for approximately two hours (8am to 10am, gun is fired at 10am). The safety zone will be established by the Ocean City Fire Marshal's Office and may or may not affect the Inlet Parking Lot [Details available by day of 6/9/15 Work Session].

The "wreck pole" needs to be placed in advance, prior to June 12<sup>th</sup>. A test of the Lyle Gun is required and planned for Friday, June 12<sup>th</sup> between 8am and 9am during which time the beach south of the fishing pier must be closed.

### Outline of Additional Event Requests

- Public Works Construction – Construct wreck pole and anchor. Must be completed, installed and inspected prior to Friday, June 12. (This is in addition to excavating the hole and placing the pole as per the original application)
- Indian River reenactment representative will inspect and certify pole installation.
- Rehearsal, Friday, June 12 at 8:00 am. Beach will need to be cleared for approximately one (1) hour from the pier to the jetty, from the east edge of the parking lot to the high water line.

- Event, Saturday, June 20 at 10:00 am. Beach will need to be cleared for approximately two (2) hours from the pier to the jetty, from the east edge of the parking lot to the high water line. Once the gun is fired, beach can be reopened, with the exception of the area between the gun and the wreck pole.
- Set-up – Gun/anchor at north end, aligned with steps and pier light pole. Wreck pole approximately 50 yards south of gun.
- Bleachers (provided by Public Works) in place Friday, June 19 on the north west section of the beach, adjacent to the Inlet Lot facing south.
- Construction of a sand mound or berm north of and behind the Lyle Gun for safety per Fire Marshal.
- Beach Patrol to patrol rehearsal and actual event on ATVs.
- All equipment, with the exception of the wreck pole and anchor, will be provided by Indian River.
- Shall use a PA system that will be provided by TEAM Productions.
- Shall also have a Coast Guard 21<sup>st</sup> Century rescue reenactment and an Ocean City Beach Patrol rescue reenactment.
- Shall fire a Lyle Gun, which is a line-throwing gun. Safety precautions for misfires could close the beach for up to an additional two (2) hours.
- Risk Manager for the Town of Ocean City has been informed of the additional details and requests and has no concerns.

## Diana Chavis

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**From:** Frank Miller  
**Sent:** Thursday, June 04, 2015 2:48 PM  
**To:** Scott Harner; John VanFossen; Tim Price; Edward Kovacs  
**Cc:** Butch Arbin; 'timaree.a.sparks@uscg.mil'; Joshua Bunting; Hal Adkins; Lisa Mitchell; 'neffiehoward@comcast.net'; 'teampro98@gmail.com'; Jaime Giandomenico; David Recor; Diana Chavis; Elwood Vickers; Jessica Waters; Donna Abbott; Bob Rhode; David G Scott  
**Subject:** Breeches Buoy Reenactment, 95% timeline

All,

After additional conversation with Nancy, Beach Patrol and Masterchief Sparks, we have developed the following event timeline. It is up to each of you to provide feedback and comment as soon as possible if there are red flags.

Event location: Entire Beach Area south of the fishing pier southward to the inlet (diagram to be provided)

Thursday, June 11, 2015

7:00am Window opens for setup of Wreck Pole on beach, actual time TBD  
 [Dept. of Public Works (DPW) awaiting confirmation from PP&L for use of truck and time]  
 TOC City Engineer to inspect wreck pole upon completion of install, DPW to schedule inspection  
 DPW to close off 50' perimeter minimum around wreck pole with sandfence  
 [potential media coverage for installation – Nancy Howard to convey details]

size TBD] UNDER CONSIDERATION [Berm to be constructed by DPW for just north of canon to dissipate misfire,

By 3:00pm DPW to drop off stakes, stake pounder and caution tape at northeast corner of inlet lot near stairs from boardwalk to beach  
 placement Quantity of stakes and tape to cover outer safety zone, inner safety zone, misfire zone north of canon  
 USCG to pick up tape and stake pounder for use on following day, USCG maintains stake pounder for return to DPW on June 20th

Friday, June 12, 2015

6:00am BEACH CLOSED TO PUBLIC WHO INTEND TO STAKE SPOT TO SUN BATHE, joggers/walkers to permitted???  
 OCPD unit on site to inform and deter early beach arrivals into Inlet beach area (on site through 9am)

6:30am USCG Station Ocean City staff (6) arrive on site to set up poles for outer perimeter safety zone including zone north of canon  
 [Fire Marshal approved map to be provided]  
 USCG staff sets up perimeter behind/north of canon for misfire safety zone (may include berm, size TBD)  
 USCG staff spread out to assist with crowd control around west and north outer perimeters (7:30am approx.)

7:30am BEACH CLOSED TO ALL PUBLIC [Fire Marshall on site]

Attachment: Breeches Buoy latest email communication to departments (1226 : Breeches Buoy Additions)

- 7:45am OCPD units arrive to assist with securing area while ammunition arrives, is loaded and activated [is this necessary?]  
ARRIVAL OF AMMUNITION (?)
- 8:00am OCBP arrives to manage crowd control  
Beginning of Lyle gun (canon) test
- 9:00am Completion of test firing, beach opened to public use [fire marshal on site to make call on opening]  
USCG staff to remove caution tape lines and stakes  
restack for June 20<sup>th</sup> in safe location away from public movement and beach tractor path  
Wreck Pole remains in place and secured by sand fence

Saturday, June 20, 2015 (areas to be covered: Safety zone perimeter, beach access from tramway boardwalk, under pier, area between canon and wreck pole)

- 6:00am BEACH CLOSED TO PUBLIC WHO INTEND TO STAKE SPOT TO SUN BATHE, joggers/walkers to permitted???
- 11:30am OCPD unit on site to inform and deter early beach arrivals into Inlet beach area (on site through 11:30am)
- 6:30am USCG Station Ocean City staff (6) arrive on site to set up poles for outer perimeter safety zone including zone north of canon  
[Fire Marshal approved map to be provided]  
USCG staff to then setup inner perimeter between wreck pole and canon placement (50' east to west, 50 yards north to south)  
Perimeter area includes pole and canon  
USCG staff sets up perimeter behind/north of canon for misfire safety zone (may include berm, size TBD)
- USCG staff spread out to assist with crowd control around west and north outer perimeters (7:30am approx.)
- 8:00am BEACH CLOSED TO ALL PUBLIC [Fire Marshal on site]  
OCBP arrives to manage crowd control for reenactment and control closed beach area outer perimeter
- 8:00am OCPD units arrive to assist with securing area and monitor arrival of ammunition arrives, is loaded and activated (on site until 10:15am)  
[needed?]
- 8:30am USCG staff moves from crowd control to reenactment tasking
- 9:00am TEAM Productions arrives on site for audio system set up east of bleachers (ELECTRIC needed, single circuit)  
AMMUNITION ARRIVAL (?)
- 10:00am Begin presentation of historic life saving measures, wireless microphone
- 10:15am Firing of Lyle Gun (canon) and projectile with rope (up to 220 yards)
- 10:20am Beach opens to public with exception, OCBP controls remaining exception  
Exception: 50 yard area between canon and wreck pole is controlled as safety zone due to rope, harness and performers

Attachment: Breeches Buoy latest email communication to departments (1226 : Breeches Buoy Additions)

- 11:00am      End time of historical reenactment  
              Begin USCG modern SAR demo with Dauphine Helicopter, microphone by bleachers for narration  
              Helo based at USCG Station Ocean City until called from event site for T/O  
              Helo drops diver as simulated rescue target and picks up with helo [no vessel, no beach use]
  
- 11:15am      OCBP modern simulated rescue demonstration, microphone by bleachers for narration
  
- 11:30am      Completion of event  
              Safety perimeter caution tape lines removed by OCBP  
              Stakes restacked for Monday DPW retrieval  
              Wreck Pole and perimeter sand fence remain in place and secure

Monday, June 22, 2015

- 7:00am      Window opens for removal of Wreck Pole from beach (actual time TBD, PP&L to assist)  
              DPW to store wreck pole

Attachment: Breeches Buoy latest email communication to departments (1226 : Breeches Buoy Additions)

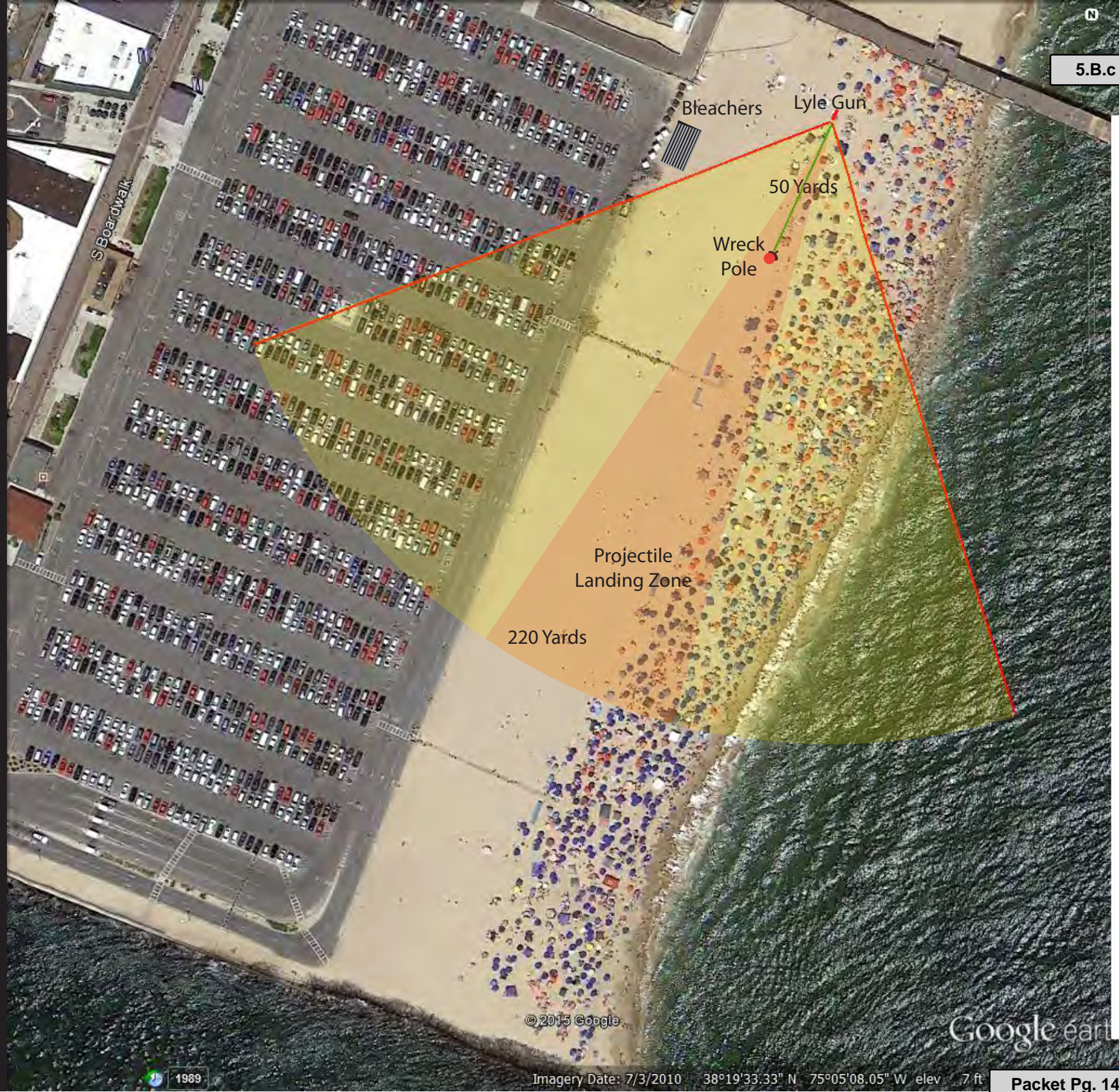


# Breeches Bouy Reenactment

June 20, 2015

Test Shot:  
June 12, 2015

Layout and  
estimated  
projectile  
landing zone



5.B.c

Attachment: Pending Site Map (1226 : Breeches Bouy Additions)





# TOWN OF OCEAN CITY

*The White Marlin Capital of the World*

Agenda Item # 5.C  
Council Meeting June 9, 2015


**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Catrice Parsons, Procurement Manager  
**RE:** B01-16 SW Front Loader Request to Bid  
**DATE:** June 2, 2015

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**ISSUE(S):** Purchase a Front Load Truck as approved in the FY16 Budget.

**SUMMARY:** The Procurement Department in conjunction with the Solid Waste Division is requesting approval from Mayor & City Council to Solicit bids for a Front Load Truck for the Solid Waste Division.

**FISCAL IMPACT:** \$215,000.00

**RECOMMENDATION:** Approve bid solicitation.  
 Excellent Service through a High Performing Town Organization

**ALTERNATIVES:** Not Applicable

**RESPONSIBLE STAFF:** Catrice Parsons, Procurement Manager

**COORDINATED WITH:** Steve Brown, Solid Waste Manager

**ATTACHMENT(S):** 1. FY16 Approved Vehicle Trust List

**Recommended for Replacement in FY16**

Ref #	Equip #	Year	Actual Replacement Cost	PO#	Received Date	Department	Department/Division Head	Make	Model	Replacement Cost	Replace W/What
289	1859	2000	\$0.00			PW-Transportation Buses	George Thornes	Ford	Pick-up 1/2T 4x2	\$0.00	747 will replace
412	2374	2005				PW-Water Plant	Bud Iman	Chevrolet	Pick-up 1/2T 4x4	\$23,000.00	LFL
413	2351	2005				PW-Water Installation	Bud Iman	Chevrolet	Pick-up 1/2T 4x2	\$21,000.00	LFL
446	1953	2001				PW-Wastewater Treatment Plant	Charlie Felin	Chevrolet	Pick-up 1/2T 4x2	\$21,000.00	LFL
567	1855	2000				Golf Course-Maintenance	Joe Perry	Ford	Pick-up 1/2T 4x2	\$21,000.00	
345	2258	2004				PW-Solid Waste Collection	Steve Brown	Chevrolet	Pick-up 1/2T 4x4	\$23,000.00	4X4
349	2145	2003				PW-Solid Waste Transfer	Steve Brown	Chevrolet	Pick-up 1/2T 4x4	\$23,000.00	
520	2243	2004				PW-Streets	Woody Vickers	Chevrolet	3/4 T HD Utility 2WD	\$30,000.00	
747	2218	2004				Emergency Management	Joe Theobald	Chevrolet	Cargo Van	\$30,000.00	LFL
812	2344	2005				Police-CID	Elton Harmon	Chevrolet	Impala	\$32,000.00	Tahoe
846	2686	2008				Police-Patrol	Elton Harmon	Ford	Crown Victoria	\$32,000.00	Tahoe
849	2745	2009				Police-Patrol	Elton Harmon	Ford	Crown Victoria	\$32,000.00	Tahoe
893	2337	2005				Police-CID	Elton Harmon	Chevrolet	Trailblazer 4x4	\$32,000.00	Tahoe
A709	2043	2002				Emergency Medical Services	Chris Shaffer	International	Ambulance	\$290,000.00	LFL
790	2364	2005				Fire Marshal	David Hartley	GMC	Suburban	\$30,000.00	Truck
603	2375	2005	\$0.00			Beach Patrol	Ward Kovacs	Chevrolet	Trailblazer 4x4	\$0.00	790 will replace
12006	2648	2007				Golf Course-Maintenance	Joe Perry	John Deere	Front Rotary Mower	\$22,100.00	LFL
12025	1999	2001				Golf Course-Maintenance	Joe Perry	John Deere	Fairway Mower	\$48,200.00	LFL
322	2416	2005				PW-Solid Waste Collection	Steve Brown	Sterling	Trash Truck-Side Load	\$215,000.00	LFL
335	2384	2005				PW-Solid Waste Collection	Steve Brown	Peterbilt	Trash Truck-Front Load	\$215,000.00	LFL
125	160	1970				PW-Maintenance	Tom Dy	DARF	Beach Cleaner	\$70,000.00	LFL

Attachment: FY16 Approved Vehicle Trust List (1216 : B01-16 SW Front Loader Request to Bid)





TOWN OF  
**OCEAN CITY**

*The White Marlin Capital of the World*

Agenda Item # 5.D  
Council Meeting June 9, 2015


**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Catrice Parsons, Procurement Manager  
**RE:** B02-16 SW Automated Side Load Refuse Truck  
**DATE:** June 2, 2015

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**ISSUE(S):** Purchase an Automated Side Load Refuse Truck as approved in the FY16 Budget.

**SUMMARY:** The Procurement Department in conjunction with the Solid Waste Division is requesting approval from Mayor & City Council to Solicit bids for an Automated Side Load Refuse Truck for the Solid Waste Division.

**FISCAL IMPACT:** \$215,000.00

**RECOMMENDATION:** Approve bid solicitation.  
 Excellent Service through a High Performing Town Organization

**ALTERNATIVES:** Not Applicable

**RESPONSIBLE STAFF:** Catrice Parsons, Procurement Manager

**COORDINATED WITH:** Steve Brown, Solid Waste Manager

**ATTACHMENT(S):** 1. FY16 Approved Vehicle Trust List

**Recommended for Replacement in FY16**

Ref #	Equip #	Year	Actual Replacement Cost	PO#	Received Date	Department	Department/Division Head	Make	Model	Replacement Cost	Replace W/What
289	1859	2000	\$0.00			PW-Transportation Buses	George Thornes	Ford	Pick-up 1/2T 4x2	\$0.00	747 will replace
412	2374	2005				PW-Water Plant	Bud Iman	Chevrolet	Pick-up 1/2T 4x4	\$23,000.00	LFL
413	2351	2005				PW-Water Installation	Bud Iman	Chevrolet	Pick-up 1/2T 4x2	\$21,000.00	LFL
446	1953	2001				PW-Wastewater Treatment Plant	Charlie Felin	Chevrolet	Pick-up 1/2T 4x2	\$21,000.00	LFL
567	1855	2000				Golf Course-Maintenance	Joe Perry	Ford	Pick-up 1/2T 4x2	\$21,000.00	
345	2258	2004				PW-Solid Waste Collection	Steve Brown	Chevrolet	Pick-up 1/2T 4x4	\$23,000.00	4X4
349	2145	2003				PW-Solid Waste Transfer	Steve Brown	Chevrolet	Pick-up 1/2T 4x4	\$23,000.00	
520	2243	2004				PW-Streets	Woody Vickers	Chevrolet	3/4 T HD Utility 2WD	\$30,000.00	
747	2218	2004				Emergency Management	Joe Theobald	Chevrolet	Cargo Van	\$30,000.00	LFL
812	2344	2005				Police-CID	Elton Harmon	Chevrolet	Impala	\$32,000.00	Tahoe
846	2686	2008				Police-Patrol	Elton Harmon	Ford	Crown Victoria	\$32,000.00	Tahoe
849	2745	2009				Police-Patrol	Elton Harmon	Ford	Crown Victoria	\$32,000.00	Tahoe
893	2337	2005				Police-CID	Elton Harmon	Chevrolet	Trailblazer 4x4	\$32,000.00	Tahoe
A709	2043	2002				Emergency Medical Services	Chris Shaffer	International	Ambulance	\$290,000.00	LFL
790	2364	2005				Fire Marshal	David Hartley	GMC	Suburban	\$30,000.00	Truck
603	2375	2005	\$0.00			Beach Patrol	Ward Kovacs	Chevrolet	Trailblazer 4x4	\$0.00	790 will replace
12006	2648	2007				Golf Course-Maintenance	Joe Perry	John Deere	Front Rotary Mower	\$22,100.00	LFL
12025	1999	2001				Golf Course-Maintenance	Joe Perry	John Deere	Fairway Mower	\$48,200.00	LFL
322	2416	2005				PW-Solid Waste Collection	Steve Brown	Sterling	Trash Truck-Side Load	\$215,000.00	LFL
335	2384	2005				PW-Solid Waste Collection	Steve Brown	Peterbilt	Trash Truck-Front Load	\$215,000.00	LFL
125	160	1970				PW-Maintenance	Tom Dy	DARF	Beach Cleaner	\$70,000.00	LFL

Attachment: FY16 Approved Vehicle Trust List (1217 : B02-16 SW Automated Side Load Refuse Truck)



# TOWN OF OCEAN CITY

*The White Marlin Capital of the World*


Agenda Item # 5.E  
Council Meeting June 9, 2015

**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Catrice Parsons, Procurement Manager  
**RE:** SS01-16 FD Ambulance  
**DATE:** June 3, 2015

**ISSUE(S):** Purchase an ambulance as approved in the FY16 Budget

**SUMMARY:** The procurement department, in conjunction with the Fire Department, is requesting approval from Mayor & City Council to purchase an ambulance off of the HGAC Cooperative Purchasing Agreement AM 10-14 dated 10/01/14, which authorizes FECSO Emergency Sales as the authorized Horton Distributor for the State of Maryland.

**FISCAL IMPACT:** \$269,650.00

**RECOMMENDATION:** Award Ambulance Purchase to Fesco Emergency Sales.  
 Excellent Service through a High Performing Town Organization

**ALTERNATIVES:** Not Applicable

**RESPONSIBLE STAFF:** Catrice Parsons, Procurement Manager  
Chris Shaffer, Fire/EMS Assistant Chief

**COORDINATED WITH:** Not Applicable

**ATTACHMENT(S):** 1. FY16 Approved Vehicle Trust List

**Recommended for Replacement in FY16**

Ref #	Equip #	Year	Actual Replacement Cost	PO#	Received Date	Department	Department/Division Head	Make	Model	Replacement Cost	Replace W/What
289	1859	2000	\$0.00			PW-Transportation Buses	George Thornes	Ford	Pick-up 1/2T 4x2	\$0.00	747 will replace
412	2374	2005				PW-Water Plant	Bud Iman	Chevrolet	Pick-up 1/2T 4x4	\$23,000.00	LFL
413	2351	2005				PW-Water Installation	Bud Iman	Chevrolet	Pick-up 1/2T 4x2	\$21,000.00	LFL
446	1953	2001				PW-Wastewater Treatment Plant	Charlie Felin	Chevrolet	Pick-up 1/2T 4x2	\$21,000.00	LFL
567	1855	2000				Golf Course-Maintenance	Joe Perry	Ford	Pick-up 1/2T 4x2	\$21,000.00	
345	2258	2004				PW-Solid Waste Collection	Steve Brown	Chevrolet	Pick-up 1/2T 4x4	\$23,000.00	4X4
349	2145	2003				PW-Solid Waste Transfer	Steve Brown	Chevrolet	Pick-up 1/2T 4x4	\$23,000.00	
520	2243	2004				PW-Streets	Woody Vickers	Chevrolet	3/4 T HD Utility 2WD	\$30,000.00	
747	2218	2004				Emergency Management	Joe Theobald	Chevrolet	Cargo Van	\$30,000.00	LFL
812	2344	2005				Police-CID	Elton Harmon	Chevrolet	Impala	\$32,000.00	Tahoe
846	2686	2008				Police-Patrol	Elton Harmon	Ford	Crown Victoria	\$32,000.00	Tahoe
849	2745	2009				Police-Patrol	Elton Harmon	Ford	Crown Victoria	\$32,000.00	Tahoe
893	2337	2005				Police-CID	Elton Harmon	Chevrolet	Trailblazer 4x4	\$32,000.00	Tahoe
A709	2043	2002				Emergency Medical Services	Chris Shaffer	International	Ambulance	\$290,000.00	LFL
790	2364	2005				Fire Marshal	David Hartley	GMC	Suburban	\$30,000.00	Truck
603	2375	2005	\$0.00			Beach Patrol	Ward Kovacs	Chevrolet	Trailblazer 4x4	\$0.00	790 will replace
12006	2648	2007				Golf Course-Maintenance	Joe Perry	John Deere	Front Rotary Mower	\$22,100.00	LFL
12025	1999	2001				Golf Course-Maintenance	Joe Perry	John Deere	Fairway Mower	\$48,200.00	LFL
322	2416	2005				PW-Solid Waste Collection	Steve Brown	Sterling	Trash Truck-Side Load	\$215,000.00	LFL
335	2384	2005				PW-Solid Waste Collection	Steve Brown	Peterbilt	Trash Truck-Front Load	\$215,000.00	LFL
125	160	1970				PW-Maintenance	Tom Dy	DARF	Beach Cleaner	\$70,000.00	LFL

Attachment: FY16 Approved Vehicle Trust List (1223 : SS01-16 FD Ambulance)



# TOWN OF OCEAN CITY

*The White Marlin Capital of the World*


Agenda Item # 5.F  
Council Meeting June 9, 2015

**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Charlie Felin, Wastewater Superintendent  
**RE:** HVAC System Replacement  
**DATE:** June 4, 2015

**ISSUE(S):** Improvements to Water/Wastewater Administration Building

**SUMMARY:** The existing HVAC system for building is failing and has reached the end of its useful life. EASI, our citywide HVAC Maintenance Contractor, has temporarily repaired the unit. Due to the extensive demolition that will be involved to remove and replace the system, the project scope will also include a new grid ceiling and LED lighting.

**FISCAL IMPACT:** The estimated cost for the project is roughly \$165,000. We are currently working with the Budget Manager to review the status of our FY'15 Budget in an effort to fund the project with FY'15 funds. If the total estimated cost is not fundable with FY'15 funds, any residual needs will be addressed via a FY'16 Wastewater Fund Balance allocation.

**RECOMMENDATION:** Bid the project in August for construction in September.  
 Excellent Service through a High Performing Town Organization

**ALTERNATIVES:** Not Applicable

**RESPONSIBLE STAFF:** Hal Adkins, Public Works Director  
Dean Dashiell, PW Senior Project Manager

**COORDINATED WITH:** Jim Parsons, Chief Deputy Public Works Director; Randy Bradford, Asst. Superintendent of Wastewater; Robert McClean, WRA

**ATTACHMENT(S):** 1. WRA Cost Estimate  
2. Advertisement for Bids (Draft)

**WRA COST ESTIMATE**

Activity and Location: Work Order Number: 13000-058

**OC 64th St WWTP**  
**Ocean City MD**

Estimated By: WRA

Checked By: WRA

Project Title: **Admin Bldg HVAC upgrades**

**VAV/reheat**

Status of Design: **90% CD**

Date Prepared: **5/21/2015**

SECTION	ITEM DESCRIPTION	UNIT	QUANTITY	MATERIALS		LABOR COST		EQUIPMENT COST		TOTAL BARE COST
				UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL	
<b>COST SUMMARY - TOTAL</b>										
	GENERAL CONDITIONS									\$ -
	ARCHITECTURAL									\$ 11,728
	STRUCTURAL									\$ 5,714
	MECHANICAL									\$ 67,586
	FIRE PROTECTION									\$ -
	ELECTRICAL									\$ 51,794
	SUBTOTAL									\$ 136,823
	Design Contingency		0%							\$ -
	<b>TOTAL CONSTRUCTION:</b>									\$ 136,823
	Construction Contingency		20%							\$ 27,365
	<b>PROJECT TOTAL:</b>									\$ 164,187
	Mark Ups									
	Sales Tax		6.0%							
	Ssi, UC and Benefits		35.0%							
	Sub-Total									
	Adjustment to Material Cost for Location % National Average		100.5%							
	Adjustment to Labor Cost for Location % National Average		82.8%							
	<b>Site Access Premium</b>		<b>0.0%</b>							
	Sub-Total loaded Costs									
	SubContractor's Overhead and Profit		15.0%							
	Subtotal									
	General Contractors Overhead & Profit		14.5%							
	Bond		0.7%							



## SECTION 00020

## ADVERTISEMENT FOR BIDS

TOWN OF OCEAN CITY, MARYLAND  
WASTEWATER TREATMENT PLANTADMINISTRATION BUILDING HVAC REPLACEMENT  
CONTRACT No. WR/OC-XXX

Notice is hereby given that separate sealed bids for the Administration Building HVAC Replacement, Contract No. WR/OC-XXX will be received from qualified Contractors by The Mayor and City Council of Ocean City, Maryland, c/o the City Manager, Town of Ocean City, Maryland, 301 Baltimore Avenue, Ocean City, Maryland 21842, on XXXXXX at XX:XX local time.

The bids will be publicly opened and read aloud at the meeting of the Mayor and City Council the following day, XXXXXXXX. Please use the yellow sheet supplied in the bid form with your bid submission.

Any bids received after the above time will not be accepted under any circumstances. Any uncertainty regarding the time a bid is received will be resolved against the Bidder. The Contract will be awarded on a lump sum basis.

The project consists of construction of the replacement of existing Administration Building HVAC system, new lighting and ceiling replacement, support systems and appurtenances, structural improvements and other miscellaneous work. The successful Bidder will also be required to purchase a Town of Ocean City Business License.

A Pre-Bid Conference for this project will be held at the Department of Public Works, 204 65<sup>th</sup> Street - Building E, Ocean City, MD 21842, on XXXXXXXX. The purpose of the Pre-Bid Conference is for Bidders to familiarize themselves with the project site and to ask questions pertaining to the Specifications and the work. All Bidders are encouraged to attend and can visit the site afterwards. The Specifications are available at the offices of Whitman, Requardt and Associates, LLP, 801 South Caroline Street, Baltimore, Maryland 21231. Contact Katie Auerbach, tel. 410-235-3450.

Each Bid must be accompanied by a Bid Security in the form of either a Certified Check upon an incorporated bank or trust company or a Bid Bond. The Certified Check or Bid Bond shall be for an amount not less than five percent of the Bid Price and shall be made payable to "The Mayor and City Council of Ocean City, Maryland" as a guarantee that the Bidder will not withdraw his Bid for a period of 60 days after bids are opened, and that the successful Bidder will fill in and execute the proposed Contract and furnish the appropriate additional bonds within ten days after Notice of Award of the Contract. Bid Bonds must be written by a corporate surety acceptable to the Town and authorized to write bonds of such character and amount under the laws of the State of Maryland. However, a Bidder may withdraw his Bid from consideration if his Bid is substantially lower than the other bids due solely to a mistake therein, provided that the Bid was submitted in good faith and

the mistake was clerical and due to an unintentional arithmetic error or omission. In such event, the Bidder shall give notice in writing of this claim or right to withdraw his Bid within two business days after the bids are opened.

The successful Bidder will be required to furnish Performance and Payment Bonds, each in the amount of 100% of the Contract Price. Failing to do so, he will forfeit his Bid Security. The successful Bidder will also be required to purchase a town of Ocean City business license.

The Town reserves the right to accept or reject any or all bids, to waive irregularities and to award the Contract as it deems will best serve its interest.

The Town shall have the authority to negotiate with the apparent low Bidder on projects bid in accordance with the Maryland Code, where the Bid from such Bidder exceeds available funds, in order to obtain a Contract Price within such available funds. For purposes of this paragraph, the term "available funds" shall refer to the Town's established budget for a particular project. The Town shall take reasonable steps to obtain the lowest and most competitive price possible within available funds.





# TOWN OF OCEAN CITY

*The White Marlin Capital of the World*

Agenda Item # 5.G

Council Meeting June 9, 2015

**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Hal Adkins, Public Works Director  
**RE:** Chesapeake Utilities/Sandpiper Energy Tariff for Uneconomic System Extensions (Little Salisbury)  
**DATE:** June 4, 2015

**ISSUE(S):** Modification of the System Improvement Rate (SIR) for Ocean City customer base for gas infrastructure extensions.

**SUMMARY:** Chesapeake Utilities is proposing to make application to the Public Service Commission for a SIR adjustment, specific to the Ocean City customer base, to cover the capital cost of expanding their infrastructure to areas that are currently uneconomically feasible to them based on anticipated revenues. These **infrastructure extensions are a direct result of the Town's** request, via the Franchise Agreement, due to street repaving efforts.

The estimated SIR adder for Little Salisbury would be \$.022 per propane ccf, or about \$3 per year for the average residential customer in Ocean City. Regarding how long the SIR will be in effect, the SIR assets are depreciated pursuant to their approved depreciation rates over the service life of each asset. For mains, the service life is 45 years. The SIR adder for OC would increase with each uneconomic extension project (like Little Salisbury) and then would incrementally decrease (straight line depreciation) over 45 years or until it zeroes out.

Some background numbers:

- Based on the interest in the area, Sandpiper estimates that the required contribution in order to render the project economic would be \$412,000 out of the total construction cost of \$507,000. This estimate includes the installation of 126 stubs to be located between every other lot to facilitate future connections. The stubs are estimated to cost \$241,000 out of the total cost of \$507,000.
- If Sandpiper were to roll the \$412,000 contribution into the SIR for Ocean City customers, the SIR would increase by approximately \$0.022 per propane ccf. The current SIR is \$0.295 per propane ccf, system wide, and is associated with steel main replacement and conversions from propane to natural gas.

**FISCAL IMPACT:** None relative to the Town of Ocean City "government" but the gas customer will be affected by an increase in the portion of

their monthly billing known as the SIR.

**RECOMMENDATION:**

Decide whether the gas company will be requested to install mains and laterals on streets currently being redeveloped and those in forthcoming years. If, as an example, the Council chooses to support the SIR adder for the "Little Salisbury" project, a letter of support should be forwarded to the PSC in support of Chesapeake Utilities "Filing" for PSC approval.



Revitalized Ocean City: Development and Redevelopment

**ALTERNATIVES:**

Move forward with street paving efforts without the installation of gas mains.

**RESPONSIBLE STAFF:**

Hal Adkins, Public Works Director

**COORDINATED WITH:**

Jim Parsons, Chief Deputy Public Works Director; Woody Vickers, Construction Manager; Chesapeake Utilities/Sandpiper Energy Staff; Jason Cross, Public Service Commission

**ATTACHMENT(S):**

1. Historical Status of Gas Company in Ocean City
2. Town Code Article V - Gas

## Historical Status of Gas Company in Ocean City

- Article V of the OC Code of Ordinances granted the Eastern Shore Gas Company (ESGC) the exclusive right and franchise for propane gas in the Town.
- The ESGC was not subject to price regulation by the Maryland Public Service Commission (MPSC).
- The ESGC would typically work in a cooperative manner with the Town by installing underground gas mains in conjunction with the Town's street improvement program, e.g., when PW performed street improvements in a given neighborhood, ESGC would install gas mains prior to the final street paving. These actions were undertaken with the understanding/belief that future gas customer base would ultimately pay for the improvements to the gas distribution network that has been installed.
- In 2013 the ESGC was acquired by Chesapeake Utilities/Sandpiper Energy.
- Sandpiper Energy is subject to price regulation by the MPSC
- The MPSC's regulations have impacted the Town and gas company's cooperative status with respect to the installation of new underground gas infrastructure on a future speculative business model approach.
- The MPSC requires that Sandpiper energy account for the expense of new underground distribution improvements through its System Improvement Rate (SIR) approach. This would require that the new portion of any improvements that is not supported by existing customer base must be accounted for at the time of its installation by a price increase to the current customers.
- This change has impacted the cooperative efforts with the Town's paving program.
- Paving of the "Little Salisbury" neighborhood is scheduled for completion in the winter of 2015/2016. Sandpiper Energy is requesting direction from the MCC on how to proceed with the Little Salisbury neighborhood. If the Council so directs, Sandpiper Energy will install the gas infrastructure, and a SIR cost will be added to the cost of gas for all customers in Town.
- All subsequent improvements will be subjected to SIR cost model approach.

## ARTICLE V. - GAS

## Sec. 39-301. - Franchise granted.

- (a) That the Mayor and City Council of Ocean City does hereby grant unto The Eastern Shore Gas Company, a Maryland corporation, and unto its successors and assigns, the exclusive right and franchise to build, construct, extend, maintain and operate in Ocean City, Worcester County, Maryland, an establishment for the conversion, storage and/or distribution of, and to sell, propane gas to the public and for such purposes to lay pipes, conduits, conductors and/or all other appurtenances of whatsoever kind or nature through and under the streets, highways, alleys, lanes and other public areas in said Ocean City, Maryland.
- (b) During the entire term of this Agreement and any extension hereof, the company shall be the sole and exclusive supplier of propane gas within the boundaries of Ocean City (other than for portable tanks for gas grills, etc., less than 25 pounds in size), yet the company can install tanks and meters to supply development while service mains are being installed. Ocean City shall refuse to issue any permits or other approvals for the location/installation of propane tanks, lines, mains, etc. by any other property owner or propane company (other than portable tanks of 25 pounds or less). Notwithstanding same, existing tanks of greater than 25 pounds are "grandfathered" and need not be replaced solely because of the exclusivity hereof, but when otherwise needed to be replaced because of leakage, wear, tear, rust, age or malfunction, the replacement must be by the company.

(Code 1972, § A114-1; Ord. No. 1999-33, 1-4-2000; Ord. No. 2007-9, 5-7-2007)

## Sec. 39-302. - Right to use streets.

That pursuant to the franchise hereby granted the said company, its successors or assigns, shall have the right to enter upon and use any one or more or all of the streets, avenues, highways, alleys, lanes and other public areas within the corporate limits of said Ocean City, Maryland, as they now exist or as they may hereafter be extended for the purpose of distribution and sale of natural, liquified petroleum or artificial gas, subject to the terms and conditions herein provided.

(Code 1972, § A114-2; Ord. No. 1999-33, 1-4-2000)

## Sec. 39-303. - Interference with public travel.

That this franchise shall be exercised in the following manner: (a) before commencing any work pursuant to section 39-302, the company shall submit a completed excavation application of such work consisting of a brief description thereof together with a drawing showing the location(s) thereof to the public works department of Ocean City and shall receive the approval of Ocean City for such work; (b) the company shall perform such work in such manner that at no time shall public travel on any of said streets, avenues, highway, alleys, lanes or other public areas be unnecessarily affected or impeded by the laying, maintenance or repair of said gas pipes, conduits or conductors; (c) promptly after completion of such work, the company shall make temporary repairs to the surfaces disturbed by such work in order that the surface of all such streets, avenues, highways, alleys, and lanes (and any other public areas if paved) were used for the purpose of said franchise shall be restored and left in as good condition as they were before such use, to the company's best ability considering weather and all other circumstances; and (d) within 120 days after temporary repair, the company shall make hot mix repaving repairs to the surfaces of all such streets, avenues, highways, alleys and lanes, which were used for the purposes of said franchise, for permanent restoration as aforesaid of such surfaces to such good condition. All such permanent repairs shall conform with specifications of Ocean City design parameters, standard specifications and details for installation of water and sewer utilities and roadway construction projects; subject to the following conditions: If the repairs are made on or before three years from the date of Ocean City having repaved the street, company shall repair the work area from curb to center line if the work performed was on the side of the street, and shall repave the work area from curb to curb if the work performed was in the center of the street; and if the

repairs are made after said three year period, then company shall repair the work area in accordance with Ocean City standard specifications for utility street repairs. In the event that an emergency grade I leak occurs, and there is not adequate time to comply with the application requirements of this section, for the protection of life and property, then the company will notify the Ocean City Police Department before beginning repairs, and then comply with this section as soon as possible.

(Code 1972, § A114-3; Ord. No. 1999-33, 1-4-2000)

Sec. 39-304. - Escrow, indemnity and liability.

That in accepting this franchise the company agrees and covenants (a) to provide surety in the form of a cash escrow fund, bond, or letter of credit in the amount of \$10,000.00 to assure Ocean City that future repair work shall be done as covenanted in section 39-303 hereof; and (b) to indemnify and save harmless the said Mayor and Council of Ocean City from any and all liability for any and all damages arising out of the construction, maintenance, and/or use of said gas mains, pipes, conduits, conductors and any and all appliances and equipment used in connection therewith. The company, its successors or assigns, shall carry and at all times maintain property damage and liability insurance with a responsible insurance company qualified and duly licensed to do business in the State of Maryland. The minimum amount of such insurance for bodily injury, death and property damage shall be \$1,000,000.00 for each person and \$3,000,000.00 for each occurrence, with Mayor and City Council of Ocean City named as additional insured.

A certificate of said insurance coverage shall be provided with the acceptance letter forwarded by company pursuant to section 39-309 hereof. A copy of such insurance policy shall be delivered to the Mayor and Council of Ocean City, P.O. Box 158, Ocean City, Maryland 21843-0158, within 60 days after the effective date hereof, as set forth, infra, in section 39-309 hereof, together with written evidence of the payment of the required premium. Proof of payment of the required premium, annual certification of the effectiveness of such insurance, and documentary evidence of any necessary renewals of such insurance shall be tendered to Ocean City, at the aforesaid address, by July 1 of each year during the remainder of the term of the franchise and any renewal of the said franchise. The said surety is made upon the following conditions and understanding; (c) If Ocean City perceives any problem with any repair work done by the company, it shall give the company ten days written notice specifying the additional work required to be done; (d) if the company fails to respond to said notice to the reasonable satisfaction of Ocean City within ten additional days after receipt of such notice, Ocean City shall have the right to do such work itself and to reimburse itself from the escrow deposit or call upon said amount from the bond or letter of credit upon completion of its work; (e) the company promptly, after notice from Ocean City of the amount of such reimbursement to Ocean City, shall replenish the escrow deposit, bond or letter of credit to the agreed amount of \$10,000.00; and (f) any cash deposit shall be maintained by Ocean City in an insured interest bearing account, and the interest earned thereon shall be paid over at least annually to the company.

(Ord. No. 1999-33, 1-4-2000)

Sec. 39-305. - Liability for taxes.

That the company, its successors or assigns, shall not be liable to Ocean City for occupation or franchise tax during the existence of this franchise, and shall not be liable to Ocean City for any annual franchise fee during the existence of this franchise unless the company shall, after the effective date hereof, agree to pay a franchise fee to another municipality for a similar franchise (in such event the company hereby covenants and agrees to pay a like fee to Ocean City during the remaining term hereof); in any event, the company, its successors or assigns shall be liable for any and all other lawful real estate, personal property or other taxes which may be legally imposed on said franchise holder.

(Ord. No. 2007-9, 5-7-2007)

**Editor's note—**

Ord. No. 2007-9, adopted May 7, 2007, repealed the former section 39-305, and enacted a new section as set out herein. The former section 39-305 pertained to term and derived from Ord. No. 1999-33, 1-4-2000.

Sec. 39-306. - Public service commission.

The company shall notify Ocean City of all scheduled hearings before the Maryland Public Service Commission at least 30 days prior to such hearing. Furthermore, the company shall conspicuously advertise notices of the scheduled hearings before the Maryland Public Service Commission in a local newspaper published in Worcester County, Maryland as defined by Article 1, Section 28 of the Annotated Code of Maryland.

(Ord. No. 2007-9, 5-7-2007)

### **Editor's note—**

Ord. No. 2007-9, adopted May 7, 2007, repealed the former section 39-306, and enacted a new section as set out herein. The former section 39-306 pertained to liability for taxes and derived from Code 1972, § A114-6; Ord. No. 1999-33, 1-4-2000.

Sec. 39-307. - Term and renewal option.

That, subject to the provisions of this article, the franchise hereby granted is for a term of ten years; and shall renew for an additional ten years by written request of the company given during the twelfth month of the ninth year of the initial term, provided that the company is substantially compliant with all terms and conditions of this article. If Ocean City deems the company to be non compliant, then, in that event Ocean City shall give written notice to the company no later than the end of the ninth year of the non compliant issues and the company shall have the balance of the initial term to come into substantial compliance. Failure to come into substantial compliance may result in the franchise not being renewed.

(Ord. No. 2007-9, 5-7-2007)

### **Editor's note—**

Ord. No. 2007-9, adopted May 7, 2007, repealed the former section 39-307, and enacted a new section as set out herein. The former section 39-307 pertained to public service commission and derived from Ord. No. 1999-33, 1-4-2000.

Sec. 39-308. - Obligations of franchisee.

#### **(a) *Initial term.***

- (1) The company shall complete the replacement of all existing steel mains and service lines with polyethylene (PE) pipes, or equivalent.
- (2) The company shall pursue obtaining the permits and approvals for installation of a single bay crossing to pipe the propane gas from the western shore of the Sinepuxent Bay to Ocean City with intent to abandon and remove all tanks and facilities currently located at the company's 66th-67th Street facility. Within 15 months of such approvals being granted and the under bay pipeline being operational, all tank and facilities will be abandoned and removed. If the company requires the full ten years for the approval process, the 15-month abandonment period shall carry over to the renewal term.
- (3) Concurrent with the Franchise Agreement, Ocean City has granted a perpetual pipeline easement over certain areas of the West Ocean City Park and Ride. Upon the acceptance of this Agreement, company shall record the easement in the Land Records of Worcester County. Upon request by Ocean City, said pipeline shall be relocated, lowered and/or protected, so as not to interfere with

Ocean City's development plans. Ocean City shall give the company 30 days written notice to relocate said pipelines. The company agrees to complete such work within 60 days after receipt of such notice, with costs arising from such work to be borne by the company.

- (4) The company shall grant onto Ocean City a Right of First Refusal and/or Option to Purchase company's property at 66th-67th Street in Ocean City (the subject property) which notice to exercise shall be given by Ocean City after the under bay pipeline is operational with actual settlement occurring after passage of the acquisition ordinance or bond ordinance, if any, and any referendum period, but in no event, later than 1 year from notice, upon the following terms and conditions:
- a. *Right of First Refusal.* If the company receives a bona fide offer from a third party for the subject property which is acceptable to the company, the company shall convey the terms and conditions of the offer to Ocean City, in writing within 10 days of company's determination that the offer is acceptable. Ocean City shall have 30 days to accept or reject. If Ocean City rejects, the company can convey the subject property to the third party purchaser. If Ocean City accepts, it shall have the time to settle as set forth herein.
  - b. *Option to Purchase.* Ocean City and the company shall agree upon a purchase price. If they cannot agree upon a purchase price, they will jointly select an appraiser to set the purchase price. If they cannot agree on an appraiser, they will each select an appraiser. If the appraisers cannot agree on a purchase price, they will jointly select a third appraiser. If the parties are unable to agree as to the price made by the third appraiser, the three appraisals will be added with the sum divided by three to determine the sales price, with Ocean City having the time to settle as set forth herein.
- (b) *Initial and renewal term.*
- (1) The company shall install gas mains, laterals, and service lines, concurrent with Ocean City's roadway reconstruction efforts regardless of service demands.
  - (2) The company shall commence to completely pipe all roadways in Ocean City for developed properties (developed properties being defined as projects whereby construction is completed or commenced), so that propane gas service shall be available to each such developed property. If no demand for propane gas service exists, the company shall not be required to install mains or service lines down the streets until the demand exists; provided that there be a main or service line within 350 feet of any property.
  - (3) The company shall establish a public notification outreach program for potential customers with properties adjacent to the installation of mains, laterals and service lines in all projects being done concurrent with town roadway projects.
- (c) *Renewal term.*
- (1) The company shall continue to completely pipe all roadways in Ocean City so that at the end of 20 years all properties with a demand for service are served by the company, and that a gas main exists within 350 feet of any lot or parcel of land within the boundaries of Ocean City that have not requested service, or to the extent of a roadway project by Ocean City pursuant to subsection 39-308(b)1 hereof.

(Ord. No. 2007-9, 5-7-2007)

### **Editor's note—**

Ord. No. 2007-9, adopted May 7, 2007, repealed the former section 39-308, and enacted a new section as set out herein. The former section 39-308 pertained to severability and derived from Ord. No. 1999-33, 1-4-2000.

Sec. 39-309. - Early termination and renegotiation.



Ocean City and the company agree that once the under bay pipeline has been installed, tested and completely operational, natural gas, if available, could be delivered into the Ocean City system. This would necessitate possible renegotiation of the franchise and the Agreement as reflected by the influence and availability of natural gas. A feasibility study by a third party engineering firm, jointly selected by Ocean City and the company would need to be performed, at company's sole expense, to determine whether there is substantial enough benefit to justify the costs to company and its customers to convert to natural gas based upon customers' savings in energy costs.

(Ord. No. 2007-9, 5-7-2007)

### **Editor's note—**

Ord. No. 2007-9, adopted May 7, 2007, repealed the former section 39-309, and enacted a new section as set out herein. The former section 39-309 pertained to effective date and derived from Ord. No. 1999-33, 1-4-2000.

Sec. 39-310. - Severability.

That in case it is judicially determined that any word, phrase, clause, item, sentence, paragraph or section of this ordinance or the application thereof to any person or circumstances is invalid, the remaining provisions and the application of such provisions to other persons or circumstances shall not be affected thereby, the Mayor and City Council of Ocean City declaring that it would have ordained the remaining provisions of this article without such word, phrase, clause, item, sentence, paragraph or section, or the application thereof, so held invalid.

(Ord. No. 2007-9, 5-7-2007)

Sec. 39-311. - Effective date.

That this article shall take effect from and after the date of its passage and upon the filing with the City Clerk of the acceptance by the Company, by letter within 30 days from the date of the passage of this article, of the franchise hereby conferred, which said franchise shall thereupon become a binding contract between the Mayor and City Council of Ocean City and the said The Eastern shore Gas Company, its successors and assigns. This article and the contract created hereunder shall be determined as cancelling and superceding all previous agreements between the parties hereto; provided however, that nothing herein is to be construed as waiving or releasing company from any liability incurred during the term of said previous agreements.

(Ord. No. 2007-9, 5-7-2007)

Secs. 39-312—39-400. - Reserved.





# TOWN OF OCEAN CITY

*The White Marlin Capital of the World*

Agenda Item # 5.H  
Council Meeting June 9, 2015

**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Hal Adkins, Public Works Director  
**RE:** 1st Street Elevated Water Tank: Logo Selection and Upcoming Bid Notice  
**DATE:** June 4, 2015

**ISSUE(S):** 1<sup>st</sup> Street Elevated Water Tank: Logo selection and upcoming bid notice.

**SUMMARY:** The 1<sup>st</sup> Street Elevated Water Tank project is scheduled for bid opening on June 23, 2015. There is recent interest, from multiple parties, to change the logo that will be installed on the tank. In an effort to resolve this matter, proceed with bidding and avoid a negotiated Change Order at a later date, a logo decision is required.

**FISCAL IMPACT:** Attachment No. 1, the "Welcome To and Thank You for Visiting" logo is currently part of the Lump Sum Bid format for the project and was included in the project value when discussing the need for the supporting Bond issuance later this fall. To change to an alternative logo has the potential for increasing the cost of the project but the value of the increase would not be known until bidding is complete, and if and only if, the logo cost is separated out into a separate line item on the bid form.

**RECOMMENDATION:** To proceed with the "Welcome To and Thank You for Visiting" logo and thus maintain consistency on tank logos at the three gateways to Town (Rt. 50, Rt. 90, and the 136th Street Tanks).



1st Class Resort and Tourist Destination

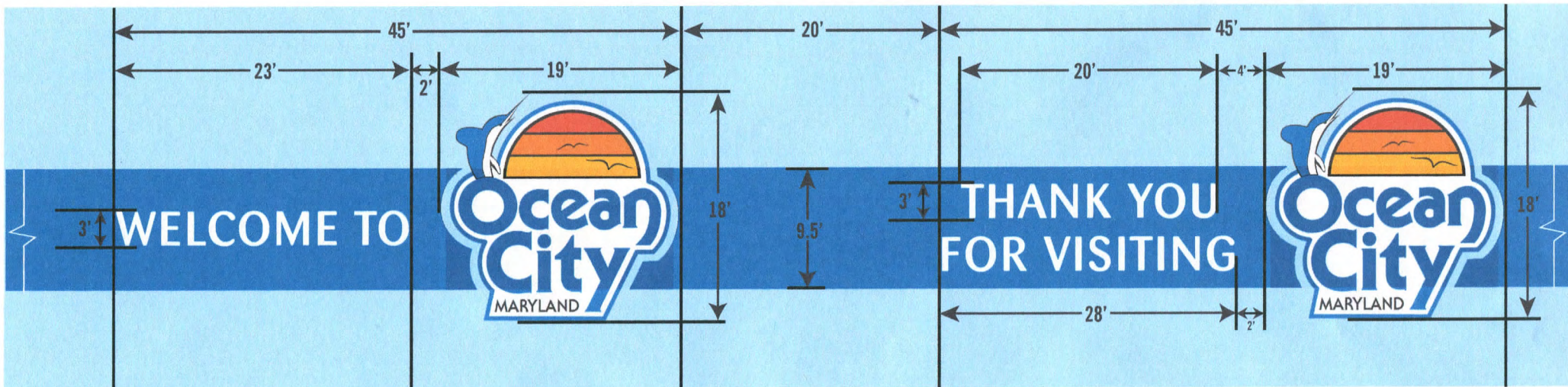
**ALTERNATIVES:** A decision of the Policy Group.

**RESPONSIBLE STAFF:** Hal Adkins, Public Works Director  
Dean Dashiell, PW Senior Project Manager

**COORDINATED WITH:** Jim Parsons, Chief Deputy Director: Brian Mullis, PE, WRA; Glenn Irwin, Executive Director of OCDC: Brian McCarthy, Board Member, Downtown Association: Jim Motsko, White Marlin Open

**ATTACHMENT(S):**

1. Welcome To and Thank You for Visiting Logo
2. Downtown Association letter
3. Sample White Marlin Open Logos or Intent of Home of the White Marlin Open Style wording
4. Letter from OCDC
5. Advertisement for Bids



**Board of Directors**

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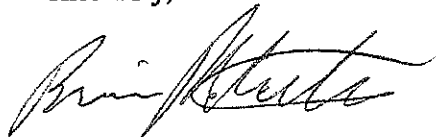
Shannon Tippet

Dear Mayor and Council,

As the town prepares to begin another improvement by constructing the million gallon water tower on St. Louis and First Street, The Downtown Association would like to see the city use that structure to heighten visitor awareness by designing graphics that would stand out. Placing "Ocean City MD" on a blue tower would be a loss of a highly visible means of advertising. The tower's proximity to the Route 50 Bridge, the boardwalk rides and the White Marlin statue could lend itself to become an iconic memory for guest traveling over the bridge. The Downtown Association would support graphic designs like a beach ball, or a crab as examples.

The town might even be able to enlist the help of vacationers by running a contest or by exploiting social media in determining the design that would be most memorable. If something like this is considered, the Downtown Association would be glad to assist in the effort in any way they can. Thank you for taking the time to consider our thoughts.

Sincerely,



Brian McCarthy  
Board Member  
Ocean City Maryland Downtown Association





Attachment: Sample White Marlin Open Logos or Intent of Home of the White Marlin Open Style wording (1219 : 1st Street Elevated Water Tank: Logo



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Bill Sieg

June 4, 2015

Mayor and City Council  
Town of Ocean City  
301 Baltimore Avenue  
Ocean City, Maryland 21842

Dear Mayor and City Council:

At its June 3<sup>rd</sup> meeting, the OCDC Board of Directors discussed the design graphics and wording for the proposed water tower at St. Louis Avenue and 1<sup>st</sup> Street. The OCDC Board supports the "Welcome to/ Thank you for visiting" wording with the same Ocean City Maryland logo found on the 64<sup>th</sup> street water tower. OCDC believes each water tower near Ocean City entrances should have consistent messaging.

If you have any questions please do not hesitate to contact our office at (410) 289-7739.

*Executive Director*  
Glenn Irwin

Sincerely,

Glenn Irwin  
Executive Director, OCDC

*Ex-Officio Members:*

Economic Development Committee

Ocean City Chamber of Commerce

Ocean City Downtown Association

Ocean City Hotel Motel Restaurant  
Association, Inc.

Town of Ocean City

Worcester County

**SECTION 00020**  
**ADVERTISEMENT FOR BIDS**  
**TOWN OF OCEAN CITY, MARYLAND**  
**1ST STREET ELEVATED WATER STORAGE TANK**  
**CONTRACT No. WR/OC-185**

Notice is hereby given that separate sealed bids for the 1st Street Elevated Water Storage Tank, Contract No. WR/OC-185 will be received from qualified Contractors by The Mayor and City Council of Ocean City, Maryland, c/o the City Manager, Town of Ocean City, Maryland, 301 Baltimore Avenue, Ocean City, Maryland 21842, on June 22, 2015 until 4:30 p.m., local time. The bids will be publicly opened and read aloud on June 23, 2015 at 1:00 p.m. at the meeting of the Mayor and City Council. Please use the yellow sheet supplied in the bid form with your bid submission.

Any bids received after the above time will not be accepted under any circumstances. Any uncertainty regarding the time a bid is received will be resolved against the Bidder. The Contract will be awarded on a lump sum basis.

The project consists of construction of the 1st Street Elevated Water Storage Tank, including mechanical/electrical equipment, support systems and appurtenances, site work, structural and other miscellaneous work. The successful Bidder will also be required to purchase a Town of Ocean City Business License.

A Pre-Bid Conference for this project will be held at the Department of Public Works, 204 65<sup>th</sup> Street - Building E, Ocean City, MD 21842, on June 2, 2015 at 10:00 a.m. The purpose of the Pre-Bid Conference is for Bidders to familiarize themselves with the project site and to ask questions pertaining to the Specifications and the work. All Bidders are encouraged to attend and can visit the site afterwards. The Specifications are available at the offices of Whitman, Requardt and Associates, LLP, 801 South Caroline Street, Baltimore, Maryland 21231. Contact Katie Auerbach, tel. 410-235-3450.

Each Bid must be accompanied by a Bid Security in the form of either a Certified Check upon an incorporated bank or trust company or a Bid Bond. The Certified Check or Bid Bond shall be for an amount not less than five percent of the Bid Price and shall be made payable to "The Mayor and City Council of Ocean City, Maryland" as a guarantee that the Bidder will not withdraw his Bid for a period of 60 days after bids are opened, and that the successful Bidder will fill in and execute the proposed Contract and furnish the appropriate additional bonds within ten days after Notice of Award of the Contract. Bid Bonds must be written by a corporate surety acceptable to the Town and authorized to write bonds of such character and amount under the laws of the State of Maryland. However, a Bidder may withdraw his Bid from consideration if his Bid is substantially lower than the other bids due solely to a mistake therein, provided that the Bid was submitted in good faith and

the mistake was clerical and due to an unintentional arithmetic error or omission. In such event, the Bidder shall give notice in writing of this claim or right to withdraw his Bid within two business days after the bids are opened.

The successful Bidder will be required to furnish Performance and Payment Bonds, each in the amount of 100% of the Contract Price. Failing to do so, he will forfeit his Bid Security. The successful Bidder will also be required to purchase a town of Ocean City business license.

The Town reserves the right to accept or reject any or all bids, to waive irregularities and to award the Contract as it deems will best serve its interest.

The Town shall have the authority to negotiate with the apparent low Bidder on projects bid in accordance with the Maryland Code, where the Bid from such Bidder exceeds available funds, in order to obtain a Contract Price within such available funds. For purposes of this paragraph, the term "available funds" shall refer to the Town's established budget for a particular project. The Town shall take reasonable steps to obtain the lowest and most competitive price possible within available funds.





# TOWN OF OCEAN CITY

*The White Marlin Capital of the World*

Agenda Item # 5.1

Council Meeting June 9, 2015

**TO:** The Honorable Mayor, Council President and Members of Council  
**THRU:** David L. Recor, ICMA-CM, City Manager  
**FROM:** Terry McGean, City Engineer  
**RE:** Flood Ordinance Changes  
**DATE:** June 3, 2015

**ISSUE(S):** Adoption of the new Flood Insurance Rate Maps and related changes to the Flood Damage Prevention Code proposed by FEMA and the State of Maryland.

**SUMMARY:** FEMA notified the City that the proposed Flood Insurance Study for Ocean City has been completed, all public comments have been addressed and the appeal process for the proposed new Flood Insurance Rate Maps has ended. The new maps will become effective on July 16, 2015.

**Changes to the maps impact the City's Flood Damage Prevention Ordinance (Chapter 38) and the City's Building Code (Chapter 10).** Staff is recommending changes to the Code that adopt the maps while maintaining our high standards of storm resistant construction. On February 10, 2015, staff presented our recommended Code changes which was approved by the Council for submittal to the Maryland State Flood Insurance Coordinator for review.

Although the State was pleased with our proposed revisions, FEMA and the State have mandated numerous additional provisions that communities must include in their flood plain ordinance in order to remain in the National Flood Insurance Program.

**FISCAL IMPACT:** Based on the new flood maps, most ocean front property owners should see a reduction in their flood insurance rates. Some bayside properties are likely to see an increase. The cost of construction should not be significantly impacted by the proposed changes.

**RECOMMENDATION:** Move the proposed new ordinance for first reading on Monday June 15, 2015.



Revitalized Ocean City: Development and Redevelopment

**ALTERNATIVES:** No staff alternatives suggested.

**RESPONSIBLE STAFF:** Terry McGean, City Engineer  
 Kevin Brown, Building Official Chief



Agenda Item # 5.1Council Meeting June 9, 2015

**COORDINATED WITH:** Maryland Department of Environment

**ATTACHMENT(S):**

1. Flood code summary of changes
2. Chapter 38 clean version with changes
3. Chapter 38 tracked changes

## SUMMARY OF FLOOD CODE REVISIONS

Previously presented and approved Ocean City staff revisions:

1. Adopt the new flood maps
2. Change all elevation references from NGVD 1929 to NAVD 1988 for consistency with new flood maps (0.80' difference)
3. Since all V zones are now located east of the Building limit line, prohibit construction in the V zone.
4. Minimum first floor elevation requirements of 16.5 NGVD and high hazard foundation requirements previously required in the V zone, now apply to all structures east of the dune setback line (within 75' of the beach replenishment project line) regardless of the mapped flood zone.
5. Minimum first floor elevation requirement of 3' above the base flood elevation for structures in the foundation critical area (within 250' of the beach replenishment line), remains the same but add for areas without a mapped BFE (outside the 1% zone), a minimum first floor elevation 3' above highest adjacent grade.
6. Areas outside the critical foundation area except "downtown": Previous requirement was 2' above the base flood elevation, proposed requirement is 3' above the base flood elevation, or for areas without a mapped BFE (outside the 1% flood zone) 2' above highest adjacent grade.
7. "Downtown" Previous requirement was at or above the base flood elevation. Proposed requirement is at the base flood elevation, or for areas without a mapped BFE (outside the 1% flood zone) at or above highest adjacent grade.
8. Boardwalk front properties must also be at or above the boardwalk elevation.
9. Change the definition of substantial improvement so that cumulative improvement costs begin 10 years from the date of the proposed improvement permit application, instead of from initial construction. This encourages redevelopment and matches the FEMA model ordinance. *Moved and approved on first and second reading.*

## SUMMARY OF FLOOD CODE REVISIONS

Revisions requested by the State National Flood Insurance Program Coordinator

1. Numerous additional definitions, most of which were acceptable to the City staff
2. Creation of what is known as a “Coastal A Zone”. City staff has not included this language. The Coastal A zone essentially converts a portion of the standard A zone to a new zone with building requirements very similar to those in a V zone (ie pile foundations, break away walls etc). Adoption of the Coastal A zone is at the discretion of the local jurisdiction. Under the proposed new Ocean City flood maps these zones would all be located on the bay front in a narrow strip of the A zone that wanders along the shoreline. It would significantly alter the typical construction of homes in these areas and staff felt that with the proposed 3’ freeboard requirement flood protection in these areas is adequately addressed.
3. Numerous references to FEMA technical bulletins and web sites which the city staff did not feel was appropriate to include in ordinance form.
4. Language establishing the statutory authorization behind the ordinance.
5. Language including a rather detailed description of the purpose of the ordinance. City staff had some concerns with this language but was advised it is required to be included in the flood code.
6. A clause noting that this ordinance is not intended to repeal or abrogate other existing regulations or ordinances
7. A disclaimer of liability clause
8. Spells out the duties of the Flood Plain Administrator. The City staff felt that some of this language was too restrictive and specific and therefore deleted much of it.
9. An entire section regarding the use and interpretation of the Flood Insurance Rate Maps which the City staff felt was not appropriate to include in ordinance form.
10. A section noting when permits are required and when they expire. City staff notes that this duplicates language in the Building Permit section of the code but was advised by the State that this language was required to be included in the flood code as well.
11. Language relating to river conditions which the City staff did not include because it is not relevant to Ocean City.
12. Language relating to the establishment of base flood elevations in special flood hazard areas where no elevations are shown on the flood maps. City staff did not include this language since this condition does not exist in Ocean City

## SUMMARY OF FLOOD CODE REVISIONS

13. A large section dealing with the requirements for information to be shown on the permit application. Most of this was acceptable to city staff and is already required. City staff removed the requirement to record certain documents in the county land records as this had been included in the city flood ordinance at one time but caused enforcement problems and delays and was subsequently changed to having these records filed with the permit application project file.
14. A section dealing with New Technical data and the “letter of map change” process through FEMA which city staff felt was not appropriate for the ordinance but were advised that the language was required by the State and FEMA.
15. A section detailing the application review process. City staff removed the section regarding enforcement of State and Federal clean water acts and tidal wetlands laws as we felt this was not appropriate for a local ordinance
16. A section listing required inspections. City staff removed the requirement for a stake out inspection since we did not feel this was necessary and would be an additional inspection beyond what is already performed.
17. Some additional language involving variances. Most of which was acceptable. City staff changed the requirement for MDE comment of all variances from “shall” to “may”. City staff also maintained existing ordinance language allowing staff granted variances for accessory structures less than 600 sf. This was language that was adopted into this ordinance years ago so that every garage built in Ocean City would not have to be approved by the Board of Adjustments and Appeals.
18. Language containing more detailed requirements for flood proofing which essentially duplicates existing building code requirements.
19. A section requiring new water and wastewater systems to be designed to minimize infiltration of flood waters which is already done in Ocean City. Staff had requested to eliminate the sentence regarding onsite waste disposal systems since these are not allowed in Ocean City however we were told this is required language by the State and FEMA.
20. A section dealing with historic structures.
21. A section regarding critical and essential facilities. City staff removed the language prohibiting these facilities in Coastal A zones and the requirement that they be elevated a foot above the requirements for all other structures. Since the proposed code changes require all structures in mapped flood zones to be elevated to 3’ above the base flood elevation, we felt that requiring critical facilities such as fire houses and police stations to be elevated to 4’ above the base flood elevation was neither necessary nor practical.

## ARTICLE I. - IN GENERAL

Secs. 38-1—38-30. - Reserved.

## ARTICLE II. - FLOOD DAMAGE PREVENTION

## DIVISION 1. - GENERALLY

Sec. 38-31. - Definitions and rules of construction.

- (a) For the purposes of this article, the following definitions shall apply in the interpretation, enforcement and intent of this article. When not inconsistent with the context, words used in the present tense include the future, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.
- (b) As used in this article, the following terms shall have the meanings indicated:

*Accessory structure.* A subordinate building or structure on the same lot with, and of a nature customarily incidental to, the main or principal building (e.g., sheds, detached garages). For the purposes of these regulations, an accessory structure shall be used solely for parking of vehicles and limited storage.

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

*Base flood elevation.* The elevation of the flood having a one percent chance of being equaled or exceeded in any given year (the level of the 100-year flood).

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

*Breakaway wall.* A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

*Building limit line.* The oceanfront construction limit line created and described in chapter 106, article IV of the Code of the Town of Ocean City.

*Building permit.* The permit as required by the Code of Ocean City, Maryland.

*Coastal high-hazard area.* The portion of the coastal floodplain having special flood hazards, that is subject to velocity waters, including hurricane wave wash and tidal waves, and which is designated as a V zone on the applicable flood maps.

*Critical foundation area.* For the purposes of this article, the following two areas:

- (1) That area east of the easterly right-of-way line of Baltimore Avenue lying north of 26th Street and south of 33rd Street.
- (2) That area lying east of a point 250 feet west of the beach replenishment project line, lying north of 33rd Street and south of the division line between the State of Maryland and the State of Delaware.

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



*Declaration of land restriction (nonconversion agreement).* A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures.

*Department.* The Department of Planning and Community Development of Ocean City, Maryland.

*Development.* Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials, and other land disturbance activities.

*Dune setback line.* A line located 75 feet westward of the beach replenishment project line. The purpose of the "dune setback line" is to protect the integrity of any naturally occurring or manmade dunes.

*Elevations.* Wherever used, plus (+) or minus (-) shall refer to the mean level (NAVD 1988) of the Atlantic Ocean datum, United States Coast and Geodetic Survey of Atlantic Ocean, Ocean City, Maryland.

*Elevation certificate. FEMA form on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a licensed professional land surveyor or a licensed professional engineer, as specified by the Floodplain Administrator. When used to document the height above grade of buildings in special flood hazard areas for which base flood elevation data are not available, the Elevation Certificate shall be completed in accordance with the instructions issued by FEMA.*

*Flood or flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas from abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes or tidal waves.

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

*Flood insurance study.* The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and the water surface elevations.

*Floodproof or floodproofing.* Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodproofing certificate. FEMA form that is to be completed, signed and sealed by a licensed professional engineer or licensed architect to certify that the design of floodproofing and proposed methods of construction are in accordance with the applicable requirements of these regulations.*

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

*Free-of-Obstruction.* A term that describes open foundations (pilings, columns, or piers) without attached elements or foundation components that would obstruct the free passage of floodwaters and waves beneath structures that are elevated on such foundations.

*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.

*Grade, highest adjacent.* The highest natural elevation of the ground surface prior to construction next to the proposed foundation of a structure.

*Grade, post-construction.* The final elevations of the ground surface next to the walls of a structure after construction.

*Habitable space.* Any area usable for living purposes, which includes sleeping, eating or cooking, or a combination thereof.

*Historic structure.* Any structure that is:

(1) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

(3) Individually listed on the Maryland Register of Historic Places.

*Level of 100-year flood.* The highest level of flooding that, on the average, is likely to occur once every 100 years (or has a one percent chance of occurring each year), as shown on the flood insurance rate map (the base flood elevation).

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

*Lowest floor.* The lowest floor of the lowest enclosed area, including basements. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or limited storage in an area other than a basement area, is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

*Manufactured home.* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle" as defined herein.

*Manufactured home park or subdivision.* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*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 purposes 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.

*New construction/structure.* For floodplain management purposes, structures, including additions and improvements, and the placement of manufactured homes, for which the start of construction commenced on or after December 19, 1975, the initial effective date of the Town of Ocean City Flood Insurance Rate Map, including any subsequent improvements, alterations, modifications, and additions to such structures.

*100-year storm.* The level of flooding, water loads, wind speeds, duration, direction and forces which, when acting simultaneously, result in severe beach erosion and overwash and have a one percent chance of occurring each year.

*Recreational vehicle.* A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

*Special flood hazard area.* The land in the floodplain subject to a one-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, A1 30, and A99, and Zones VE and V1-30. The term includes areas shown on other flood maps that are identified in Section 38-33.

*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 actual start means either 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 structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvements, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

*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 percent of the market value of the structure before the damage occurred. Also used as "substantially damaged" structures.

*Substantial improvement.* Any combination of reconstruction, rehabilitation, addition or other improvement of a structure taking place during a ten year period, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either: any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. Substantial improvement" is commenced when the first alteration of any structural part of the building is begun; costs of incremental improvements to a building or structure shall accumulate with respect to the 50 percent criterion which defines substantial improvement.

*Temporary structure.* A structure installed, used, or erected for a period of less than 180 days.

*Variance.* A grant of relief from the strict application of one or more requirements of these regulations.

*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.

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

(Code 1972, § 52A-2; Ord. No. 1997-15, 8-18-1997; Ord. No. 2008-24, 1-5-2009)

Sec. 38-32. - Violations and penalties.

(a) Compliance required.

- (1) No building, structure or development shall hereafter be located, erected, constructed, reconstructed, improved, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations.
- (2) Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties in accordance with this Section
- (3) Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a violation of these regulations.

(b) Notice of violation and stop work order.

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

- (1) Include a list of violations, referring to the section or sections of these regulations that have been violated;
  - (2) Order remedial action which, if taken, will effect compliance with the provisions of these regulations;
  - (3) Specify a reasonable period of time to correct the violation;
  - (4) Advise the recipients of the right to appeal; and
  - (5) Be served in person; or
  - (6) Be posted in a conspicuous place in or on the property and sent by registered or certified mail to the last known mailing address, residence, or place of business of the recipients.
- (c) Any person, partnership, joint venture, corporation or other entity violating this article shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$500.00. Each day that this article is violated shall be deemed a separate offense.
- (d) In addition to the fines and penalties herein described, the Mayor and City Council of Ocean City may avail itself of any and all civil and equitable remedies for the purpose of stopping continuing violation of this article.

(Code 1972, § 52A-14)

**State law reference**— Penalties for ordinance violations, Ann. Code of Md. art. 23A, § 3.

Sec. 38-33. - Purpose and intent; adoption of maps.

- (a) The purpose of this article is to provide for adequate minimum standards and procedures for the construction of new residential and nonresidential structures, including manufactured homes, and for such structures that are substantially improved so that such structures can be eligible for insurance under the National Flood Insurance Program and so that the construction of such structures will be in conformity with recognized construction techniques designed to offer flood protection. Any change in

the delineation of floodplain districts shall be subject to the review and approval of the Federal Emergency Management Agency (in this article referred to as "FEMA").

- (b) The flood insurance rate maps, including the zone designations on said maps and all explanatory material noted thereon, are hereby incorporated into this article by reference in their entirety. Said maps shall be kept in the custody of the Department of Planning and Community Development, which is the department delegated the administrative responsibility by the Mayor and City Council of Ocean City, Maryland, for the approval and issuance of building permits. Said maps shall be referred to for a determination of the floodprone and specified hazard areas and the 100-year base flood elevation line for a calculation of construction requirements for any structure within the incorporated areas of Ocean City, Maryland, under the provisions of this article.
- (c) The Town of Ocean City, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on June 18, 1971. As of that date, or as of December 19, 1975, the initial effective date of the Town of Ocean City Flood Insurance Rate Map, all development and new construction as defined herein, are to be compliant with these regulations.
- (d) The Maryland General Assembly, in Md. Code Ann., Land Use Article, Title 4, has established as policy of the State that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that planning and zoning controls shall be implemented by local government in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources. Therefore, the Mayor and Council of Ocean City does hereby adopt the following floodplain management regulations.
- (e) It is the purpose of these regulations to promote the public health, safety and general welfare, and to:
  - (1) Protect human life, health and welfareEncourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;Minimize flooding of water supply and sanitary sewage disposal systems;
  - (2) Maintain natural drainageReduce financial burdens imposed on the community, its governmental units and its residents, by discouraging unwise design and construction of development in areas subject to flooding;
  - (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (4) Minimize prolonged business interruptionsMinimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
  - (5) Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actionsMinimize the impact of development on adjacent properties within and near flood-prone areasProvide that the flood storage and conveyance functions of floodplains are maintained;
  - (6) Minimize the impact of development on the natural and beneficial functions of floodplainsPrevent floodplain uses that are either hazardous or environmentally incompatible; andMeet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22
- (f) These regulations shall apply to all special flood hazard areas within the jurisdiction of the Town of Ocean City, and identified in this section.
- (g) For the purposes of these regulations, the minimum basis for establishing special flood hazard areas and base flood elevations is the Flood Insurance Study for Worcester County, Maryland And Incorporated Areas dated July 16, 2015, or the most recent revision thereof, and the accompanying Flood Insurance Rate Maps and all subsequent amendments and revisions to the FIRMs.
- (h)



(Code 1972, § 52A-1)

Sec. 38-34. - Conflicting regulations.

In the event that any provision of this article, other than the provisions of section 38-54, conflicts with any provision of any other ordinance or if any two provisions of this article conflict with each other, that provision or ordinance requiring the greatest elevation or most substantial building requirement shall control. The intention of this section is to give this article, or section therein, precedence over any other ordinance whose provisions are less severe. However, provisions of all other codes, ordinances, resolutions and regulations shall be applicable insofar as they are consistent with the provisions of this article and Ocean City's need to minimize the hazardous conditions and property damage resulting from flood conditions.

(Code 1972, § 52A-13)

Sec. 38-35. - Abrogation and greater restrictions.

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

Sec. 38-36. - Warning and disclaimer of liability.

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and flood heights may be increased by man made or natural causes. These regulations do not imply that land outside of the special flood hazard areas or uses that are permitted within such areas will be free from flooding or flood damage.

These regulations shall not create liability on the part of the Town of Ocean City, any officer or employee thereof, the Maryland Department of the Environment (MDE) or the Federal Emergency Management Agency (FEMA), for any flood damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.

Secs. 38-37—38-50. - Reserved.

DIVISION 2. - ADMINISTRATION

FOOTNOTE(S):

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**Cross reference**— Administration, ch. 2. [\(Back\)](#)

Sec. 38-51. - Designation of the floodplain administrator.

The Chief Building Official and or his designee is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- (1) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

- (2) Enter into a written agreement or written contract with another Maryland community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.

Sec. 38-52. - 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 these regulations.
- (d) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required.
- (e) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Ocean City, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations or boundaries
- (f) Maintain and permanently keep records that are necessary for the administration of these regulations, 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
- (g) 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 these regulations Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Ocean City have been modified and:
  - (1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
  - (2) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place within six months of the date of annexation and a copy of the amended regulations shall be provided to MDE (NFIP State Coordinator) and FEMA.

Sec. 38-54. - Permits required and expiration.

- (a) It shall be unlawful for any person to begin any development or construction which is wholly within, partially within, or in contact with any flood hazard area established in Section 38.33, including but not limited to: filling; grading; construction of new structures; the substantial improvement of buildings or structures, including repair of substantial damage; placement or replacement of manufactured homes, including substantial improvement or repair of substantial

damage of manufactured homes; erecting or installing a temporary structure, or alteration of a watercourse, until a permit is obtained from the Town of Ocean City. No such permit shall be issued until the requirements of these regulations have been met.

- (b) A permit is valid provided the actual start of work is within 180 days of the date of permit issuance. Requests for extensions shall be submitted in writing and justifiable cause demonstrated. The Floodplain Administrator may grant, in writing, one or more extensions of time, for additional periods not exceeding 90 days each and provided there has been no amendment or revision to the basis for establishing special flood hazard areas and BFEs set forth in Section 38-33.

Sec. 38-55. - Application required.

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

- (a) Application contents.

At a minimum, applications shall include:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and existing and proposed topography of the area in question, and the location of existing and proposed structures, excavation, filling, storage of materials, drainage facilities, and other proposed activities.
- (2) Elevation of the existing natural ground where buildings or structures are proposed, referenced to the datum on the FIRM.
- (3) Delineation of flood hazard areas, designated floodway boundaries, flood zones, base flood elevations, and flood protection setbacks. Base flood elevations shall be used to delineate the boundary of flood hazard areas and such delineations shall prevail over the boundary of SFHAs shown on FIRMs.
- (4) If fill is proposed to be placed for a purpose other than to elevate structures, the applicant shall indicate the intended purpose for the fill.
- (5) For proposed buildings and structures, including substantial improvement and repair of substantial damage, and placement and replacement of manufactured homes, including substantial improvement and repair of substantial damage:
  - a. The proposed elevation of the lowest floor, including basement, referenced to the datum on the FIRM and a signed Agreement to Submit an Elevation Certificate.
  - b. The signed Declaration of Land Restriction (Nonconversion Agreement) that shall be submitted to the Chief Building official prior to issuance of the Certificate of Occupancy, if the application includes an enclosure below the lowest floor or a crawl/underfloor space that is more than four (4) feet in height.
- (6) For accessory structures that are 300 square feet or larger in area (footprint) and that are below the base flood elevation, a variance is required as set forth in Section 38-62 and 38-63. If a variance is granted, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be submitted to the Chief Building Official prior to issuance of the Certificate of Occupancy.
- (7) For temporary structures and temporary storage, specification of the duration of the temporary use.

- (8) For proposed work on existing buildings, structure, and manufactured homes, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes substantial improvement or repair of substantial damage, including but not limited to:
- a. If the existing building or structure was constructed after June 18, 1971, evidence that the work will not alter any aspect of the building or structure that was required for compliance with the floodplain management requirements in effect at the time the building or structure was permitted.
  - b. If the proposed work is a horizontal addition, a description of the addition and whether it will be independently supported or structurally connected to the base building and the nature of all other modifications to the base building, if any.
  - c. Documentation of the market value of the building or structure before the improvement or, if the work is repair of damage, before the damage occurred.
  - d. Documentation of the actual cash value of all proposed work, including the actual cash value of all work necessary to repair and restore damage to the before-damaged condition, regardless of the amount of work that will be performed. The value of work performed by the owner or volunteers shall be valued at market labor rates; the value of donated or discounted materials shall be valued at market rates.
- (9) Certifications and/or technical analyses prepared or conducted by a licensed professional engineer or licensed architect, as appropriate, including:
- a. The determination of the base flood elevations or hydrologic and hydraulic engineering analyses prepared by a licensed professional engineer that are required by the Floodplain Administrator or are required by these regulations.
  - b. The Floodproofing Certificate for nonresidential structures that are floodproofed as required in Section 38-73(a).
  - c. Certification that engineered flood openings are designed to meet the minimum requirements of Section 38-72(c) to automatically equalize hydrostatic flood forces.
  - d. Certification that the proposed elevation, structural design, specifications and plans, and the methods of construction to be used for structures in coastal high hazard areas (V Zones) and Coastal A Zones, are in accordance with accepted standards of practice and meet the requirements of Section 38-74.
- (10) For nonresidential structures that are proposed with floodproofing, an operations and maintenance plan as specified in Section 38-73(a).
- (11) Such other material and information as may be requested by the Floodplain Administrator and necessary to determine conformance with these regulations.
- (b) New technical data.
- (1) The applicant may seek a Letter of Map Change by submitting new technical data to FEMA, such as base maps, topography, and engineering analyses to support revision of floodplain and floodway boundaries and/or base flood elevations. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant. A copy of the submittal shall be attached to the application for a permit.
  - (2) If the applicant submits new technical data to support any change in floodplain and designated floodway boundaries and/or base flood elevations but has not sought a Letter of Map Change from FEMA, the applicant shall submit such data to FEMA as soon as practicable, but not later than six months after the date such information becomes available. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant.

Sec. 38-56. - Review of application.

The Floodplain Administrator shall:

- (a) Review applications for development in special flood hazard areas to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information that is required to support the application.
- (b) Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and other State and Federal authorities may be required.
- (c) Review all permit applications to assure that all necessary permits have been received from the Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits.
- (d) Review applications for compliance with these regulations after all information required in Section 38-55 of these regulations or identified and required by the Floodplain Administrator has been received.

Sec. 38-57. – Inspections.

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

- (a) Foundation inspection, upon placement of the lowest floor and prior to further vertical construction, to collect information or certification of the elevation of the lowest floor.
- (b) Inspection of enclosures below the lowest floor, including crawl/underfloor spaces, to determine compliance with applicable provisions.
- (c) Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the base flood elevation.
- (d) Final inspection prior to issuance of the Certificate of Occupancy.

Sec. 38-58. - Submissions required prior to final inspection.

Pursuant to the Agreement to Submit an Elevation Certificate submitted with the application as required in Section 38-55(a), the permittee shall have an Elevation Certificate prepared and submitted prior to final inspection and issuance of a Certificate of Occupancy for elevated structures and manufactured homes, including new structures and manufactured homes, substantially-improved structures and manufactured homes, and additions to structures and manufactured homes.

Sec. 38-59. - Nonconforming uses in coastal high-hazard areas (V zones).

Within those areas designated as V zones by the flood maps, all nonconforming uses on land below the 100-year flood level shall only be expanded or substantially improved if such expansions or improvements comply with the provisions of this article.

(Code 1972, § 52A-8)

Sec. 38-60. - Review of building permit applications.

Within those incorporated areas of Ocean City, Maryland, designated as special flood hazard areas by the flood maps, all building permit applications for new construction or substantial improvement of residential and nonresidential structures, including manufactured homes, shall be reviewed to assure that all necessary permits have been obtained from agencies as required by federal, state and local law. In addition, applications shall be reviewed to assure that the proposed construction shall:

- (1) Be protected against flood damage.

- (2) Be designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure.
- (3) Use construction materials and utility equipment that are resistant to flood damage.
- (4) Use construction methods and practices that will minimize flood damage.
- (5) Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. This requirement shall be mandatory for all replacement of any service facilities. All new and replaced service facilities or equipment shall be elevated in accordance with section 38-71 titled minimum elevation requirements, with the exception that the bottom of all duct work shall be a minimum of one foot above FEMA Flood Elevation Requirement.

(

(Code 1972, § 52A-11; Ord. No. 2008-24, 1-5-2009)

Sec. 38-61. - Certifications of elevation and floodproofing.

- (a) Within those incorporated areas of Ocean City, Maryland, , all building permit applications for the construction or substantial improvement of residential and nonresidential structures, including manufactured homes, shall have indicated thereon the lowest floor elevation or floodproofing elevation in reference to mean sea level (NAVD). Such elevation shall also be shown on the building permit and must be approved as meeting the requirements of this article by the department prior to the issuance of a building permit. Before a certificate of occupancy is issued for the structure, the department shall inspect the premises to assure that the requirements of this article have been met. Before a certificate of occupancy is issued for the structure, the owner shall submit to the department an elevation certificate, prepared by a registered surveyor, to certify that the requirements of this article have been met.
- (b) Before a certificate of occupancy is issued for a nonresidential structure that has been floodproofed in accordance with section 38-73(a), a certification of floodproofing completed by a registered engineer or architect must be submitted to the department.

(Code 1972, § 52A-12)

Sec. 38-62. - Variances generally.

The Board of Adjustments and Appeals of Ocean City 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 provisions of these regulations, an unnecessary hardship would result.

Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Board of Adjustments and Appeals may attach such conditions to variances as it deems necessary to further the purposes of these regulations.

The Board of Adjustments and Appeals 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 that the cost of Federal flood insurance will be commensurate with the increased risk.

A record of all variance actions, including justification for issuance shall be maintained pursuant to Section 38.52(k) of these regulations.



- (a) An owner of property, or his representative, may seek a variance from the requirements of this article by application to the Board of Adjustments and Appeals of Ocean City. In no instance may a variance to minimum elevation requirement be granted which would permit a lowest floor (including basement) to be below the base flood elevation.
- (b) In deciding on requests for variances, the Board of Adjustments and Appeals shall be guided by the following provisions:
  - (1) The effect of the variance on preexisting structures in the area.
  - (2) That the applicant demonstrates good and sufficient cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
  - (3) That failure to grant the variance would result in exceptional noneconomic hardship to the applicant due to the physical characteristics of the property.
  - (4) That the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense and will not create nuisances or cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
  - (5) That the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (6) That the building, structure or other development is protected by methods to minimize flood damages.
- (c) In the event a variance is granted, the board shall provide that the building permit issued shall, in writing, indicate:
  - (1) That the proposed structure or proposed addition or proposed improvement is located in a floodprone area.
  - (2) That flood insurance rates will increase commensurate with the distance between the lowest floor or floodproofed level elevation and the base flood elevation.
  - (3) That the conditions of the variance shall be particularized in an agreement by and between the property owner and the Mayor and City Council of Ocean City. Said agreement shall be recorded in the land records of Worcester County and shall be deemed to be a restriction which runs with the land.
- (d) The department shall maintain a record of all variances granted by the board, including the justification for their issuance. A record of all variances granted shall be provided to the federal insurance administrator annually.

(Code 1972, § 52A-6)

Sec. 38-63. - Variances for accessory structures.

- (a) Within all areas except those located in a V Zone, a newly proposed accessory structure is hereby granted a variance to allow its lowest floor elevation to be below that of the base flood elevation if all of the following stipulations are met:
  - (1) A statement shall be placed on the building plans which shall read as follows: "No conversion of this area to habitable space is to occur unless the lowest floor is elevated to a point above the base flood elevation. At this site the base flood elevation is \_\_\_\_\_."
  - (2) The floor elevation of the accessory structure shall not qualify as a basement and must be constructed on grade.
  - (3) The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

- (4) The accessory structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The accessory structure shall be designed to have low flood damage potential.
- (6) The service facilities, such as electrical and heating equipment, shall be elevated one foot above applicable base flood elevation or be floodproofed.
- (7) The accessory structure shall be comprised of no more than 600 square feet and no more than one story, which will allow construction of a standard two-car garage.
- (8) The accessory structures shall be designed to meet or exceed the following minimum criteria:
  - a. A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all flood openings shall be no higher than one foot above grade.
  - c. Flood openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (b) The applicant shall be made aware that, if the accessory structure is built below the base flood elevation, the aforesaid structure may be susceptible to higher insurance premium rates for the structure and its contents.
- (c) For accessory structures greater than 300 square feet and up to 600 square feet, the conditions of the variance shall be subject to an agreement as set forth in section 38-62(c)(3) hereof.

(Code 1972, § 52A-7)

#### Sec. 38-64. - Considerations for Variances

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

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

- (a) The danger that materials may be swept onto other lands to the injury of others.
- (b) The danger to life and property due to flooding or erosion damage.
- (c) The susceptibility of the proposed development and its contents (if applicable) to flood damage.
- (d) The importance of the services to the community provided by the proposed development.
- (e) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
- (f) The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
- (g) The compatibility of the proposed use with existing and anticipated development.
- (h) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
- (i) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (k) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(l) Any comments provided by MDE (NFIP State Coordinator).

Secs. 38-65—38-70. - Reserved.

### DIVISION 3. - FLOOD HAZARD REDUCTION

Sec. 38-71. - Minimum elevation requirements.

(a) Notwithstanding the requirements of any other section of the Code or any lesser requirements of the Federal Emergency Management Agency, the elevation of the lowest floor, including basement, of any residential building, structure or manufactured home, or any elevated nonresidential structure, within Ocean City, Maryland, shall be as follows:

(1) In any V zone, Structures prohibited

(2) East of the dune setback line, a minimum of 15.7 feet above mean sea level (NAVD 1988) (3)  
In the critical foundation area, as defined in this article and in chapter 10, article IV, division 2 (foundation requirements), and west of the dune setback line, a minimum of three feet above the base flood elevation as shown on the flood insurance rate map or if located in an x zone or other area without a mapped base flood elevation a minimum of 3' above the highest adjacent grade.

(3) In an area east of the easterly right-of-way of Coastal Highway or Philadelphia Avenue and not in the critical foundation area or a V zone, a minimum of three feet above the base flood elevation or if located in an x zone or other area without a mapped base flood elevation, a minimum of two feet above highest adjacent grade.

(4) In the area west of the westerly right-of-way of Coastal Highway or Philadelphia Avenue, a minimum of three feet above the base flood elevation or if located in an x zone or other area without a mapped base flood elevation, a minimum of two feet above highest adjacent grade.

(5) In all blocks south of Third Street, except the westerly 150 feet of block 29 and all of block 41 of the Sinepuxent Beach Company plat, the elevation shall be at or above the base flood elevation as established by the flood insurance rate map, or if no established base flood elevation, at or above highest adjacent grade. Property owners elevating buildings only to the base flood elevation shall be advised of the increased risk of flood damage and potential higher flood insurance costs.

(6) In the area fronting Atlantic Ave from the inlet to 27 Street, in no case shall the lowest floor be below the elevation of the top of the boardwalk adjacent to the property.

(b) In all cases, the elevations of the post-construction grades of any site shall be such that surface water drainage shall be to the existing or proposed streets or alleys.

(Code 1972, § 52A-3; Ord. No. 1995-17, 11-6-1995)

Sec. 38-72. - Requirements for residential construction.

(a) All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated according to the requirements of section 38-71 of this article.

(b) All new construction and substantial improvements of residential structures within an AO zone shall have the lowest floor (including basement) elevated to the highest of the following:

(1) The requirements of section 38-71 of this article;

(2) Three feet above the highest post-construction grade; or

- (3) Three feet above the highest adjacent grade.
- (c) For all new construction and substantial improvements, fully enclosed areas below the lowest floor used solely for parking of vehicles, building access or limited storage in an area other than a basement, that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - (1) A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (2) The bottom of all flood openings shall be no higher than one foot above grade.
  - (3) Flood openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(d)

(Code 1972, § 52A-4)

Sec. 38-73. - Requirements for nonresidential construction.

- (a) All new construction and substantial improvements of nonresidential structures shall have the lowest floor, including basement, elevated according to the requirements of section 38-71 or, together with attendant utility and sanitary facilities, shall be floodproofed so that below minimum elevation requirements specified in section 38-71, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting, hydrostatic and hydrodynamic loads and effects of buoyancy.
  - (1) When the floodproofing option is selected, a registered professional engineer or architect shall develop and/or review structural design specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting these requirements. In addition, structures shall:
    - a. Be designed to be dry floodproofed such that the building or structure is watertight with walls and floors substantially impermeable to the passage of water to the level of the flood protection elevation as specified in Section 38-71, or
    - b. If located in an area of shallow flooding (Zone AO), be dry floodproofed at least as high above the highest adjacent grade as the depth number specified on the FIRM plus three (3) feet, or at least five (5) feet if a depth number is not specified; and
    - c. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
    - d. Have floodproofing measures that are designed taking into consideration the nature of flood-related hazards; frequency, depth and duration of flooding; rate of rise and fall of floodwater; soil characteristics; flood-borne debris; at least 12 hours of flood warning time from a credible source; and time necessary to implement any measures that require human intervention;
    - e. Have at least one door above the applicable flood elevation that allows human ingress and egress during conditions of flooding;
    - f. Have an operations and maintenance plan that is filed with local officials and that specifies the owner/occupant's responsibilities to monitor flood potential; the location of any shields, doors, closures, tools, or other goods that are required for implementation; maintenance of such goods; methods of installation; and periodic inspection; and
    - g. Be certified by a licensed professional engineer or licensed architect, through execution of a Floodproofing Certificate that states that the design and methods of construction meet the

requirements of this section. The Floodproofing Certificate shall be submitted with the construction drawings as required in Section 38-55(a)(13).

- (2) A floodproofing design which requires human intervention may only be used for additions, including substantial improvements, to existing nonresidential structures. Human intervention may not be part of a floodproofing design for new structures as defined in section 38-31.
  - (3) Floodproofing of new nonresidential buildings is not allowed in Coastal V Zones.
- (b) Elevation.
- (1) All new construction and substantial improvements of nonresidential structures within any AO zone shall have the lowest floor (including basement) elevated to the highest of the following:
    - a. The requirements of section 38-71 of this article;
    - b. Three feet above the highest post-construction grade; or
    - c. Three feet above the highest adjacent grade.
  - (2) In lieu of elevation, a nonresidential structure, together with attendant utility and sanitary facilities, may be completely floodproofed to the appropriate elevation level as determined above to meet the floodproofing standard specified in section 38-73(a).
- (c) For all new construction and substantial improvements of elevated nonresidential structures, fully enclosed areas below the lowest floor used solely for parking of vehicles, building access or limited storage in an area other than a basement that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
- (1) A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (2) The bottom of all flood openings shall be no higher than one foot above grade.
  - (3) Flood openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (d)
- (Code 1972, § 52A-5; Ord. No. 1997-15, 8-18-1997; Ord. No. 2000-25, 8-21-2000)

Sec. 38-74. - Development of coastal high-hazard areas (V zones) or east of the dune setback line.

- (a) Within those areas designated as V zones by the flood maps or east of the dune setback line as defined herein, land below the level of the 100-year flood shall only be developed if the new construction or substantial improvement complies with all of the following:
  - (1) The structure is located landward of the reach of the mean high tide.
  - (2) The structure is elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated in accordance with section 38-71; and the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the 100-year flood. Wind loading values used shall be those required by the Standard Building Code. A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions contained in this subsection.
  - (3) The space below the lowest floor is either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework or insect screening intended to collapse under wind



and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
  - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the 100-year flood. Wind loading values used shall be those required by the Standard Building Code.
  - c. Such enclosed space shall be usable solely for parking of vehicles, building access or limited storage.
  - e. Walls and partitions are permitted below the elevated floor, provided that such walls and partitions are designed to break away under flood loads and are not part of the structural support of the building or structure.
  - f. Electrical, mechanical, and plumbing system components shall not be mounted on or penetrate through walls that are designed to break away under flood loads.
- (4) Slabs, pools, pool decks and walkways shall be located and constructed to be structurally independent of structures and their foundations to prevent transfer of flood loads to the structures during conditions of flooding, scour, or erosion from wave-velocity flow conditions, and shall be designed to minimize debris impacts to adjacent properties and public infrastructure.
- (b) In V zones or east of the dune setback line, fill may not be used for structural support of buildings.
  - (c) In V zones or east of the dune setback line where fill material is permitted for landscaping or parking lot foundations, such fill material shall be similar in characteristics and composition to the soil existing on site.
  - (d) No manufactured homes or recreational vehicles shall be placed in V zones or within the critical foundation area.
  - (e) Permanent manmade alterations of sand dunes which would increase potential flood damage are prohibited.
  - (f) Where temporary dune alterations are permitted to allow foundation construction, the flood mitigation properties of such dunes shall be fully restored and maintained.

(Code 1972, § 52A-9)

Sec. 38-75. - Manufactured homes and recreational vehicles.

- (a) Manufactured homes/buildings and recreational vehicles are prohibited from any V zone or within the critical foundation area.
- (b) Recreational vehicles placed in any location within Ocean City shall either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use or meet the permit requirements of section 38-52 and the elevation and anchoring requirements for manufactured homes in section 38-75(c). A recreational vehicle is ready for highway use if it is on its wheels or

jacking system, is attached to the site only by quick-disconnect type utilities and security devices and has no permanently attached additions.

- (c) Manufactured homes that are placed or substantially improved in any location within Ocean City shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the minimum requirements of section 38-71 and shall be securely anchored to an adequately anchored foundation system in accordance with the minimum standards of The Town of Ocean City Building Department.

(Code 1972, § 52A-10)

Sec. 38-76. - Subdivision proposals and development proposals.

- (a) In all flood zones:
- (1) Subdivision proposals and development proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
  - (2) Subdivision proposals and development proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  - (3) Subdivision proposals and development proposals shall have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed structures.
  - (4) .
  - (5) .

Sec. 38-77. - Protection of water supply and sanitary sewage systems.

- (a) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
- (c) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of flooding. (note that these systems are not allowed per 94-64)

Sec. 38-78. - Historic Structures

Repair, alteration, addition, rehabilitation, or other improvement of historic structures shall be subject to the requirements of these regulations if the proposed work is determined to be a substantial improvement, unless a determination is made that the proposed work will not preclude the structure's continued designation as a historic structure. The Floodplain Administrator may require documentation of a structure's continued eligibility and designation as a historic structure.

Sec. 38-79. - Critical and essential facilities.

Critical and essential facilities shall:

- (a) Not be located in coastal high hazard areas (V Zones).
- (b) If located in flood hazard areas other than coastal high hazard areas, , be elevated to the elevation required by these regulations.

Sec. 38-80. - Temporary structures and temporary storage

In addition to the application requirements of Section 38-55, applications for the placement or erection of temporary structures and the temporary storage of any goods, materials, and equipment, shall specify the duration of the temporary use. In addition:

- (a) Temporary structures shall:
  - (1) Be designed and constructed to prevent flotation, collapse or lateral movement.

- (2) Have electric service installed in compliance with the electric code; and
- (3) Comply with all other requirements of the applicable State and local permit authorities.

(b) Temporary storage shall not include hazardous materials.

Sec. 38-81. Gas or liquid storage tanks.

- (a) Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (b) Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and elevated to or above the base flood elevation, or shall be anchored or otherwise designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (c) In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
  - (1) At or above the base flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood; and
  - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

Sec. 38-82. Functionally dependent uses.

Applications for functionally dependent uses that do not conform to the requirements of these regulations shall be approved only by variances issued pursuant to Section 38-62. If approved, functionally dependent uses shall be protected by methods that minimize flood damage during the base flood, including measures to allow floodwaters to enter and exit, use of flood damage-resistant materials, and elevation of electric service and equipment to the extent practical given the use of the building.

ARTICLE I. - IN GENERAL

Secs. 38-1—38-30. - Reserved.

ARTICLE II. - FLOOD DAMAGE PREVENTION

DIVISION 1. - GENERALLY

Sec. 38-31. - Definitions and rules of construction.

- (a) For the purposes of this article, the following definitions shall apply in the interpretation, enforcement and intent of this article. When not inconsistent with the context, words used in the present tense include the future, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.
- (b) As used in this article, the following terms shall have the meanings indicated:

*Accessory structure.* A subordinate building or structure on the same lot with, and of a nature the use of which is customarily incidental to, the main or principal building (e.g., sheds, detached garages). For the purposes of these regulations, an accessory structure shall be used solely for parking of vehicles and limited storage.

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

*Base flood elevation.* The elevation of the flood having a one percent chance of being equaled or exceeded in any given year (the level of the 100-year flood).

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

*Breakaway wall.* A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

*Building limit line.* The oceanfront construction limit line created and described in chapter 106, article IV of the Code of the Town of Ocean City.

*Building permit.* The permit as required by the Code of Ocean City, Maryland.

~~*Coastal A Zone.* An area within a special flood hazard area, landward of a coastal high hazard area (V Zone) or landward of a shoreline without a mapped coastal high hazard area, in which the principal source(s) of flooding are astronomical tides and storm surges, and in which, during base flood conditions, the potential exists for breaking waves with heights greater than or equal to 1.5 feet. The inland limit of the Coastal A Zone may be delineated on FIRMs as the Limit of Moderate Wave Action (LiWMA).~~

*Coastal high-hazard area.* The portion of the coastal floodplain having special flood hazards, that is subject to velocity waters, including hurricane wave wash and tidal waves, and which is designated as a V zone on the applicable flood maps.

*Critical foundation area.* For the purposes of this article, the following two areas:

- (1) That area east of the easterly right-of-way line of Baltimore Avenue lying north of 26th Street and south of 33rd Street.

**Commented [KGW1]:** Missing required definition Base Flood, Development, Flood Insurance Study, H Structures, Special Flood Hazard Area, Start of Cons Structure and Violation. Several other definitions recommended.

**Commented [TM2]:** ok

**Commented [TM3]:** staff is not comfortable with zone as shown on the flood maps and would not recommend adopting it at this time

**Commented [TM4]:** I agree this makes sense

**Commented [KGW5]:** Town to consider changing references of "critical area" to "critical foundation" to avoid confusion with the statewide Critical Area pro different regulated entity altogether.

Attachment: Chapter 38 tracked changes (1224 : Flood Ordinance Changes)

- (2) That area lying east of a point 250 feet west of the beach replenishment project line, lying north of 33rd Street and south of the division line between the State of Maryland and the State of Delaware.

Critical and Essential Facilities. Buildings and other structures that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes. ~~[Note: See Maryland Building Performance Standards, Sec. 1602 and Table 1604.5.]~~ Critical and essential facilities typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.

Declaration of land restriction (nonconversion agreement). A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. ~~[The form requires the owner to record it on the property deed to inform future owners of the restrictions.]~~

Department. The Department of Planning and Community Development of Ocean City, Maryland.

Development. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials, and other land disturbance activities.

Dune setback line. A line located 75 feet westward of the beach replenishment project line. The purpose of the "dune setback line" is to protect the integrity of any naturally occurring or manmade dunes.

Elevations. Wherever used, plus (+) or minus (-) shall refer to the mean level (~~NGVD~~NAVD 1988) of the Atlantic Ocean datum, United States Coast and Geodetic Survey of Atlantic Ocean, Ocean City, Maryland.

Elevation certificate. FEMA form on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a licensed professional land surveyor or a licensed professional engineer, as specified by the Floodplain Administrator. When used to document the height above grade of buildings in special flood hazard areas for which base flood elevation data are not available, the Elevation Certificate shall be completed in accordance with the instructions issued by FEMA. ~~[Note: FEMA Form 086-0-33 and instructions are available online at <http://www.fema.gov/library/viewRecord.do?id=1383>.]~~

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes or tidal waves.

Flood maps or flood insurance rate maps. An official map on which the Federal Emergency Management Agency has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMs that have been prepared in digital format or converted to digital format are referred to as Digital FIRMs (DFIRM). ~~The maps of Ocean City, Maryland, dated March 4, 1986 July 16, 2015, which were produced as part of the flood insurance study prepared by the Federal Emergency Management Agency, and any subsequent revisions thereof as approved by the Federal Emergency Management Agency.~~

Flood insurance study. The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and the water surface elevations.

Floodproof or floodproofing. Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodproofing certificate. FEMA form that is to be completed, signed and sealed by a licensed professional engineer or licensed architect to certify that the design of floodproofing and proposed methods of construction are in accordance with the applicable requirements of ~~Section 5.5(B) of these regulations.~~ ~~[Note: FEMA Form 086-0-34 is available online at <http://www.fema.gov/library/viewRecord.do?id=1600>.]~~

**Commented [TM6]:** This has been an enforcement problem in the past

**Commented [TM7]:** Update datum

**Commented [TM8]:** We are not including any of references to FEMA publications or websites as they change too often.

**Commented [TM9]:** Adopts new maps

**Commented [TM10]:** KW has moved the map ad language to 38-33

Attachment: Chapter 38 tracked changes (1224 : Flood Ordinance Changes)



*Flood opening.* A flood opening (non-engineered) is an opening that is used to meet the prescriptive requirement of 1 square inch of net open area for every square foot of enclosed area. An engineered flood opening is an opening that is designed and certified by a licensed professional engineer or licensed architect as meeting certain performance characteristics, including providing automatic entry and exit of floodwaters; this certification requirement may be satisfied by an individual certification for a specific structure or issuance of an Evaluation Report by the ICC Evaluation Service, Inc. ~~[Note: See NFIP Technical Bulletin #1, "Openings in Foundation Walls and Walls of Enclosures."]~~

*Free-of-Obstruction.* A term that describes open foundations (pilings, columns, or piers) without attached elements or foundation components that would obstruct the free passage of floodwaters and waves beneath structures that are elevated on such foundations. ~~[Note: See NFIP Technical Bulletin #5, "Free-of-Obstruction Requirements."]~~

*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.

*Grade, highest adjacent.* The highest natural elevation of the ground surface prior to construction next to the proposed walls-foundation of a structure.

*Grade, post-construction.* The final elevations of the ground surface next to the walls of a structure after construction.

*Habitable space.* Any area usable for living purposes, which includes sleeping, eating or cooking, or a combination thereof.

*Historic structure.* Any structure that is:

(1) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

(3) Individually listed on the Maryland Register of Historic Places.

*Level of 100-year flood.* The highest level of flooding that, on the average, is likely to occur once every 100 years (or has a one percent chance of occurring each year), as shown on the flood insurance rate map (the base flood elevation).

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

*Lowest floor.* The lowest floor of the lowest enclosed area, including basements. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or limited storage in an area other than a basement area, is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

*Manufactured home.* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle" as defined herein.

*Manufactured home park or subdivision.* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*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 purposes 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.

New construction/structure. For floodplain management purposes, structures, including additions and improvements, and the placement of manufactured homes, for which the start of construction new construction is construction which commences on or after the December 19, 1975, the initial effective date of the Town of Ocean City Flood Insurance Rate Map, including any subsequent improvements, alterations, modifications, and additions to such structures. Ordinance No. 1991-10, the floodplain management regulations adopted by Ocean City, and includes all subsequent additions and improvements.

100-year storm. The level of flooding, water loads, wind speeds, duration, direction and forces which, when acting simultaneously, result in severe beach erosion and overwash and have a one percent chance of occurring each year.

Recreational vehicle. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Special flood hazard area. The land in the floodplain subject to a one-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, A1 30, and A99, and Zones VE and V1-30. The term includes areas shown on other flood maps that are identified in Section 38-33.

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 actual start means either 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 structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvements, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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 percent of the market value of the structure before the damage occurred. Also used as "substantially damaged" structures. [Note: See "Substantial Improvement/Substantial Damage Desk Reference" (FEMA P-758).]

**Commented [TM11]:** KB is not comfortable with definition and will check with KW about alternative:

**Commented [TM12]:** We did not like the term specifically, felt it was too narrow

Substantial improvement. Any combination of reconstruction, rehabilitation, addition or other improvement of a structure taking place during a ten year period, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either: any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. ~~[Note: See "Substantial Improvement/Substantial Damage Desk Reference" (FEMA P-758).]~~ "Substantial improvement" is commenced when the first alteration of any structural part of the building is begun; costs of incremental improvements to a building or structure shall accumulate with respect to the 50 percent criterion which defines substantial improvement.

**Commented [KGW13]:** Town to confirm.

Temporary structure. A structure installed, used, or erected for a period of less than 180 days.

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

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 certifications, the Elevation Certificate, or other evidence of compliance required is presumed to be a violation until such time as the required documentation is provided.~~

**Commented [KGW14]:** The MD Model Ordinance doesn't have a cumulative substantial improvement provision. It appears the Town's current definition has a cumulative SI provision, but it doesn't provide a specific period of time SI would be tracked. Therefore, the assumption is SI's tracked over the life of the structure. If the Town wants to put a time period in, I would recommend using the example language found in Section 5.7.3 c 5-19 of the FEMA Substantial Improvement/Substantial Damage Desk Reference (P-758). By the way, the Town gets extra CRS credit for a cumulative SI provision. However, before changing this definition, you may want to check the ISO rep to ensure any CRS credit the Town is currently getting for this will not be lost.

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

(Code 1972, § 52A-2; Ord. No. 1997-15, 8-18-1997; Ord. No. 2008-24, 1-5-2009)

**Commented [TM15]:** This language has already been approved by the Mayor and Council and will remain.

Sec. 38-32]. - Violations and penalties.

**Commented [TM16]:** Redundant to the building code.

(a) Compliance required.

**Commented [KGW17]:** Compliance procedures are required.

- (1) No building, structure or development shall hereafter be located, erected, constructed, reconstructed, improved, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations.
- (2) Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties in accordance with this Section 8.3.
- (3) Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a violation of these regulations.

(b) Notice of violation and stop work order.

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

- (1) Include a list of violations, referring to the section or sections of these regulations that have been violated;
- (2) Order remedial action which, if taken, will effect compliance with the provisions of these regulations;
- (3) Specify a reasonable period of time to correct the violation;
- (4) Advise the recipients of the right to appeal; and

(5) Be served in person; or

(6) Be posted in a conspicuous place in or on the property and sent by registered or certified mail to the last known mailing address, residence, or place of business of the recipients.

(ca) Any person, partnership, joint venture, corporation or other entity violating this article shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$500.00. Each day that this article is violated shall be deemed a separate offense.

(db) In addition to the fines and penalties herein described, the Mayor and City Council of Ocean City may avail itself of any and all civil and equitable remedies for the purpose of stopping continuing violation of this article.

(Code 1972, § 52A-14)

**State law reference**— Penalties for ordinance violations, Ann. Code of Md. art. 23A, § 3.

Sec. 38-33. - Purpose and intent; adoption of maps.

(a) The purpose of this article is to provide for adequate minimum standards and procedures for the construction of new residential and nonresidential structures, including manufactured homes, and for such structures that are substantially improved so that such structures can be eligible for insurance under the National Flood Insurance Program and so that the construction of such structures will be in conformity with recognized construction techniques designed to offer flood protection. Any change in the delineation of floodplain districts shall be subject to the review and approval of the Federal Emergency Management Agency (in this article referred to as "FEMA").

(b) The flood insurance rate maps, including the zone designations on said maps and all explanatory material noted thereon, are hereby incorporated into this article by reference in their entirety. Said maps shall be kept in the custody of the Department of Planning and Community Development, which is the department delegated the administrative responsibility by the Mayor and City Council of Ocean City, Maryland, for the approval and issuance of building permits. Said maps shall be referred to for a determination of the floodprone and specified hazard areas and the 100-year base flood elevation line for a calculation of construction requirements for any structure within the incorporated areas of Ocean City, Maryland, under the provisions of this article.

(c) The Town of Ocean City, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on June 18, 1971. As of that date, or as of December 19, 1975, the initial effective date of the Town of Ocean City Flood Insurance Rate Map, all development and new construction as defined herein, are to be compliant with these regulations.

(d) The Maryland General Assembly, in Md. Code Ann., Land Use Article, Title 4, has established as policy of the State that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that planning and zoning controls shall be implemented by local government in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources. Therefore, the Mayor and Council of Ocean City does hereby adopt the following floodplain management regulations.

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

—Protect human life, health and welfare;

—Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;

(1) Minimize flooding of water supply and sanitary sewage disposal systems;

—Maintain natural drainage;

**Commented [KGW18]:** Statutory Authorization (required).

- (2) Reduce financial burdens imposed on the community, its governmental units and its residents, by discouraging unwise design and construction of development in areas subject to flooding;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - Minimize prolonged business interruptions;
- (4) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
  - Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;
  - Minimize the impact of development on adjacent properties within and near flood-prone areas;
- (5) Provide that the flood storage and conveyance functions of floodplains are maintained;
  - Minimize the impact of development on the natural and beneficial functions of floodplains;
  - Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (6) Meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22;

(f) These regulations shall apply to all special flood hazard areas within the jurisdiction of the Town of Ocean City, and identified in this section.

(g) For the purposes of these regulations, the minimum basis for establishing special flood hazard areas and base flood elevations is the Flood Insurance Study for Worcester County, Maryland And Incorporated Areas dated July 16, 2015, or the most recent revision thereof, and the accompanying Flood Insurance Rate Maps and all subsequent amendments and revisions to the FIRMs.

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

(Code 1972, § 52A-1)

Sec. 38-34. - Conflicting regulations.

In the event that any provision of this article, other than the provisions of section 38-54, conflicts with any provision of any other ordinance or if any two provisions of this article conflict with each other, that provision or ordinance requiring the greatest elevation or most substantial building requirement shall control. The intention of this section is to give this article, or section therein, precedence over any other ordinance whose provisions are less severe. However, provisions of all other codes, ordinances, resolutions and regulations shall be applicable insofar as they are consistent with the provisions of this article and Ocean City's need to minimize the hazardous conditions and property damage resulting from flood conditions.

(Code 1972, § 52A-13)

Sec. 38-35. - Abrogation and greater restrictions.

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

Sec. 38-36. - Warning and disclaimer of liability.

**Commented [TM19]:** We are concerned that this is not necessary and opens the city up to liability iss State advises this language is required.

**Commented [TM20]:** Here is where the new map adopted under Kevin's revisions

**Commented [KGW21]:** Referencing FIS and FIRM date required.

**Commented [KGW22]:** Recommended

**Commented [TM23]:** I think this over complicate code and associated enforcement and would not in this language

**Commented [KGW24]:** Severability (required).

**Commented [KGW25]:** Abrogation and greater restriction (required).

**Commented [KGW26]:** Disclaimer of liability (rec

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The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and flood heights may be increased by man made or natural causes. These regulations do not imply that land outside of the special flood hazard areas or uses that are permitted within such areas will be free from flooding or flood damage.

These regulations shall not create liability on the part of the Town of Ocean City, any officer or employee thereof, the Maryland Department of the Environment (MDE) or the Federal Emergency Management Agency (FEMA), for any flood damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.

Secs. 38-~~35~~37—38-50. - Reserved.

#### DIVISION 2. - ADMINISTRATION ~~AND ENFORCEMENT~~

#### FOOTNOTE(S):

--- (2) ---

**Cross reference**— Administration, ch. 2. ([Back](#))

Sec. 38-51. - Designation of the floodplain administrator.

The ~~Chief Building Official~~ and or his designee is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

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

Sec. 38-52. - 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 these regulations.
- (d) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required. ~~in particular, permits from MDE for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or~~

**Commented [KGW27]:** Where is the enforcement language within this division? Recommend deleting ENFORCEMENT", and renaming "ADMINISTRATION" adding additional text that includes floodplain administrative duties and permit administration procedures.

**Commented [KGW28]:** Town to confirm.

~~any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing nontidal waters of the State;~~

~~Verify that applicants proposing an alteration of a watercourse have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA;~~

~~Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA);~~

~~Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met;~~

~~Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed;~~

~~Review Elevation Certificates and require incomplete or deficient certificates to be corrected;~~

(e) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Ocean City, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations or boundaries;

(f) Maintain and permanently keep records that are necessary for the administration of these regulations, 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

~~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 these regulations;~~

~~Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action;~~

~~Advise the Board of Adjustments and Appeals of Ocean City regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation;~~

~~Administer the requirements related to proposed work on existing buildings:~~

~~Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged;~~

~~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;~~

~~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; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property~~

**Commented [TM29]:** No construction is allowed inlet, in fact it is not within the city corporate limits. to keep the ordinance as simple as possible and would recommend not including this language.

**Commented [KGW30]:** Typically this refers to river situations which the Town doesn't have, however, the OC inlet where this could apply.

**Commented [KGW31]:** Town to confirm

**Formatted:** Font: (Default) Arial, 10 pt

**Commented [TM32]:** State advises this clause is required.

**Commented [TM33]:** correct

**Commented [KGW34]:** Town to confirm.

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~~owners with documentation necessary to file claims for Increased Cost of Compliance (ICC) coverage under NFIP flood insurance policies.~~

~~(g) Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Ocean City have been modified and:~~

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

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

~~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.~~

Sec. 38-53. Use and interpretation of FIRMs.

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

- ~~Where field surveyed topography indicates that ground elevations:
 
  - ~~Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;~~
  - ~~Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.~~~~
- ~~In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified special flood hazard areas, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.~~
- ~~Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.~~
- ~~Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.~~
- ~~If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
 
  - ~~Upon the issuance of a Letter of Final Determination by FEMA, if the preliminary flood hazard data is more restrictive than the effective data, it shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations;~~
  - ~~Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 38-33(C)~~~~

**Commented [TM35]:** We would prefer not include this language in the ordinance for reasons of simplification and potential liability

**Commented [KGW36]:** Recommended.

**Commented [TM37]:** We would prefer not to include this.

**Commented [KGW38]:** It may be okay to delete this sentence since OC doesn't have any riverine floodplains or floodways.

**Commented [TM39]:** I would delete this

~~and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.~~

~~—Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations, floodplain or floodway boundaries exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.~~

Sec. 38-54. - Permits required and expiration.

- (a) It shall be unlawful for any person to begin any development or construction which is wholly within, partially within, or in contact with any flood hazard area established in Section 38.33, including but not limited to: filling; grading; construction of new structures; the substantial improvement of buildings or structures, including repair of substantial damage; placement or replacement of manufactured homes, including substantial improvement or repair of substantial damage of manufactured homes; erecting or installing a temporary structure, or alteration of a watercourse, until a permit is obtained from the Town of Ocean City. No such permit shall be issued until the requirements of these regulations have been met.
- (b) A permit is valid provided the actual start of work is within 180 days of the date of permit issuance. Requests for extensions shall be submitted in writing and justifiable cause demonstrated. The Floodplain Administrator may grant, in writing, one or more extensions of time, for additional periods not exceeding 90 days each and provided there has been no amendment or revision to the basis for establishing special flood hazard areas and BFEs set forth in Section 38-33.

Commented [KGW40]: Required.

Sec. 38-55. - Application required.

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

(a) Application contents.

At a minimum, applications shall include:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and existing and proposed topography of the area in question, and the location of existing and proposed structures, excavation, filling, storage of materials, drainage facilities, and other proposed activities.
- (2) Elevation of the existing natural ground where buildings or structures are proposed, referenced to the datum on the FIRM.
- (3) Delineation of flood hazard areas, designated floodway boundaries, flood zones, base flood elevations, and flood protection setbacks. Base flood elevations shall be used to delineate the boundary of flood hazard areas and such delineations shall prevail over the boundary of SFHAs shown on FIRMs.

~~—Determination of the base flood elevations, for development proposals and subdivision proposals, each with at least 5 lots or at least 5 acres, whichever is the lesser, in special flood hazard areas where base flood elevations are not shown on the FIRM; if hydrologic and hydraulic engineering analyses are submitted, such analyses shall be performed in accordance with the requirements and specifications of MDE and FEMA.~~

Commented [KGW41]: May not have to include sentence since all floodplains in OC have BFEs.

Commented [TM42]: Suggest we delete

~~Hydrologic and hydraulic engineering analyses for proposals in special flood hazard areas where FEMA has provided base flood elevations but has not delineated a floodway; such analyses shall demonstrate that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot, or a lower increase if required by MDE.~~

**Commented [KGW43]:** May not have to include sentence since all floodplains in OC are tidal or coas

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

**Commented [TM44]:** Suggest we delete this, not applicable

(5) ~~For proposed buildings and structures, including substantial improvement and repair of substantial damage, and placement and replacement of manufactured homes, including substantial improvement and repair of substantial damage:~~

a. ~~The proposed elevation of the lowest floor, including basement, referenced to the datum on the FIRM and a signed Agreement to Submit an Elevation Certificate.~~

b. ~~The signed Declaration of Land Restriction (Nonconversion Agreement) that shall be recorded on the property deed submitted to the Chief Building official prior to issuance of the Certificate of Occupancy, if the application includes an enclosure below the lowest floor or a crawl/underfloor space that is more than four (4) feet in height.~~

(6) ~~For accessory structures that are 300 square feet or larger in area (footprint) and that are below the base flood elevation, a variance is required as set forth in Section 38-62 and 38-63. If a variance is granted, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed submitted to the Chief Building Official prior to issuance of the Certificate of Occupancy.~~

**Commented [TM45]:** This has been an enforcement issues in the past

(7) ~~For temporary structures and temporary storage, specification of the duration of the temporary use.~~

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

a. ~~If the existing building or structure was constructed after June 18, 1971, evidence that the work will not alter any aspect of the building or structure that was required for compliance with the floodplain management requirements in effect at the time the building or structure was permitted.~~

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

c. ~~Documentation of the market value of the building or structure before the improvement or, if the work is repair of damage, before the damage occurred.~~

d. ~~Documentation of the actual cash value of all proposed work, including the actual cash value of all work necessary to repair and restore damage to the before-damaged condition, regardless of the amount of work that will be performed. The value of work performed by the owner or volunteers shall be valued at market labor rates; the value of donated or discounted materials shall be valued at market rates.~~

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

a. ~~The determination of the base flood elevations or hydrologic and hydraulic engineering analyses prepared by a licensed professional engineer that are required by the Floodplain Administrator or are required by these regulations. in Section 38-76 for certain subdivisions and development; Section 5.3(A) for development in~~



~~designated floodways; Section 5.3(C) for development in flood hazard areas with base flood elevations but no designated floodways; and Section 5.3(E) for deliberate alteration or relocation of watercourses;~~

- b. The Floodproofing Certificate for nonresidential structures that are floodproofed as required in Section 38-73(a).
- c. Certification that engineered flood openings are designed to meet the minimum requirements of Section 38-72(c) to automatically equalize hydrostatic flood forces.
- d. Certification that the proposed elevation, structural design, specifications and plans, and the methods of construction to be used for structures in coastal high hazard areas (V Zones) and Coastal A Zones, are in accordance with accepted standards of practice and meet the requirements of Section 38-74.

(10) For nonresidential structures that are proposed with floodproofing, an operations and maintenance plan as specified in Section 38-73(a).

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

(b) New technical data.

(1) The applicant may seek a Letter of Map Change by submitting new technical data to FEMA, such as base maps, topography, and engineering analyses to support revision of floodplain and floodway boundaries and/or base flood elevations. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant. A copy of the submittal shall be attached to the application for a permit.

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

Sec. 38-56. - Review of application.

The Floodplain Administrator shall:

- (a) Review applications for development in special flood hazard areas to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information that is required to support the application.
- (b) Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and other State and Federal authorities may be required.  
~~Review all permit applications to assure that all necessary permits have been received from the Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including permits issued by:~~
  - ~~The U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act;~~
  - ~~MDE pursuant to COMAR 26.23 (Nontidal Wetlands) and Section 401 of the Clean Water Act;~~
  - ~~MDE for construction on nontidal waters of the State pursuant to COMAR 26.17.04; and~~
- (c) MDE pursuant to COMAR 26.24 (Tidal Wetlands).
- (d) Review applications for compliance with these regulations after all information required in Section 38-55 of these regulations or identified and required by the Floodplain Administrator has been received.

**Commented [KGW46]:** Might be able to delete this paragraph, but need to coordinate the alteration watercourse language.

**Commented [TM47]:** We do not believe this is appropriate to place in the local ordinance, State no language is required

**Formatted**

**Commented [TM48]:** We do not believe this is appropriate for the local ordinance.

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Sec. 38-57. – Inspections.

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

- ~~— Stake-out inspection, to determine location on the site relative to the flood hazard area and designated floodway.~~
- (a) Foundation inspection, upon placement of the lowest floor and prior to further vertical construction, to collect information or certification of the elevation of the lowest floor.
- (b) Inspection of enclosures below the lowest floor, including crawl/underfloor spaces, to determine compliance with applicable provisions.
- (c) Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the base flood elevation.
- (d) Final inspection prior to issuance of the Certificate of Occupancy.

**Commented [TM49]:** This is not necessary.

Sec. 38-58. - Submissions required prior to final inspection.

Pursuant to the Agreement to Submit an Elevation Certificate submitted with the application as required in Section 38-55(a), the permittee shall have an Elevation Certificate prepared and submitted prior to final inspection and issuance of a Certificate of Occupancy for elevated structures and manufactured homes, including new structures and manufactured homes, substantially-improved structures and manufactured homes, and additions to structures and manufactured homes.

Sec. 38-5459. - Nonconforming uses in coastal high-hazard areas (V zones).

Within those areas designated as V zones by the flood maps, all nonconforming uses on land below the 100-year flood level shall only be expanded or substantially improved if such expansions or improvements comply with the provisions of this article.

(Code 1972, § 52A-8)

Sec. 38-5260. - Review of building permit applications.

Within those incorporated areas of Ocean City, Maryland, designated as special flood hazard areas by the flood maps, all building permit applications for new construction or substantial improvement of residential and nonresidential structures, including manufactured homes, shall be reviewed to assure that all necessary permits have been obtained from agencies as required by federal, state and local law. In addition, applications shall be reviewed to assure that the proposed construction shall:

- (1) Be protected against flood damage.
- (2) Be designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure.
- (3) Use construction materials and utility equipment that are resistant to flood damage.
- (4) Use construction methods and practices that will minimize flood damage.
- (5) Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. This requirement shall be mandatory for all replacement of any service facilities. All new and replaced service facilities or equipment shall be elevated in accordance with section 38-71 titled minimum elevation requirements, with the exception that the bottom of all duct work shall be a minimum of one foot above FEMA Flood Elevation Requirement.

**Commented [TM50]:** Should this be incorporated 38-56? Ok as is

~~(6) Have the electric panelboard elevated at least three (3) feet above the BFE.~~

(Code 1972, § 52A-11; Ord. No. 2008-24, 1-5-2009)

Sec. 38-5361. - Certifications of elevation and floodproofing.

- (a) Within those incorporated areas of Ocean City, Maryland, ~~designated as A1—A30, AO or V zones by the flood maps,~~ all building permit applications for the construction or substantial improvement of residential and nonresidential structures, including manufactured homes, shall have indicated thereon the lowest floor elevation or floodproofing elevation in reference to mean sea level (NGVDNAVD). Such elevation shall also be shown on the building permit and must be approved as meeting the requirements of this article by the department prior to the issuance of a building permit. Before a certificate of occupancy is issued for the structure, the department shall inspect the premises to assure that the requirements of this article have been met. Before a certificate of occupancy is issued for the structure, the owner shall submit to the department an elevation certificate, prepared by a registered surveyor, to certify that the requirements of this article have been met.
- (b) Before a certificate of occupancy is issued for a nonresidential structure that has been floodproofed in accordance with section 38-73(a), a certification of floodproofing completed by a registered engineer or architect must be submitted to the department.

(Code 1972, § 52A-12)

Sec. 38-5462. - Variances generally.

The Board of Adjustments and Appeals of Ocean City 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 provisions of these regulations, an unnecessary hardship would result.

Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Board of Adjustments and Appeals may attach such conditions to variances as it deems necessary to further the purposes of these regulations.

The Board of Adjustments and Appeals 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 that 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 Section 38.52(k) of these regulations.

- (a) An owner of property ~~in zones A1—A30, any AO zone or zones V1—V30,~~ or his representative, may seek a variance from the requirements of this article by application to the Board of Adjustments and Appeals of Ocean City. In no instance may a variance to minimum elevation requirement be granted which would permit a lowest floor (including basement) to be below the base flood elevation.
- (b) In deciding on requests for variances, the Board of Adjustments and Appeals shall be guided by the following provisions:
  - (1) The effect of the variance on preexisting structures in the area.

Commented [KGW51]: Recommended.

Commented [TM52]: Redundant to item 5 and o parts of this ordinance which require 3' of freeboard

Commented [TM53]: Although all of ocean city i longer in these flood zones, we still want to keep all ng

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- (2) That the applicant demonstrates good and sufficient cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
- (3) That failure to grant the variance would result in exceptional noneconomic hardship to the applicant due to the physical characteristics of the property.
- (4) That the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense and will not create nuisances or cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (5) That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) That the building, structure or other development is protected by methods to minimize flood damages.
- (c) In the event a variance is granted, the board shall provide that the building permit issued shall, in writing, indicate:
  - (1) That the proposed structure or proposed addition or proposed improvement is located in a floodprone area.
  - (2) That flood insurance rates will increase commensurate with the distance between the lowest floor or floodproofed level elevation and the base flood elevation.
  - (3) That the conditions of the variance shall be particularized in an agreement by and between the property owner and the Mayor and City Council of Ocean City. Said agreement shall be recorded in the land records of Worcester County and shall be deemed to be a restriction which runs with the land.
- (d) The department shall maintain a record of all variances granted by the board, including the justification for their issuance. A record of all variances granted shall be provided to the federal insurance administrator annually.  
(Code 1972, § 52A-6)

Sec. 38-5563. - Variances for accessory structures.

- (a) Within all areas except those located in a V Zone zones, A1—A30 or any AO zone, a newly proposed accessory structure is hereby granted a variance to allow its lowest floor elevation to be below that of the base flood elevation if all of the following stipulations are met:
  - (1) A statement shall be placed on the building plans which shall read as follows: "No conversion of this area to habitable space is to occur unless the lowest floor is elevated to a point above the base flood elevation. At this site the base flood elevation is \_\_\_\_\_."
  - (2) The floor elevation of the accessory structure shall not qualify as a basement and must be constructed on grade.
  - (3) The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
  - (4) The accessory structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
  - (5) The accessory structure shall be designed to have low flood damage potential.
  - (6) The service facilities, such as electrical and heating equipment, shall be elevated one foot above applicable base flood elevation or be floodproofed.
  - (7) The accessory structure shall be comprised of no more than 600 square feet and no more than one story, which will allow construction of a standard two-car garage.

**Commented [TM54]:** The 600 sf was added to the code by the Mayor and City Council many years ago to allow for the need of property owners having to attend a head of a house every two car garage.

**Commented [KGW55]:** Recommend the Town limit accessory structures to 300 square feet, and require a variance for anything over. If the Town wants to allow accessory structures greater than 300 square feet, but less than 600 square feet, documentation will need to be provided to FEMA for approval prior to local ordinance adoption.

**Commented [TM56]:** V zones are now all outside the building limit line

**Commented [TM57]:** See item 8 for flood venting requirements etc.

**Commented [KGW58]:** FEMA will not approve the variance allowance without backup documentation showing compliance with the code (ex. Elevation Certificate, inspection certificate showing proper flood opening anchoring, etc.).

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- (8) The accessory structures shall be designed to meet or exceed the following minimum criteria:
- a. A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all flood openings shall be no higher than one foot above grade.
  - c. Flood Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (b) The applicant shall be made aware that, if the accessory structure is built below the base flood elevation, the aforesaid structure may be susceptible to higher insurance premium rates for the structure and its contents.
- (c) For accessory structures greater than 300 square feet and up to 600 square feet, the conditions of the variance shall be subject to an agreement as set forth in section 38-~~5462~~(c)(3) hereof.

(Code 1972, § 52A-7)

Sec. 38-64. - Considerations for Variances

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

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

- (a) The danger that materials may be swept onto other lands to the injury of others.
- (b) The danger to life and property due to flooding or erosion damage.
- (c) The susceptibility of the proposed development and its contents (if applicable) to flood damage. and the effect of such damage on the individual owner.
- (d) The importance of the services to the community provided by the proposed development.
- (e) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
- (f) The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
- (g) The compatibility of the proposed use with existing and anticipated development.
- (h) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
- (i) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (k) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (l) TheAny comments provided by MDE (NFIP State Coordinator).

Secs. 38-~~5665~~—38-70. - Reserved.

DIVISION 3. - FLOOD HAZARD REDUCTION



Sec. 38-71. - Minimum elevation requirements.

(a) Notwithstanding the requirements of any other section of the Code or any lesser requirements of the Federal Emergency Management Agency, the elevation of the lowest floor, including basement, of any residential building, structure or manufactured home, or any elevated nonresidential structure, within Ocean City, Maryland, shall be as follows:

(1) In any V zone, ~~a minimum of 16½ feet above mean sea level (NGVD). Structures prohibited~~

**Commented [TM59]:** V zones are now all east of building limit line

~~(2) East of the dune setback line, a minimum of 15.7 feet above mean sea level (NAVD 1988)~~

**Commented [TM60]:** This min elevation used to structures in the V zone, it now applies to structures 75' of the beach replenishment line

~~(3) In the critical foundation area, as defined in this article and in chapter 10, article IV, division 2 (foundation requirements), outside of the V zone and west of the dune setback line, a minimum of three feet above the base flood elevation as shown on the flood insurance rate map or if located in an x zone or other area without a mapped base flood elevation a minimum of 3' above the highest adjacent grade.~~

**Commented [TM61]:** Maintains 3' free board for structures within 250' of the beach project line in fl zone. If not in a flood zone, no mapped elevation so requires 3' above ground.

(3) In an area east of the easterly right-of-way of Coastal Highway or Philadelphia Avenue and not in the critical foundation area or a V zone, a minimum of ~~two-three~~ feet above the base flood elevation ~~or if located in an x zone or other area without a mapped base flood elevation, a minimum of two feet above highest adjacent grade.~~

**Commented [TM62]:** More than 250' from ocean freeboard if in a flood zone, 2' above ground if not.

(4) In the area west of the westerly right-of-way of Coastal Highway or Philadelphia Avenue, ~~a minimum of three feet above the base flood elevation or if located in an x zone or other area without a mapped base flood elevation, a minimum of two feet above highest adjacent grade.~~  
~~a minimum of two feet above the base flood elevation.~~

(5) In all blocks south of Third Street, except the westerly 150 feet of block 29 and all of block 41 of the Sinepuxent Beach Company plat, the elevation shall be at or above the base flood elevation as established by the flood insurance rate map, ~~or if no established base flood elevation, at or above highest adjacent grade.~~ Property owners elevating buildings only to the base flood elevation shall be advised of the increased risk of flood damage and potential higher flood insurance costs.

**Commented [TM63]:** Maintains no freeboard requirement downtown

~~(6) In the area fronting Atlantic Ave from the inlet to 27 Street, in no case shall the lowest floor be below the elevation of the top of the boardwalk adjacent to the property.~~

(b) In all cases, the elevations of the post-construction grades of any site shall be such that surface water drainage shall be to the existing or proposed streets or alleys.

(Code 1972, § 52A-3; Ord. No. 1995-17, 11-6-1995)

Sec. 38-72. - Requirements for residential construction.

(a) All new construction and substantial improvements of residential structures ~~within zones A1—A30~~ shall have the lowest floor (including basement) elevated according to the requirements of section 38-71 of this article.

(b) All new construction and substantial improvements of residential structures within an AO zone shall have the lowest floor (including basement) elevated to the highest of the following:

- (1) The requirements of section 38-71 of this article;
- (2) ~~One foot~~ **Three feet** above the highest post-construction grade; ~~or~~
- (3) ~~One foot~~ **Three feet** above the highest adjacent grade.

**Commented [TM64]:** This is an increase over cur ordinance, AO zone is now ocean front 143-146<sup>th</sup> so matches critical area min elevation requirements at

(c) For all new construction and substantial improvements ~~within zones A1—A30 and any AO zone,~~ fully enclosed areas below the lowest floor used solely for parking of vehicles, building access or ~~limited~~ storage in an area other than a basement, that are subject to flooding, shall be designed to

**Commented [TM65]:** This keeps this requiremen applicable to entire city

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automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (2) The bottom of all flood openings shall be no higher than one foot above grade.
  - (3) Flood openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (d) ~~Requirements for residential construction in V-zones are set forth in section 38-74 of this article.~~  
(Code 1972, § 52A-4)

Sec. 38-73. - Requirements for nonresidential construction.

- (a) All new construction and substantial improvements of nonresidential structures ~~within zones A1—A30~~ shall have the lowest floor, including basement, elevated according to the requirements of section 38-71 or, together with attendant utility and sanitary facilities, shall be floodproofed so that below minimum elevation requirements specified in section 38-71, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting, hydrostatic and hydrodynamic loads and effects of buoyancy.
  - (1) When the floodproofing option is selected, a registered professional engineer or architect shall develop and/or review structural design specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting these requirements. In addition, structures shall:
    - a. Be designed to be dry floodproofed such that the building or structure is watertight with walls and floors substantially impermeable to the passage of water to the level of the flood protection elevation plus 1.0 feet as specified in Section 38-71, or
    - b. If located in an area of shallow flooding (Zone AO), be dry floodproofed at least as high above the highest adjacent grade as the depth number specified on the FIRM plus three (3) feet, or at least five (5) feet if a depth number is not specified; and
    - c. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
    - d. Have floodproofing measures that are designed taking into consideration the nature of flood-related hazards; frequency, depth and duration of flooding; rate of rise and fall of floodwater; soil characteristics; flood-borne debris; at least 12 hours of flood warning time from a credible source; and time necessary to implement any measures that require human intervention;
    - e. Have at least one door above the applicable flood elevation that allows human ingress and egress during conditions of flooding;
    - f. Have an operations and maintenance plan that is filed with local emergency management officials and that specifies the owner/occupant's responsibilities to monitor flood potential; the location of any shields, doors, closures, tools, or other goods that are required for implementation; maintenance of such goods; methods of installation; and periodic inspection; and
    - g. Be certified by a licensed professional engineer or licensed architect, through execution of a Floodproofing Certificate that states that the design and methods of construction meet the requirements of this section. The Floodproofing Certificate shall be submitted with the construction drawings as required in Section 38-55(a)(13).

(2) A floodproofing design which requires human intervention may only be used for additions, including substantial improvements, to existing nonresidential structures. Human intervention may not be part of a floodproofing design for new structures as defined in section 38-31.

(3) Floodproofing of new nonresidential buildings is not allowed in Coastal VZ Zones.

Commented [KGW66]: Recommended.

(b) Elevation.

Commented [TM67]: Assume kevin meant V, not

(1) All new construction and substantial improvements of nonresidential structures within any AO zone shall have the lowest floor (including basement) elevated to the highest of the following:

- a. The requirements of section 38-71 of this article;
- b. ~~Three feet~~ ~~One foot~~ above the highest post-construction grade; or
- c. ~~Three feet~~ ~~One foot~~ above the highest adjacent grade.

(2) In lieu of elevation, a nonresidential structure, together with attendant utility and sanitary facilities, may be completely floodproofed to the appropriate elevation level as determined above to meet the floodproofing standard specified in section 38-73(a).

(c) For all new construction and substantial improvements of elevated nonresidential structures ~~in zones A1-A30 and any AO zones~~, fully enclosed areas below the lowest floor used solely for parking of vehicles, building access or limited storage in an area other than a basement that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all flood openings shall be no higher than one foot above grade.
- (3) Flood oOpenings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(d) ~~Requirements for nonresidential construction in V zones are set forth in section 38-74 of this article.~~  
(Code 1972, § 52A-5; Ord. No. 1997-15, 8-18-1997; Ord. No. 2000-25, 8-21-2000)

Sec. 38-74. - Development of coastal high-hazard areas (V zones) ~~and coastal A zones or east of the dune setback line.~~

Commented [KGW68]: Recommended. Town ca additional CRS credit for adopting a Coastal A Zone provision.

(a) Within those areas designated as V zones ~~and coastal A Zones delineated by the Limit of Moderate Wave Action line~~ by the flood maps ~~or east of the dune setback line as defined herein~~, land below the level of the 100-year flood shall only be developed if the new construction or substantial improvement complies with all of the following:

Commented [TM69]: We need to talk about this does go substantially beyond our current requireme

Commented [TM70]: We are not comfortable wi coastal a zone at this time.

- (1) The structure is located landward of the reach of the mean high tide.
- (2) The structure is elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated in accordance with section 38-71; and the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the 100-year flood. Wind loading values used shall be those required by the Standard Building Code. A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions contained in this subsection.

Commented [TM71]: Maintains stricter requirem direct ocean front properties.

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(3) The space below the lowest floor is either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the 100-year flood. Wind loading values used shall be those required by the Standard Building Code.
- c. Such enclosed space shall be usable solely for parking of vehicles, building access or limited storage.

d. Enclosures below the lowest floor shall be less than 299 square feet in area (exterior measurement).

e. Walls and partitions are permitted below the elevated floor, provided that such walls and partitions are designed to break away under flood loads and are not part of the structural support of the building or structure. [Note: See NFIP Technical Bulletin #9, "Design and Construction Guidance for Breakaway Walls."]

f. Electrical, mechanical, and plumbing system components shall not be mounted on or penetrate through walls that are designed to break away under flood loads.

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

- (b) In V zones or east of the dune setback line, fill may not be used for structural support of buildings.
- (c) In V zones or east of the dune setback line where fill material is permitted for landscaping or parking lot foundations, such fill material shall be similar in characteristics and composition to the soil existing on site.
- (d) No manufactured homes or recreational vehicles shall be placed in V zones or within the critical foundation area.
- (e) Permanent manmade alterations of sand dunes which would increase potential flood damage are prohibited.
- (f) Where temporary dune alterations are permitted to allow foundation construction, the flood mitigation properties of such dunes shall be fully restored and maintained.

[Note: See "Coastal Construction Manual" (FEMA P-55).]

(Code 1972, § 52A-9)

Sec. 38-75. - Manufactured homes and recreational vehicles.

- (a) Manufactured homes/buildings and recreational vehicles are prohibited from any V zone or within the critical foundation area.

**Commented [KGW72]:** Flood insurance for enclosures 300 square feet and greater will be more expensive

**Commented [TM73]:** We understand that rates are higher however that does not mean these should be prohibited. See previous comments regarding garage

**Commented [TM74]:** Maintains prohibition on manufactured housing in the ocean block.

(b) Recreational vehicles placed in any location within Ocean City shall either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use or meet the permit requirements of section 38-52 and the elevation and anchoring requirements for manufactured homes in section 38-75(c). A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices and has no permanently attached additions.

(c) Manufactured homes that are placed or substantially improved in any location within Ocean City shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the minimum requirements of section 38-71 and shall be securely anchored to an adequately anchored foundation system in accordance with the minimum standards of ~~appendix H of the Standard Building Code, 1988 edition.~~ The Town of Ocean City Building Department.

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

~~[Note: See "Protecting Manufactured Homes from Floods and Other Hazards: A Multi-Hazard Foundation and Installation Guide" (FEMA P-85).]~~

(Code 1972, § 52A-10)

Sec. 38-76. - Subdivision proposals and development proposals.

(a) In all flood zones:

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

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

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

~~(4) Subdivision proposals and development proposals containing at least 5 lots or at least 5 acres, whichever is the lesser, that are wholly or partially in flood hazard areas where base flood elevation data are not provided by the Floodplain Administrator or available from other sources, shall be supported by determinations of base flood elevations as required in Section 38-65 of these regulations.~~

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

Sec. 38-77. - Protection of water supply and sanitary sewage systems.

(a) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.

~~(c) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of flooding. (note that these systems are not allowed per 94-64)~~

Sec. 38-78. - Historic Structures

Repair, alteration, addition, rehabilitation, or other improvement of historic structures shall be subject to the requirements of these regulations if the proposed work is determined to be a substantial improvement, unless a determination is made that the proposed work will not preclude the structure's continued designation as a historic structure. The Floodplain Administrator may require documentation of a structure's continued eligibility and designation as a historic structure.

Sec. 38-79. - Critical and essential facilities.

Critical and essential facilities shall:

**Commented [TM75]:** No longer use the SBC

**Commented [TM76]:** This may cause excessive h for these structures. We believe the 3' free board requirement makes up for this deletion.

**Commented [TM77]:** Delete this section, not app to OC

**Commented [TM78]:** Not practical in much of Oc ty

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**Commented [TM79]:** Delete, not permitted in OC notes this language is required.

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**Commented [KGW80]:** Recommended. Town ca additional CRS credit for this.

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- (a) Not be located in coastal high hazard areas (V Zones) or Coastal A Zones.
- (b) If located in flood hazard areas other than coastal high hazard areas, Coastal A Zones and floodways, be elevated to the higher of elevation required by these regulations, plus one (1) foot, the elevation required by the building code, or the elevation of the 0.2 percent chance (500-year) flood.

Commented [TM81]: This could be a problem, fir

Sec. 38-80. - Temporary structures and temporary storage

In addition to the application requirements of Section 38-55, applications for the placement or erection of temporary structures and the temporary storage of any goods, materials, and equipment, shall specify the duration of the temporary use. In addition:

(a) Temporary structures shall:

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

(b) Temporary storage shall not include hazardous materials.

Sec. 38-81. Gas or liquid storage tanks.

- (a) Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (b) Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and elevated to or above the base flood elevation, or shall be anchored or otherwise designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (c) In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
- (1) At or above the base flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood; and
  - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

Sec. 38-82. Functionally dependent uses.

Applications for functionally dependent uses that do not conform to the requirements of these regulations shall be approved only by variances issued pursuant to Section 38-62. If approved, functionally dependent uses shall be protected by methods that minimize flood damage during the base flood, including measures to allow floodwaters to enter and exit, use of flood damage-resistant materials, and elevation of electric service and equipment to the extent practical given the use of the building.