

Proposed Update of Talbot County Floodplain Management Ordinance

Comparison of Current and Proposed Ordinance

Prepared with the Talbot County Office of Planning and Permits
by Environmental Resources Management, Inc.

Introduction

Talbot County's floodplain management ordinance has been in effect since June, 1985. The last comprehensive update of the ordinance was completed in 1992. The County is required by the Federal Emergency Management Administration (FEMA) to update its ordinance in conjunction with new Flood Insurance Rate Maps (FIRM) for nontidal floodplains that have been produced by FEMA. Legislation being introduced in to the County Council in February, 2013 would repeal the Floodplain Management Ordinance, Chapter 70 of the Talbot County Code, and enact an updated ordinance in its place.

National Flood Insurance Program

All Maryland counties and 92 municipalities participate in the National Flood Insurance Program (NFIP). This program makes federal flood insurance available to property owners. In return, local governments must adopt ordinances to manage development within the one percent annual floodplain to prevent increased flooding and minimize flood damage. Flood Insurance Rate Maps published by FEMA are used to identify regulated floodplains. The Maryland Department of the Environment is the coordinator of the NFIP program for Maryland.

Maryland Regulations

Talbot County's ordinance must comply with Maryland regulations as well as federal flood insurance program requirements. The Code of Maryland Regulations (COMAR) requires a Waterway Construction Permit for any development activity in nontidal floodplains. Permits are also required for development activity within 25 feet of nontidal wetlands and activities that may impact a tidal wetland.

FEMA Community Rating System

The Community Rating System (CRS) provides incentive for communities to regulate to higher standards than the minimum NFIP standards and encourages programs that will result in greater reductions in flood damage. The CRS provides insurance premium rate reductions to policy holders in communities that have achieved ratings through this program. Talbot County has not yet applied for a CRS ranking.

Maryland Model Floodplain Management Ordinance

The starting point for Talbot County's proposed Floodplain Management Ordinance is a model floodplain ordinance published by the Maryland Department of the Environment. The model ordinance, dated August, 2011, complies with state and Federal regulations and policies. It has been approved by FEMA as meeting federal requirements for community participation in the National Flood Insurance Program.

Building Code Requirements

Talbot County uses the Maryland Building Performance Standards (COMAR 05-02-07) as its building code. These standards incorporate the International Building Code 2012 (IBC) and the International Residential Code 2012 (IRC). The IBC and IRC are consistent with NFIP requirements for buildings in flood hazard areas. The building codes support and work in concert with the Floodplain Management Ordinance.

Comparison of Current and Proposed Talbot County Floodplain Management Ordinance

The following chart notes where there are differences between the requirements of Talbot County's current Floodplain Management Ordinance and the proposed, updated Ordinance.

Comparison of Current and Proposed Talbot County Floodplain Ordinance

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Coastal A zones: Not addressed in current ordinance.</p>	<p>Define Coastal A zones as areas within the “Limits of Moderate Wave Action” on the new FEMA floodplain maps. (Most of these areas have been A zones on the floodplain maps.)</p> <p>Regulate Coastal A zones differently than the A zones:</p> <ul style="list-style-type: none"> • For new construction, apply V zone standards. These are more stringent standards so that buildings will better withstand wave action. • For substantial improvements to existing buildings, apply A zone standards <p>Section 70-33, Article VIII</p>	<p>Proposed requirements follow recommendations of the Maryland Model Floodplain Ordinance.</p> <p>FEMA studies show that “V” zone standards for new construction will result in less damage from wave action during tidal flooding. FEMA has been mapping Coastal A zones since 2008 as an informational layer. Federal requirements do not require regulation of Coastal A Zones.</p> <p>Adopting “Coastal A” zone provisions will give the County credits for its CRS score.</p>
<p>Areas of Shallow Flooding: Not addressed in current ordinance.</p>	<p>AO flood zones are areas of shallow flooding, with flood depths of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain).</p> <p>Elevation is measured differently for these areas. Rather than a height above the base flood elevation, the lowest floor must be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM plus two (2) feet, or at least four (4) feet if a depth number is not specified.</p> <p>Sections 70-28.A(2), 70-29.A(2), 70-29.B(3), Article VIII</p>	<p>Proposed text follows the Maryland Model Ordinance. The model ordinance requires two feet of additional elevation beyond the requirement of the Federal regulations.</p> <p>Federal regulations [44CFR60.3(c)(7)] require that AO zones be regulated as provided in the Maryland Model, except without the additional two feet of elevation.</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Definition of flood protection elevation: Flood protection elevation is one foot above the base flood elevation. Section 70-7</p> <p>For new construction in a flood hazard area, the lowest floor must be at or above the flood protection elevation. (Nonresidential construction in tidal “A” zones has the option of being waterproofed to this elevation rather than elevated.)</p>	<p>Flood protection elevation is two feet above base flood elevation.</p> <p>Article VIII</p>	<p>Maryland Model Floodplain Ordinance recommends flood protection elevation two feet above base flood elevation.</p> <p>Federal Regulations: Lowest floor must be at or above the base flood elevation. 44CFR.60.3(c)(2)and (3)</p> <p>Maryland Regulations: In nontidal waters, the lowest floor of all structures must be at least one foot above the 100-year flood elevation. COMAR 26.17.04.07(B)</p> <p>CRS credit: Requiring a minimum two foot elevation above the base flood elevation would give more credit than one foot.</p>
<p>Definition of lowest floor: The top of the lowest floor of the lowest enclosed area. Section 70-7</p> <p>This definition determines the portion of the building that must be constructed above the flood protection elevation.</p>	<p>The lowest floor of the lowest enclosed area.</p> <p>This is stricter than the current definition. All portions of the lowest floor will be required to be above the flood protection elevation.</p> <p>The lowest floor of a manufactured home is defined as the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).</p> <p>Article VIII</p>	<p>Proposed definitions are from the Maryland Model Ordinance and are consistent with federal regulations.</p> <p>Federal Regulations: 44CFR59.1: Lowest floor means the “lowest floor of the lowest enclosed area.” This is interpreted to mean that all parts of the lowest floor must be above the required elevation.</p> <p>The definition of the lowest floor of a manufactured home is from a FEMA manufactured home policy document (FEMA P-85).</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Floodproofing of new or substantially improved nonresidential buildings</p> <p>Floodproofing is an alternative to elevating the structure for nonresidential buildings in tidal A zones. Buildings must be floodproofed to the flood protection elevation. 70-19.A(2)</p>	<p>Floodproofing standards are the same as Talbot’s standards, with several additions:</p> <ul style="list-style-type: none"> ● Floodproofing measures must take into account at least 12 hours of flood warning time and time necessary to implement any measures that require human intervention. ● Must have a door above flood elevation. ● An operations and maintenance plan must be filed with local emergency management officials. <p>Section 70-29.B(3)</p>	<p>Additional proposed standards are from the Maryland Model Ordinance.</p> <p>The standards are consistent with federal policy. NFIP Technical Bulletin 3-93 establishes as FEMA policy that floodproofing must include plans for operations and maintenance:</p> <p>“Both the Flood Emergency Operation Plan and the Inspection and Maintenance Plan are necessary at the time that the Non-Residential Floodproofing Certificate is submitted to the community. Before issuing a building permit, the community should require that the property owner sign an agreement stating that the plan will be adhered to.”</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Lateral (horizontal) additions</p> <p>If a lateral addition is not part of substantial improvement to a building, the addition should be elevated to the extent possible, but does not need to be elevated to the flood protection elevation. (However, in nontidal floodplains, State law requires all horizontal additions to be elevated to the base flood elevation.)</p> <p>If a horizontal addition is part of a substantial improvement to a building, both the addition and the base building must be raised to the flood protection elevation.</p> <p>As an exception to the elevation requirement, attached garages are allowed below the flood protection elevation subject to conditions.</p> <p>70-19.B.1 and 2.a, 70-28.B</p>	<p>Requirements are the same as the current ordinance, with the following differences:</p> <p>New text omits the standard that <u>any</u> lateral addition should be elevated “to the extent possible.”</p> <p>It does clarify that all lateral additions to buildings constructed since June 11, 1985 (original effective date of Floodplain Management Ordinance) must comply with elevation requirements.</p> <p>One new exception is provided In A zones only: If a lateral addition has an independent foundation, is not structurally connected to the base building, and requires no changes to the base building except a door in the common wall, the base building does not need to be brought into compliance with the ordinance, even if the addition constitutes a substantial improvement.</p> <p><u>No</u> exception for attached garages is provided.</p> <p>Section 70-30, 70-36</p>	<p>The proposed text is taken from the Maryland Model Ordinance.</p> <p>The flexibility for lateral additions that are not structurally connected to the original building is consistent with federal policy established in the FEMA document, “Desk Reference for Substantial Improvements.”</p> <p>Federal and State regulations and policies have no provision that would allow Talbot’s current exception for attached garages.</p>
<p>Substantial improvement in V zones</p> <p>If a building is substantially improved, both the base building and the addition must comply with the elevation and other requirements of the floodplain management ordinance.</p> <p>In V zones and floodways, improvements are to be tracked since the County first participated in NFIP in 1985; when cumulative improvements become substantial, the entire building must be brought into compliance. 70-21.F</p>	<p>The cumulative value of improvements within V zones and floodways are to be tracked for only 12 months for purposes of determining whether improvements are substantial.</p> <p>The 12 month period extends from the certificate of occupancy issuance for the first improvement until the building permit application is submitted for successive improvements.</p> <p>Section 70-45.A(7)(e), Article VIII (definition of substantial improvement)</p>	<p>The Maryland model ordinance notes that tracking the cumulative value of improvements for purposes of determining substantial improvements is an option for local jurisdictions to consider.</p> <p>Federal Regulations do not require cumulative tracking of improvements.</p> <p>CRS credit: Points given for cumulative tracking of improvements.</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Treatment of structures that incur substantial damage</p> <p>If a structure has incurred substantial damage, substantial improvement is defined as restoration and repairs, the cost of which equals or exceeds 50% of the market value of the structure before the damage. 70-7</p>	<p>Proposed text defines substantial improvement as <u>any</u> repair work on structures which have incurred substantial damage from any cause, regardless of the actual cost of the repair work performed.</p> <p>Thus, if a substantially damaged structure is repaired in any way, it must be brought into compliance with the floodplain ordinance.</p> <p>See Article VIII, definition of substantial improvement and substantial damage.</p>	<p>The proposed text is required by federal regulations. <u>Any</u> repair to a structure that has incurred substantial damage is considered “substantial improvement.” 44CFR59.1.</p>
<p>Calculating costs of construction to determine whether improvements are substantial or whether a structure has sustained substantial damage</p> <p>Requires that applicant provide adequate information for the permitting official to determine the cost of repairs. 70-09.E</p>	<p>Requires documentation of cash value of repair work. Volunteer labor is to be listed at market rate, and free or discounted materials are to be listed at market cost. Section 70-45.A(7)</p>	<p>The proposed text is from the Maryland model ordinance and is consistent with FEMA’s policy document, “Substantial Improvement/ Substantial Damage Desk Reference.”</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Elevation Certificate</p> <p>For any building that must be elevated: An agreement to submit an elevation certificate is required with the permit application; An elevation certificate showing the as-built elevation must be submitted after the lowest floor is in place and before a Certificate of Occupancy is issued. Section 70-7 (definition of Elevation Certificate), 70-9.D, 70-19.B(1)</p>	<p>Same as current ordinance, except that:</p> <ul style="list-style-type: none"> • Specifies that an Elevation Certificate must be submitted twice: upon placement of the lowest floor and prior to further vertical construction; and also prior to final inspection and issuance of a Certificate of Occupancy. • Specifies that FEMA Form 81-31 must be used for the Elevation Certificate. <p>Section 70-45.A(5), 70-48.A, Article VIII (definitions of “Agreement to Submit an Elevation Certificate” and “Elevation Certificate.”)</p>	<p>Proposed requirements are taken from the Maryland Model Ordinance. The following explanation is from MDE’s notes on the Model Ordinance:</p> <p>“The Maryland Building Performance Standards (residential) specifically requires “as-built” elevation documentation. The 2012 edition of the International Code Series ...will require submission of elevation documentation prior to the final inspection. Having the Elevation Certificate in hand allows the inspector to verify compliance, or to have the data necessary to determine if mechanical/electrical equipment or flood openings are not compliant.”</p>
<p>Enclosed space below the lowest floor in V zones: limits on area</p> <p>Generally, space below the lowest floor must be open to allow movement of water. Enclosed space may be permitted, provided that:</p> <ul style="list-style-type: none"> • The space is used only for parking, storage and building access • Requires nonconversion agreement recorded with the deed. • Requires flood openings and, in V zones, breakaway walls. <p>70-21(B), 70-24</p>	<p>Same as Talbot’s current ordinance, except that:</p> <ul style="list-style-type: none"> • In V and Coastal A zones, the enclosed area shall less than 300 square feet. • V zones require only breakaway walls (rather than both flood openings and breakaway walls). <p>70-35.D(2)</p>	<p>Proposed regulations are based on Maryland Model Ordinance. According to the notes provided with the Model Ordinance, in V zones, NFIP flood insurance rates assess a “loading factor” when buildings have enclosures below the flood protection elevation. The loading factor is significant when enclosures are 300 sq. ft. and larger.</p> <p>Federal Regulations require breakaway walls, but not flood openings for enclosures in V zones; and do not have the limit of 300 square feet in V zones. 44CFR60.3(c)(5)</p> <p>CRS credit: credit is provided for prohibiting enclosures larger than 300 square feet. 430</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Enclosed space below the lowest floor: Nonconversion Agreement/Declaration of Land Restriction</p> <p>A Nonconversion Agreement is required if area below the lowest floor of an elevated structure is enclosed (for V zones). The agreement only needs to be must be signed by the building permit applicant. 70-21.B(2)</p>	<p>A Nonconversion Agreement/Declaration of Land Restriction must be recorded with the deed in the land records if any enclosed area below the lowest floor has a height of 4 feet or greater (for V zones and Coastal A zones).</p> <p>See Section 70-45.A(5)(b), Article VIII (definition of Nonconversion Agreement/Declaration of Land Restriction</p>	<p>The proposed requirements are taken from the Maryland Model Ordinance.</p>
<p>Accessory structures</p> <p>Accessory structures of any size are allowed if they meet elevation requirements.</p> <p>Accessory structures not meeting elevation requirements:</p> <ul style="list-style-type: none"> • Must be used only for storage and parking; vented for water flow; unfinished; no electrical devices or machinery below flood protection elevation. • Less than 300 square feet: a nonconversion agreement is filed with the building permit. • 300-900 square feet: must record nonconversion agreement or Memorandum of Land Restriction on the deed. • Larger than 900 square feet: requires variance. <p>70-28.C, 70-12</p>	<p>Retain current requirements, except that:</p> <ul style="list-style-type: none"> • A nonconversion agreement would not be required for accessory structures less than 300 square feet. • In A zones, all new accessory structures would be limited to 900 square feet in floor area, unless a variance is granted. • In V and Coastal A zones, all new accessory structures would be limited to 300 square feet; structures larger than 100 square feet must have breakaway walls as required for enclosures under the lowest floor of buildings. A new accessory structure larger than 300 square feet requires a variance in accordance with Article VI. <p>Section 70-31, 70-37</p>	<p>The revised standards are from the Maryland Model Ordinance.</p> <p>The model ordinance does not limit on the size of accessory structures, but recommends that local jurisdictions select a size limit.</p> <p>A preliminary draft of the ordinance had a 900 square foot limit on accessory buildings in V and Coastal A zones. The MDE reviewer (FEMA’s Maryland coordinator) stated that the 900 square foot limit was out of compliance with FEMA policy and recommended the 300 square foot limit.</p> <p>The NFIP Technical Bulletin 5, “Free-of-Obstruction Requirements for Buildings Located in Coastal High Hazard Areas” recommends that accessory structures in V zones be small and of little value, in order to limit flood costs and to reduce damage to principal structures from floating debris. It recommends limits of 100 square feet or less, with value of \$1,000 or less.</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Development in floodplain zones</p> <p>Development may not occur in floodplain where alternative locations exist. Applicant shall demonstrate that new structures cannot be located out of floodplain and encroachments are minimized.</p> <p>For new subdivisions in nontidal floodplains, each lot must have a building site outside the floodplain. An access road at or above the elevation of the 100-year frequency flood shall be provided.</p> <p>New subdivisions in tidal floodplains shall develop the highest natural land available before floodplain lots are platted. High priority should be given to clustering development out of the floodplain while preserving the low-lying land and forested areas in natural vegetation.</p> <p>Flood protection setbacks shall be met. These require that a natural buffer be maintained at least 100 feet from the bank of a stream with a mapped floodplain and at least 50 feet from the bank of a stream with no mapped floodplain.</p> <p>70-19.A, D and E</p>	<p>Requirements are the same as the current ordinance.</p> <p>The definition of and requirements for “flood protection setbacks” are omitted from the proposed ordinance. These buffers are required by State regulations. Rather than include them in the proposed Floodplain Management Ordinance, a reference is made in Section 70-25 to the more detailed requirements that fulfill this state requirement in the Zoning, Subdivision and Land Development Ordinance, Section 190-123, Buffers – Streams and Non-Tidal Wetlands – Non- Critical Area.</p>	<p>Talbot County’s current and proposed requirements are consistent with or exceed related state and federal requirements.</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Use of Fill within flood hazard areas</p> <p>Various design standards for fill.</p> <p>In both A and V zones, more than 600 cubic yards of fill is prohibited except by variance.</p> <p>In V zone, use of fill for structural support of buildings is prohibited.</p> <p>70-3</p>	<p>Retains the prohibition on fill to support structures in V zones; also prohibits fill to support structures in Coastal A zones. Design standards for use of fill to support structures are comparable to the current requirements.</p> <p>Deletes the 600-cubic yard limit on fill for development. Instead:</p> <ul style="list-style-type: none"> • In nontidal floodplains, requires, for any use of fill, an equivalent volume of excavation. • In V and Coastal A zones, limits use of fill to 50 cubic yards, to be used for minor grading and landscaping. • In other tidal A zones, notes that if fill raises land above the flood elevation, a “Letter of Map Revision based on Fill” must be obtained from FEMA. <p>Section 70-17</p>	<p>Many of the proposed standards are from the Maryland Model Ordinance.</p> <p>The Maryland Model Ordinance proposes no limit on the volume of fill in V and Coastal A zones, but provides that the fill can only be for minor grading and landscaping. The draft Talbot ordinance proposes a limit of 50 cubic yards to reduce the need for interpretation.</p> <p>CRS credit: CRS credit will be provided for requiring compensatory excavation where fill is used in a nontidal wetland; credit also for the compaction and slope requirements for fill. CRS Activity 430(b)(2) and (b)(3)</p>
<p>Manufactured homes</p> <p>New, replacement or substantially improved manufactured homes are not permitted in floodway or in V zones. If substantial damage occurs to a manufactured home in these locations, the manufactured home cannot be repaired or replaced. 70-25</p> <p>Manufactured homes can be installed, repaired and replaced in A zones other than floodways, subject to elevation, anchoring and other standards.</p>	<p>No revision is proposed to the current requirements, except that the Coastal A zone would be added, with a restriction that no new manufactured homes would be permitted. Replacement manufactured homes, or homes repaired after substantial damage, would be permitted in Coastal A zones. Section 70-19.B.</p>	<p>Talbot’s current and proposed ordinances are more strict than federal regulation: 44CFR60.3(8) allows new, replacement and repaired manufactured homes in A and V zones.</p> <p>CRS credit: CRS credit will be given for Talbot’s current and proposed restrictions.</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Critical and Essential Facilities</p> <p>Not addressed.</p> <p>Talbot’s ordinance prohibits the storage of materials that are hazardous, buoyant, flammable or explosive below flood protection level. 70-26</p>	<p>Critical and Essential Facilities are defined as (Article VIII):</p> <p style="padding-left: 40px;">Structures intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes. Typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.</p> <p>These facilities would not be permitted in V zones. In other flood zones, must be elevated to the higher of the elevation required by these regulations plus one foot, the elevation required by the <i>building code</i>, or the elevation of the 0.2 percent chance (500-year) flood. Section 70-21</p>	<p>The proposed regulations are taken from the Maryland Model Ordinance.</p> <p>These provisions are not required by federal regulations. However, if federal funds are used for critical facilities in the flood hazard area, the facility must be protected to at least the 500-year flood level.</p> <p>The Building Code requires a higher level of protection for these facilities.</p> <p>CRS credit: Credit will be given for higher standards to protect critical facilities. 431.e.</p>
<p>Temporary structures</p> <p>Temporary structure is one installed for less than 180 days or that is on a site for less than 180 days per calendar year. 70-7</p> <p>The provisions of the floodplain ordinance apply to temporary structures. (See Section 70-7, definition of “new construction.”)</p>	<p>Allows temporary structures and temporary storage of goods, materials and equipment with a permit, subject to design standards. Temporary structures and storage must be designed to prevent collapse, flotation or lateral movement during base flood, and meet electrical code. The elevation or floodproofing standards for permanent structures are not required. A temporary structure is one installed for less than 180 days. Section 70-22</p>	<p>The proposed ordinance follows the recommendations of the Maryland model ordinance.</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Decks and patios Not addressed in current ordinance.</p>	<p>Specific requirements are added for the V and Coastal A zones: If structurally attached to building, decks must comply with elevation requirement and meet design standards.</p> <p>If not structurally attached to the building, may be placed below the flood protection elevation. Must be designed to break into pieces during flood.</p> <p>Decks and patios must have vertical thickness of no more than 12 inches and must be constructed with more than minimum amount of fill needed for site drainage. If it does not meet these standards, will require an engineer’s analysis demonstrating that they will cause no harmful diversion of floodwater or waves. Section 70-38</p>	<p>Proposed ordinance follows the Maryland Model Ordinance, with the addition of the requirement for an engineer’s certification.</p> <p>These requirements are based upon FEMA policies from NFIP Technical Bulletin #5, “Free-of-Obstruction Requirements.”</p>
<p>Other types of structures in V and Coastal A zones Not addressed in Talbot’s current ordinance</p>	<p>The following must be not structurally attached to structures and require an analysis by a licensed engineer demonstrating no harmful diversion of floodwaters or waves:</p> <ul style="list-style-type: none"> • Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures. • Solid fences, privacy walls, and fences prone to trapping debris, unless built to fail under base flood conditions; • Mounded septic systems Section 70-38 	<p>Proposed regulations follow the Maryland Model Ordinance. The requirement for an engineer’s certification is added to the Talbot proposed ordinance.</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Variations</p> <p>Variations may be granted by the Board of Appeals subject to criteria similar to the criteria for variations from zoning requirements. 70-31, 70-32, 70-33</p>	<p>No difference from current requirements, except that the proposed ordinance has a list of factors that must be considered (Section 70-42):</p> <ol style="list-style-type: none"> 1. Impact on neighboring properties from storm-driven debris. 2. Potential increased erosion effects. 3. Impact of potential flood damage on the proposed <i>development</i> and its contents (if applicable) and the owner. 4. Impact on community services. 5. Potential to locate the development in a less threatened position on the site. 6. For waterfront development, whether the proposed development is a <i>functionally dependent use</i>. 7. Compatibility of the proposed use with existing and anticipated <i>development</i>. 8. Relationship to the comprehensive plan. 9. Property access during flooding for passenger vehicles and emergency vehicles. 10. Floodwater heights, velocity, duration, rate of rise, and sediment transport and the effects of wave action, if applicable, expected at the site. 11. Impacts on government services and infrastructure during and after <i>flood</i> conditions. 12. Comments and testimony provided by the <i>Maryland Department of the Environment</i> and other parties, if any is received. 	<p>The proposed list of factors to be considered is based upon a list proposed in the Maryland Model ordinance, with some revisions.</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Period of time a permit is valid</p> <p>Work must begin within 270 calendar days of permit issuance, or the permit expires, unless a written extension is granted.</p> <p>Work shall be completed within 540 calendar days of the date of the permit unless a greater time is specified in the permit or a written extension is granted. 70-11.C.2</p>	<p>Construction must begin within 180 days of permit issuance. Extensions can be granted for 90 days at a time, provided changes to floodplain boundaries or base flood elevations have not occurred that would affect the permit.</p> <p>Retains Talbot’s current permit expiration period (540 days) based on work not completed.</p> <p>70-47.A and B</p>	<p>Proposed ordinance is based upon the Maryland Model Ordinance.</p> <p>Federal Regulations: Work must begin within 180 days of permit issuance. 44CFR59.1</p> <p>FEMA requested that the Maryland Model Ordinance limit the extension period to 90 days at a time and add the provision that changes to floodplain boundaries or elevations are to be considered when granting extensions.</p>
<p>Establishing base floodplain elevation (BFE) for property in flood hazard area with no BFE</p> <p>For proposed subdivision, developer must establish BFE and floodway through study performed by engineer.</p> <p>For site plan, applicant must use best available information to determine the BFE and floodway to the satisfaction of FEMA and the Water Resources Administration.</p> <p>For individual lot development, if no data sources are available, the point-on-the-boundary method may be used. 70-17.B</p>	<p>The proposed text eliminates the distinction between subdivision plans and major site plans; an applicant must establish the base flood elevation for any subdivision plan and any major site plan.</p> <p>The method of establishing the BFE is flexible. The floodplain administrator may approve the use of reliable information already available. A study by an engineer is required if reliable information is not available.</p> <p>For other submissions (residential building permits and minor site plans), an applicant will use the best available information or simplified engineering methods approved by the Floodplain Administrator to identify the BFE.</p> <p>Section 70-12.C</p>	<p>Talbot’s current and proposed ordinance are stricter than the proposed Maryland Model Ordinance, which requires establishment of a base flood elevation for any subdivision or development of at least 5 lots or at least 5 acres.</p> <p>Both are more strict than the federal regulations [44CFR60.3(b)(3)], which require that where there is a designated SFHA but no BFE, subdivision proposals and other proposed development greater than 50 lots or 5 acres, whichever is the lesser, must include base flood elevation data.</p>

Requirements in current Talbot Floodplain Management Ordinance	Requirements in proposed Talbot Floodplain Management Ordinance	Source of proposed requirement; related federal and state requirements
<p>Where FIRM maps disagree with elevations from field-surveyed or digital topography</p> <p>Elevations prevail, with no approval from FEMA needed. 70-17</p>	<p>If field-surveyed or digital topography:</p> <ul style="list-style-type: none"> • Shows elevation is below the closest applicable base flood elevation, area shall be considered a special flood hazard area even if not shown as such on the FIRM. • Shows elevation is above base flood, the area is still considered a special flood hazard area unless applicant obtains a “letter of map change” from FEMA. <p>70-12.B</p>	<p>The proposed revisions to Talbot’s ordinance are more consistent with federal requirements in 44CFR60.3(b)(4): the county must reasonably utilize available base flood elevation and floodway data to apply the more detailed requirements, such as elevation above the base flood elevation, but the data cannot be used to exempt properties from floodplain regulations.</p>
<p>Development where there is base flood elevation but no designated floodway</p> <p>Addressed in very general terms, only for floodplains that have no floodway or base flood elevation defined. 70-17.B</p>	<p>Proposed ordinance addresses this in more detail, listing the studies required by COMAR and federal regulations. The ordinance defers to state and federal authorities (county permit will not be granted until MDE approval is obtained).</p> <p>70-26.B</p>	<p>Federal Regulations: 44CFR60.3(c)(10) “ ...until a regulatory floodway is designated... no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community’s FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.”</p> <p>Maryland regulations: COMAR Requires a permit from Water Resources Administration, with analysis of impact and alternatives, for any development that encroaches on the floodplain of a:”nontidal water of the state.” [COMAR 26.17.04.04]</p>