

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES
ADMINISTRATIVE BULLETIN CC2016-02**

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Purpose:	This Bulletin establishes additional submittal requirements for permit applications for new construction or substantial improvement in Special Flood Hazard Areas proposing new construction or substantial improvement of Residential Group R buildings, or mixed-use buildings with any Residential Group R occupancies, that propose an enclosed area below the base flood elevation that will be used solely for parking, building access or storage.
Related Code Sections:	2013 District of Columbia Building Code 2012 International Building Code as amended by the 2013 District of Columbia Building Code Supplement, 12-A District of Columbia Municipal Regulations) §§ 104.10, 105.3, 123, 310 and 1612.4; 20 DCMR, Chapter 31.
Subject(s):	Special Flood Hazard Areas; Garages below the base flood elevation in buildings or structures with residential occupancies; Permits; and Code Modification Applications

This Administrative Bulletin (Bulletin) establishes new submittal requirements for permit applications in a Special Flood Hazard Area (SFHA)¹ that propose (1) new construction or substantial improvement of a Residential Group R building or a mixed use building with Residential Group R occupancies² and (2) an enclosed area below the Design Flood Elevation (DFE) or Base Flood Elevation (BFE) that will be used solely for parking, building access, or storage (such use hereafter collectively referred to as an

¹ *Flood hazard areas* are defined in Chapter 2 of the Building Code as “The greater of the following two areas: 1. The area within a flood plain subject to a 1-percent or greater chance of flooding in any year. 2. The area designated as a flood hazard area on a community’s flood hazard map, or otherwise legally designated.” A *special flood hazard area* is “the land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30.”

² Section 310 of the Building Code provides that “Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the *International Residential Code*.” This Bulletin is intended to cover any building or structure that is used or intended to be used wholly or partially for Group R occupancies, including mixed-use projects, in flood hazard areas that propose a garage located below the DFE/BFE.

“Underground Garage”).³ No permit application proposing an Underground Garage in new construction or substantial improvement of a Residential Group R building or mixed use building containing Group R occupancies in a SFHA will be granted without written evidence that the Department of Consumer and Regulatory Affairs (DCRA) and Department of Energy and Environment (DOEE) have approved a code modification application, that provides the information required by Section 104.10.1 of the 2013 District of Columbia Building Code (Title 12-A of the District of Columbia Municipal Regulations (DCMR) §104.10.1).⁴

Background

In planning property development or improvements in a flood hazard area, registered design professionals must ascertain whether District of Columbia Floodplain Regulations affect the proposed development or improvement, including whether the use of flood-resistant construction methods and materials are required. The District of Columbia Floodplain Regulations are comprised of the District of Columbia Floodplain Management Regulations (20 DCMR, Chapter 31) and Chapter 16 of the District of Columbia Building Code (including referenced standard ASCE 24). Section 1612.4 of the 2013 District of Columbia Building Code requires any building or structure that falls within the scope of the Building Code that is proposed in a flood hazard area to be designed in accordance with ASCE 24.⁵ ASCE 24-05⁶ sets forth more specific requirements for flood-resistant design and construction standards. The District of Columbia Floodplain Regulations are aligned with the requirements of the National Flood Insurance program (NFIP) administered by FEMA.

The District of Columbia Floodplain Regulations currently require the lowest floor of any construction or substantial improvement of a residential structure in a SFHA to be at least 1.5 feet above the base flood elevation. See Section 3105.2, 20 DCMR. Underground garages are permitted for non-residential structures that meet the technical requirements of Section 3105.4, 20 DCMR. An interpretational issue has arisen for mixed use buildings that are used or intended to be used for residential and non-residential occupancies, and for Group R buildings, in a SFHA that propose an Underground

³ *Base Flood Elevation* is defined in Chapter 31 of Title 20 DCMR as the elevation of the base flood or commonly known as the 100-year flood elevation specified in the Flood Insurance Study (FIS) and on the Flood Insurance Rate Map (FIRM). *Design Flood Elevation* is defined in ASCE 24-05 as elevation of the design flood, including wave height, relative to the datum specified on the community’s flood hazard map. In the District, the DFE is the same as the BFE.

⁴ This Bulletin shall also apply to any permit applications submitted on or after the effective date of this Bulletin that are authorized, pursuant to Section 123 of the Building Code, to utilize an earlier version of the Building Code.

⁵ Section 1612.4 provides that “the design and construction of buildings and structures located in *flood hazard areas*, including *flood hazard areas* subject to high-velocity wave action, shall be in accordance with Chapter 5 of ASCE 7 and with ASCE 24.”

⁶ American Society of Civil Engineers (ASCE) 24-5, Flood Resistant Design and Construction, is a referenced standard in the 2012 International Building Code that has been adopted by the District of Columbia.

Garage. Group R buildings would not be allowed to have Underground Garages if Section 3105.2 of 20 DCMR applies, and mixed-use buildings are not expressly addressed by the Floodplain Regulations which only refer to residential and non-residential. Definitive guidance has not been provided by the Federal Emergency Management Agency (FEMA), as to whether Underground Garages are permissible for these types of projects, and, if so, the applicable Flood Resistant Design and Construction Standards. DOEE, the designated District of Columbia Floodplain Administrator, has recommended to DCRA that, where an Underground Garage is proposed in a Group R building or a mixed-use building containing Group R occupancies, more in-depth review of the proposed design is needed to determine whether the design is flood-resistant, and meets minimum requirements of the National Flood Insurance Program (NFIP) administered by FEMA.

Procedure

In order to facilitate in-depth review by DOEE and DCRA of permit applications for new construction or substantial improvement of a building in a SFHA that is used or will be used wholly or partially for Residential Group R occupancies, and that proposes an Underground Garage, effective upon publication of this Administrative Bulletin in the DC Register, no such applications will be granted without a code modification approved in writing by the Code Official and by DOEE.⁷ The procedures for obtaining a modification of the Construction Codes are set forth in Section 104.10 of the 2013 District of Columbia Building Code. Section 104.10.1 provides additional information requirements and standards for granting of code modification applications where the project is located in a flood hazard area.⁸

The applicant must use a code modification application form approved by the Code Official. An approved form is available online on the DCRA website at: <http://dcra.dc.gov/publication/construction-code-modification-forms>. DCRA reserves the right to modify the form, in which case the revised form will be posted on the DCRA website.⁹

⁷ Pursuant to Section 105.3 (Item 13) of the 2013 District of Columbia Building Code, permit applicants must submit “such other data and information” as the Code Official may require.

⁸ Section 104.10.1 provides: **104.10.1 Flood hazard areas.** The *code official* shall not grant modifications to any provision required in *flood hazard areas* as established by [Section 1612.3](#) unless a determination has been made that: 1.A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of [Section 1612](#) inappropriate.2.A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.4.A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.5. Submission to the applicant of written notice specifying the difference between the *design flood elevation* and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the *design flood elevation* increases risks to life and property.

⁹ The filing fee for code modification applications is \$192.50. This fee is subject to adjustment by DCRA.

A copy of this Administrative Bulletin is available at:
<http://dcra.dc.gov/page/administrative-bulletins>