

- **DIVISION 9. - FLOODPLAIN ~~OVERLAY~~ DISTRICTS (FP)**

This ordinance is authorized by the pursuant to the National Flood Insurance Program (42 U.S.C. 4001, et seq.) and adopted pursuant to the authority granted to Virginia localities by Va. Code Ann. §15.2-2280.

- **Sec. 86-196. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Base flood/one-hundred year flood* means a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).

*Base flood elevation (BFE)* means the Federal Emergency Management Agency designated 100-year water surface elevation.

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

*Board of zoning appeals* means the board appointed to review appeals made by individuals with regard to decisions of the permit officer in the interpretation of this division.

*Development* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavating, mining, dredging, or drilling operations or storage of equipment or materials.

*Existing construction* means for the purposes of the insurance program, structures for which the “start of construction” commenced before June 1, 1989. “Existing construction” may also be referred to as “existing structures” and “pre-FIRM.”

*Existing Manufactured Home Park or Subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

*Expansion to Manufactured Home Park or Subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Flood Insurance Rate Map (FIRM)* means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

*Flood Insurance Study (FIS)* means a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and

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determination of mudflow and/or flood-related erosion hazards.

*Floodplain* means a relatively flat or low land area adjoining a river, stream, or watercourse, which is subject to partial or complete inundation, or an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

*Floodproofing* means any combination of structural and non-structural 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.

*Floodway* means the channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the 100-year base flood without cumulatively increasing the water surface elevation of that flood more than one foot at any point.

*Freeboard* means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

*Historic Structures* means Any structure that is (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing 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; (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (a) by an approved state program as determined by the Secretary of the Interior; or (b) directly by the Secretary of the Interior in states without approved programs.

*Lowest adjacent grade* means the lowest natural elevation of the ground surface next to the walls of a structure.

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*Lowest floor* means the lowest floor of the lowest enclosed area (including basement).

*Manufactured home* means a structure produced on or after July 15, 1976, which is subject to the Federal Manufactured Home Construction and Safety Standards (along with any amendments thereto) and is certified as to compliance with those regulations; is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

*Manufactured home park or subdivision* means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

*New Construction* means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after June 1, 1989, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management

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regulation adopted by a community and includes any subsequent improvements to such structures. Such structure is also to be referred to as "post-FIRM.

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*New Manufactured Home Park or Subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

*Recreation vehicle* means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) 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* means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in this ordinance.

*Start of Construction* means for other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement 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 buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the 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* means for floodplain management purposes, 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* means 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.

*Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, 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: (1) 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 (2) any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

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Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

100-year flood means a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year although the flood may occur in any year).

(Ord. of 5-15-89(1), § 21-70.14; Res. of 11-3-97(97.165))

• **Sec. 86-197. - Purpose.**

These provisions are adopted to protect the health, safety, and welfare of the community by preventing the loss of life and property, and life, the creation of health and safety hazards, the disruption of commerce and governmental services, any the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- (1) Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies;
- (2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- (3) Requiring all those uses, activities, and developments that do occur in flood prone districts to be protected and/or flood proofed against flooding and flood damage; and
- (4) Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

(Ord. of 5-15-89(1), § 21-70.13; Res. of 11-3-97(97.165))

• **Sec. 86-198. - Applicability.**

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the county and identified as being flood prone as stipulated areas of special flood hazard determined by the community or shown on the flood insurance rate map (FIRM) that is provided to the County by FEMA in this division in the 100-year floodplain by the Federal Insurance Administration as well as by other methods as provided for in section 86-201(a) and shall include all lands inundated by a 100-year flood.

(Ord. of 5-15-89(1), § 21-70.15; Res. of 11-3-97(97.165))

• **Sec. 86-199. - Compliance required.**

- (a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered, except in full compliance with the terms and provisions of this division and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this division.
- (b) The degree of flood protection sought by the provisions of this division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may

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occur on rare occasions. Flood heights may be increased or decreased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. As soon as practicable, but not later than six months after the date such information becomes available, the county shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The county may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data. This division does not imply that areas outside the floodplain area, or that land uses permitted within such area will be free from flooding or flood damages.

- (c) This division shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on this division or any administrative decision lawfully made thereunder.

(Ord. of 5-15-89(1), § 21-70.16; Res. of 11-3-97(97.165))

• **Sec. 86-200. - Abrogation and greater restrictions.**

This division supersedes any ordinance currently in effect in flood prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that those provisions are more restrictive.

(Ord. of 5-15-89(1), § 21-70.17; Res. of 11-3-97(97.165))

• **Sec. 86-201. - Description of districts, including Special Flood Hazard Districts.**

~~(a)~~—The floodplain districts shall include the following areas which are subject to inundation by waters of the 100-year flood. The basis for the delineation of the districts shall be the flood insurance study (FIS) flood insurance rate map (FIRM) for the County of Louisiana prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated November 5, 1997, As amended and any subsequent revisions or amendments thereto.

**A. Basis of Districts**

**The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated November 5, 1997, and any subsequent revisions or amendments thereto.**

**The County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.**

**The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the County offices.**

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1. The A Zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level (**recommend  $\geq$  one foot**).

**Comment [SRR1]:** Do we incorporate the recommendation or leave reference to base flood level—which is in the Definitions section?

During the permitting process, the Floodplain Administrator shall obtain:

- 1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- 2) if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

~~The approximated floodplain area shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as zone A on the flood insurance rate map. For these areas, the 100-year flood elevations and floodway information from federal, state and other acceptable sources shall be used, when available.~~ Where the specific 100-year flood elevation cannot be determined from this map or by using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood Prone Quadrangles, etc, then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the county.

(Ord. of 5-15-89(1), § 21-70.18; Res. of 11-3-97(97.165))

- Sec. 86-202. - Building permit information.

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All building permit applications issued for the floodplain district, as defined in this division, shall incorporate the following information:

- (1) For structures that have been elevated, the elevation of the lowest floor (including basement);
- (2) For structures that have been flood proofed (nonresidential only), the elevation to which the structure has been flood proofed;
- (3) The elevation of the 100-year flood.

(Ord. of 5-15-89(1), § 21-70.19; Res. of 11-3-97(97.165))

- **Sec. 86-203. - Official floodplain map.**

The boundaries of the floodplain district are established as shown on the flood insurance rate map, which is declared to be part of this chapter and which shall be kept on file at the office of the county administrator and office of the Zoning Administrator.

(Ord. of 5-15-89(1), § 21-70.20; Res. of 11-3-97(97.165))

- **Sec. 86-204. - District boundary changes.**

The delineation of any of the floodplain districts may be revised by the Board of Supervisors where natural or manmade changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency or individual documents the need for such change. However, prior to any such change, approval must be obtained from the [Federal Insurance Administration Federal Emergency Management Agency](#). [A completed LOMR is a record of this approval.](#)

(Ord. of 5-15-89(1), § 21-70.21; Res. of 11-3-97(97.165))

- **Sec. 86-205. - Interpretation of district boundaries.**

Initial interpretation of the boundaries of the floodplain districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the districts, the Board of Zoning Appeals shall make the necessary determination in accordance with [section 86-290](#). The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board of Zoning Appeals and to submit his own technical evidence if he so desires.

(Ord. of 5-15-89(1), § 21-70.22; Res. of 11-3-97(97.165))

- **Sec. 86-206. - General principles.**

(a) *Permit requirement.*

- (1) All uses of, activities, and development occurring with [in the special flood hazard area as shown on the FIRM the floodplain district, including the placement of manufactured homes](#), shall be undertaken only upon the issuance of a building permit. Such development shall be undertaken only in strict compliance with the provisions of this division and with all other applicable codes and ordinances, [including such as the Virginia Uniform Statewide Building Code \(VA USBC\), Code of Virginia, §36-97 et seq., as amended, incorporated herein by reference and pursuant to Code of](#)

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~~Virginia, §1-220, as amended,~~ and the Louisa County Subdivision Regulations. Prior to the issuance of any such permit, the Louisa County Zoning Administrator and building official shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

(2) Under no circumstances shall any system, activity, and/or development adversely affect the capacity of the channels or flood ways of any watercourse, drainage ditch, or any other drainage facility or system.

(3) New construction and substantial improvements shall be built according to this ordinance and the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.

Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.

~~(3)~~

~~No development shall be allowed within the floodway portion of the floodplain district if the development would cause any increase in the 100-year flood elevation.~~

(b) *Alteration or relocation of watercourse.*

(1)

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Further, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, ~~the Division of Soil and Water Conservation,~~ (the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Mangement Agency ~~insurance Administration.~~

(c) *Site plans and permit applications.* All applications for development in the special flood hazard floodplain area and all building permits issued for the floodplain shall incorporate the following information:

(1) For structures to be elevated, the elevation of the lowest floor (including basement);

(2) For structures to be flood proofed (nonresidential only), the elevation to which the structure will be flood proofed;

(3) The elevation of the 100-year flood;

(4) Topographic information showing existing and proposed ground elevations.

(5) The elevation of the Base Flood at the site.

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(d) *Recreational vehicles.* Recreational vehicles placed on sites shall be on the site for fewer than 14 consecutive days, be fully licensed and ready for highway use.

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.

(Ord. of 5-15-89(1), § 21-70.23; Res. of 11-3-97(97.165))

**Cross reference**— Buildings, [ch. 18](#); manufactured homes and trailers, [ch. 50](#).

• **Sec. 86-207. - Design criteria for utilities and facilities.**

(a)

*Sanitary sewer facilities.* All new or replacement sanitary sewer facilities, and private package sewage treatment plants, including all pumping stations and collector systems, shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage or impairment.

(b)

*Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system, and be located and constructed to minimize or eliminate flood damages.

(c)

*Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall ensure drainage flows away from buildings and onsite waste disposal sites. The Board of Supervisors may require a primary underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

(d)

*Utilities.* All utilities such as gas lines, electrical and telephone systems being placed in flood prone areas should be located, elevated (where possible) and constructed to minimize the chance of impairment during a flooding occurrence.

(e)

*Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

(Ord. of 5-15-89(1), § 21-70.24; Res. of 11-3-97(97.165))

**Cross reference**— Utilities, [ch. 78](#).

• **Sec. 86-208. - Factors to be considered in granting conditional use permits, special exceptions and variances.**

No variance, special exception or conditional use permit shall be granted for any proposed use, development, activity within any floodway area that will cause any increase in the 100-year flood elevation. Variances shall be issued only upon a showing of (i) good and sufficient cause (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary

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public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

(1)

Whenever any person is aggrieved by a decision of the permit officer with respect to the provisions of this division, it is the right of that person to appeal to the Board of Zoning Appeals for a variance. Such appeal must be filed, in writing within 30 days after the determination by the Zoning Administrator. Upon receipt of such an appeal, the Board of Zoning Appeals shall set a time and place for the purpose of hearing the appeal, which shall be not less than ten nor more than 30 days from the date of the receipt of the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties at which time they may appear and be heard. The determination by the Board of Zoning Appeals shall be final in all cases. In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- a. The danger of life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any floodway area that will cause any increase in flood levels during the 100-year flood.
- b. The danger that materials may be swept onto other lands or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- e. The importance of the services provided by the proposed facility in the community.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- j. The safety of access to the property in times of flood of ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- l.

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The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- m. Such other factors which are relevant to the purposes of this division.

(2) The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and adequacy of the plans for protection and other related matters.

~~(3) Variances shall only be granted after the Board of Zoning Appeals has determined that the granting of such will not result in:~~

- ~~a. Unacceptable or prohibited increases in flood heights;~~
- ~~b. Additional threats to public safety;~~
- ~~c. Extraordinary public expense;~~
- ~~d. Create nuisances;~~
- ~~e. Cause fraud or victimization of the public; or~~
- ~~f. Conflict with local laws or ordinances.~~

~~(4) Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum necessary required to provide relief from any hardship to the applicant.~~

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~~(5)~~ The Board of Zoning Appeals shall notify the applicant for a variance in writing that the granting of a variance to construct a structure below the 100-year flood elevation;

- a. Increases risks to life and property; and
- b. Will result in increased premium rates for flood insurance.

A record of the notification provided for in subsection (5), as well as variance actions, including justification for their issuance, shall be maintained, and any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administration.

(Ord. of 5-15-89(1), § 21-70.25; Res. of 11-3-97(97.165))

- **Sec. 86-209. - Existing structures and uses.**

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A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued, subject to the following conditions;

- (1) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain district to any extent or amount of less than 50 percent or more of its market value, shall be elevated and/or flood proofed to the greatest extent possible.
- (2) The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of 50 percent or more of its market values shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.
- (3) Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.
- (4) The modification, alteration, repair, reconstruction or improvement to a structure and/or use within the floodway area of the floodplain shall not be permitted if it would cause any increase in the 100-year flood elevation.
- (5) Existing structures in the floodway area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the 100-year flood elevation.

(Ord. of 5-15-89(1), § 21-70.26; Res. of 11-3-97(97.165))

• **Sec. 86-210. - Warning and disclaimer of liability.**

The degree of flood protection required by the ~~these provisions~~ is considered reasonable based on engineering and scientific methods of study but does not imply total flood protection. Larger floods may occur on rare occasions. ~~These provisions~~ does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damage. ~~These provisions~~ shall not create liability on the part of the county or any officer or employee thereof for any flood damage that results from reliance on the ~~these provisions~~ or any administrative decision lawfully made thereunder.

(Ord. of 5-15-89(1), § 21-70.27; Res. of 11-3-97(97.165))

• **Sec. 86-211 - Approximated floodplain area.**

In the approximated floodplain area, the development and/or use of land shall be permitted in accordance with the regulations of the underlying area provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood proofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances. All new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include within such proposals base flood elevation data. The applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the 100-year flood elevation more than one foot at any one point. The engineering principle—equal reduction of conveyance—shall be used to make the determination of increased flood heights.

Within the floodway area delineated by the applicant, no development shall be permitted that will cause any increase in the 100-year flood elevation.

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(Res. of 11-3-97(97.165))

• **Sec. 86-212. - Prohibited uses.**

- (a) Storage of gasoline, kerosene and other petroleum products and flammable liquids, dynamite, blasting caps and other explosives, pesticides and poison and other such materials which could result in hazard to life and/or water pollution in the event of flooding.
- (b) Storage of machinery and vehicles except as accessory to a permitted use.
- (c) Stockpiling of debris, logs, junk cars and similar materials.
- (d) Structures designed or intended for human habitation, including manufactured or mobile homes, regardless of proposed usage.
- (e) Structures related to and/or used for intensive agricultural operations.

(Res. of 11-3-97(97.165))

• **Sec. 86-213. - Permitted uses.**

The following uses may be permitted within the flood hazard ~~overlay~~-districts in accordance with the requirements of this section and as specifically provided ~~in by~~ the underlying zoning ~~designations~~~~district~~:

- (1) Agricultural uses (excluding structures of any kind) limited to field crops, pasture, grazing, livestock, raising poultry, horticulture, viticulture and forestry.
- (2) Recreational uses (excluding structures of any kind and uses involving human habitation) such as parks; swimming areas; golf courses and driving ranges; picnic grounds; wildlife and nature preserves; game farms; fish hatcheries; shooting preserves; target, trap and skeet ranges; hunting, fishing and hiking areas; athletic fields; and horse show grounds.
- (3) Flood warning aids and devices, water monitoring devices and the like.
- (4) Fences.
- (5) Electric, gas, oil and communications facilities, including poles, lines, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility, but excluding tower structures.
- (6) Water distribution and sewage collection lines and appurtenances owned and operated by the Louisa County Water Authority, but excluding pumping stations and holding ponds.

(Res. of 11-3-97(97.165))

• **Sec. 86-214. - By conditional use permit.**

The following uses shall be permitted only by conditional use permit approved by the Board of Supervisors pursuant to [section 86-9](#):

- (1) Dams, levees and other structures for water supply and flood control.

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- (2) Water-related uses such as canoe liveries, bridges, ferries and river crossings of transmission lines of all types.
- (3) Topsoil, sand and gravel removal.
- (4) Pump stations for water or wastewater including power supply and control devices, holding ponds and other appurtenances.

(Res. of 11-3-97(97.165))

• **Sec. 86-215. - Severability.**

Should any section, subsection, paragraph, sentence, clause, or phrase of this division be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the division in its entirety or any part thereof other than that portion so declared to be invalid. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this division are hereby declared to be severable.

(Ord. of 5-15-89(1), § 21-70.28; Res. of 11-3-97(97.165))

**Sec. 86-216-Administration**

**A. Designation of the Floodplain Administrator**

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The Director of Community Development is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

1) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the County chief executive officer.

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

(3) Enter into a written agreement or written contract with another 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 at 44 C.F.R. Section 59.22.

**A. Duties and Responsibilities of the Floodplain Administrator**

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

(1) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

(2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

(3) 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.

(4) 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 state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current,

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or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

(5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.

(6) 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).

(7) 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.

(8) 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.

(9) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(10) 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 County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

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

(a) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

(b) 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, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(11) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(12) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

(13) Administer the requirements related to proposed work on existing buildings:

a) 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.

b) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. 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.

(14) 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

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

(15) Notify the Federal Emergency Management Agency when the corporate boundaries of the County have been modified and:

(a) 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

(b) 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 at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(16) 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.

(17) It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

#### Section 2.3 - Use and Interpretation of FIRMs [44 CFR 60.3]

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:

(A) Where field surveyed topography indicates that adjacent ground elevations:

(1) 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;

(2) Are above the base flood elevation and the area is labelled as a SFHA on the FIRM, 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 SFHA.

(B) 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 SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

(C) 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.

(D) 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.

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

(1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

(2) 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 3.1.A.3. and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(3) 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 or floodway areas 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. 86-217. – Penalty for Violations**

Any person who fails to comply with any of the requirements or provisions of this article, including code violations provided by the Building Code or Zoning Ordinance of Louisa, shall be subject to penalty as provided by law.

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In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the County to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

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**BE IT ORDAINED THAT** the Board of Supervisors of Louisa County, Virginia enacts this Ordinance and all amendments thereto pursuant to the authority vested in it by Va. Code Ann. §15.2-1427. These provision shall take effect on January 1, 2017.

DONE this \_\_\_\_\_ day of \_\_\_\_\_, 2016

Witness this signature and seal

\_\_\_\_\_  
Troy Wade, Chairman  
Board of Supervisors of Louisa County, Virginia

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ATTEST:

Christian R. Goodwin, Clerk to the Board