

ORDINANCE COMMITTEE

A G E N D A

TOWN OF CHINCOTEAGUE

November 12, 2008 - 5:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

ROLL CALL

OPEN FORUM / PUBLIC PARTICIPATION

AGENDA ADOPTION:

1. Consider Recommending to Council the Model Floodplain Ordinance, updating Chapter 30 of the Town Code.

ADJOURN:

Explanatory Note

These suggested provisions have been prepared for use by municipalities having to comply with the requirements of **Section 60.3(e)*** of the National Flood Insurance Program regulations. Your municipal attorney and engineer should be consulted in preparing the necessary ordinance or ordinances.

In using these provisions, certain things must be understood and kept in mind:

- These provisions cannot be adopted verbatim. Every municipality making use of these provisions will have to make some choices and modifications, depending upon the kinds of flood hazard districts and information contained in its Flood Insurance Study, and the community's own particular circumstances and objectives or policy.
- These provisions alone will not meet all the Flood Insurance Program requirements. They are zoning provisions only, and must be used in combination with other kinds of regulations (i.e., Uniform Statewide Building Code and subdivision regulations) in order to meet all of the Program requirements.
- These provisions are not classical "model" floodplain management regulations. With few exceptions, they have been prepared only with the intention of meeting the minimum requirements of the National Flood Insurance Program. Any municipality that may be interested could do considerably more concerning the regulation of development in flood-prone districts.

More stringent local requirements are encouraged, and would be supported by the Federal Emergency Management Agency and the Division of Dam Safety and Floodplain Management, Department of Conservation and Recreation. The more restrictive local regulations would be recognized as taking precedence over the federal minimum guidelines. The needs, circumstances, and objectives are so diverse that the development of a single ordinance or set of provisions for use by all is literally impossible.

If there are any questions concerning these suggested provisions or concerning the National Flood Insurance Program, the Division of Dam Safety and Floodplain Management (Department of Conservation and Recreation) (804) 371-6135 or the Philadelphia Regional Office (215) 931-5514 should be contacted without hesitation.

Chapter 30

FLOODS

Article I. General Provisions

- 30-1. Purpose
- 30-2. Applicability
- 30-3. Compliance and Liability
- 30-4. Abrogation and Greater Restrictions

Article II. Definitions

Article III. Establishment of Zoning Districts

- 30-5. Severability
- 30-6. Description of Districts
- 30-7. Official Zoning Map
- 30-8. District Boundary Changes
- 30-9. Interpretation of District Boundaries

Article IV. District Provisions

- 30-10. Permit and Application Requirements
- 30-11. General Standards
- 30-12. Specific Standards
- 30-13. Standards for Approximated Floodplain
- 30-14. Standards for Special Floodplain District
- 30-15. Standards for the Floodway District
- 30-16. Standards for the Shallow Flooding District
- 30-17. Standards for Subdivision Proposals
- 30-18. Standards for the Coastal High Hazard District
- 30-19. Anchoring Fuel Tanks

Article V. Variances: Factors to be Considered

Article VI. Existing Structures in Floodplain Areas

Chapter 30

AN ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF **THE TOWN OF CHINCOTEAGUE**, VIRGINIA, BY ESTABLISHING FLOODPLAIN DISTRICTS, BY REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, AND BY PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCES.

BE IT ENACTED AND ORDAINED BY THE **TOWN OF CHINCOTEAGUE**, Virginia, as follows:

FLOODS

ARTICLE I - GENERAL PROVISIONS

Section 30-1 - Purpose

The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by

- A. regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- C. 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,
- D. protecting individuals from buying land and structures, which are unsuited for, intended purposes because of flood hazards.

Section 30-2 - Applicability

These provisions shall apply to all lands within the jurisdiction of **the Town of Chincoteague** and identified as being in the 100-year floodplain by the Federal Insurance Administration.

Section 30-3 - Compliance and Liability

- 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 ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.
- C. Records of actions associated with administering this ordinance shall be kept on file and maintained by the **Zoning Administrator**.
- D. This ordinance shall not create liability on the part of **the Town of Chincoteague** or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 30-4 - Abrogation and Greater Restrictions

This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

Section 30-5 - Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

ARTICLE II - DEFINITIONS

- A. Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
- B. Base flood elevation - The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation.
- C. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- D. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- E. Breakaway wall - A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

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- F. Coastal high hazard area – A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.
- G. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- H. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).
- I. **Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.*
- J. **Existing manufactured home park or subdivision - 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.*
- K. **Expansion to an existing manufactured home park or subdivision - 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).*
- L. Flood or flooding -
1. A general or temporary condition of partial or complete inundation of normally dry land areas from
 - a. the overflow of inland or tidal waters; or,
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
 2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
- M. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.

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- N. **Floodway* - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- O. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.
- P. Historic structure - 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.
- Q. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- R. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed one a site for greater than 180 consecutive days.
- S. **Manufactured home park or subdivision* - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- T. New construction - For the purposes of determining insurance rates, structures for which the

“start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

- U. **New manufactured home park or subdivision - 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 .*
- V. Recreational vehicle - A vehicle which is
1. built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. designed to be self-propelled or permanently towable by a light duty truck; and,
 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- W. **Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.*
- X. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.2 of this ordinance.
- Y. Start of construction - 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 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.
- Z. Substantial damage - Damage of any origin sustained by a structure whereby the cost of

restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

AA. Substantial improvement - 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 structure's continued designation as a *historic structure*.

BB. *Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS

Section 30-6 - Description of Districts

A. Basis of Districts

The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps for **the Town of Chincoteague** prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated June 1, 1984, as amended. (*NOTE: Those communities that had FIS prepared by the Department of Housing and Urban Development should delete FEMA and add HUD*)

1. **The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map.*
2. **The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.*
3. **The Approximated Floodplain District shall be those areas identified as an A or A99*

Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated.

4. **The Shallow Flooding District shall be those areas identified as AO or AH Zones on the maps accompanying the Flood Insurance Study.*
5. The Coastal Floodplain District shall be those areas identified as coastal AE or A1-30 Zones on the maps accompanying the Flood Insurance Study. Flood elevations are provided in these tidal floodplains; however, floodway data is not applicable.
6. The Coastal High Hazard District shall be those areas identified as V1 – V30, VE, or V Zones on the maps accompanying the Flood Insurance Study.

B. Overlay Concept

1. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
2. If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
3. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Section 30-7 - Official Zoning Map

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Boundary and Floodway Map and/or Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the **Town of Chincoteague** office.

Section 30-8 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the **Town of Chincoteague** where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

Section 30-9 - Interpretation of District Boundaries

Initial interpretations 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. The person questioning or contesting the

location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

ARTICLE IV - DISTRICT PROVISIONS

Section 30-10 – Permit and Application Requirements

*A. *Permit Requirement*

*All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance, the VA USBC, and all other applicable codes and ordinances, as amended and the **Town of Chincoteague Land Subdivision and Development Ordinance**. Prior to the issuance of any such permit, the Zoning Officer 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 floodways of any watercourse, drainage ditch, or any other drainage facility or system.*

*B. *Site Plans and Permit Applications*

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

- 1. The elevation of the Base Flood at the site.*
- 2. For structures to be elevated, the elevation of the lowest floor (including basement).*
- 3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.*

Section 30-11 - General Standards

In all special flood hazard areas the following provisions shall apply:

- A. *New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.*
- B. *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 requirements for resisting wind forces.*
- C. *New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.*
- D. *New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.*

- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including ductwork, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- I. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.
- J. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- K. 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 the Virginia Marine Resources Commission, (a joint permit application is available from any of these organizations) **and if applicable the Accomack County Wetlands Board**. Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administration.
- L. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Section 30-12 - Specific Standards

**In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according Article 4, section 4.4 (A), the following provisions shall apply:*

A. *Residential Construction*

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than base flood elevation.

B. *Non-Residential Construction*

**New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than the base flood elevation. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.*

C. *Elevated Buildings*

Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. in the Coastal High Hazard District, follow the standards for elevation outlined in Article 4, Section 4.9.
4. **include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:*
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

- e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Standards for Manufactured Homes and Recreational Vehicles

1. **All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article 4, section 4.2 (A) and (B), and section 4.3 (A).*
2. **All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision in which a manufactured home has **not** incurred substantial damage as the result of a flood shall be elevated so that either:*
 - a. the lowest floor of the manufactured home is elevated **at or no lower than** ~~{ feet}~~ above the base flood elevation; or
 - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade
 - c. and the manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement;
3. All recreational vehicles placed on sites must either:
 - a. be on the site for fewer than 180 consecutive days;
 - b. 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); or,
 - c. meet all the requirements for manufactured homes in Article 4, section 4.3 (D).

*The following provisions shall apply within the Approximated Floodplain District:

- A. **When base flood elevation data or floodway data have not been provided, the **Zoning Administrator** shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the provisions of Article 4. When such base flood elevation data is utilized, the **Zoning Administrator** shall obtain*
 - 1. **the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and,*
 - 2. **if the structure has been floodproofed in accordance with the requirements of Article 4, Section 4.3 (B) of this ordinance, the elevation in relation to the mean sea level to which the structure has been floodproofed.*
- B. **When the data is not available from any source as in Article 4, Section 4.4 (A), the lowest floor of the structure shall be elevated to no lower than **4 feet** above the highest adjacent grade.*

Section 30-14 - Standards for the Special Floodplain District

**The following provisions shall apply within the Special Floodplain District:*

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones AI-30 and AE on the Flood Rate Insurance Map, 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 **Town of Chincoteague.*

Development activities in Zones AI-30, AE, and AH, on the **Town of Chincoteague's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the **applicant** first applies – with the **Town of Chincoteague's** endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.*

Section 30-15 - Standards for the Floodway District

**The following provisions shall apply within the Floodway District:*

- A. **Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.*

*Development activities, which increase the water surface elevation of the base flood, may be allowed, provided that the **applicant** first applies – with the **Town of Chincoteague's** endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and*

receives the approval of the Federal Emergency Management Agency.

- B. *If Article 4, Section 4.6 (A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.*
- C. *The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.*

Section 30-16 - Standards for the Shallow Flooding District

**The following provisions shall apply within the Shallow Flooding District:*

- A. *All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than ~~two feet~~ *(recommend ≥ one foot freeboard)* above the highest adjacent grade.*
- B. *All new construction and substantial improvements of non-residential structures shall*
 - 1. *have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least ~~two feet~~ *(recommend ≥ one foot freeboard)* above the highest adjacent grade; or,*
 - 2. *together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.*
- C. *Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.*

Section 30-17 - Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;*
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;*
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and*

- D. Base flood elevation data shall be provided 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.

Section 30-18 - Standards for the Coastal High Hazard District

The following provisions shall apply within the Coastal High Hazard District:

- A. All new construction and substantial improvements in Zones V1 – V30 and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that
1. the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level (~~recommend \geq one foot freeboard~~); and,
 2. the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-percent annual chance).
- B. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Article 4, Section 4.9 (A).
- C. **The Zoning Administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1 – V30 and VE. The Floodplain Management Administrator shall maintain a record of all such information.*
- D. **All new construction shall be located landward of the reach of mean high tide.*
- E. **All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:*
1. Breakaway wall collapse shall result from water load less than that which would

- occur during the base flood; and
2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any give year.
- F. The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.
- G. The use of fill for structural support of buildings is prohibited. When fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
- H. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.
- I. All manufactured homes and recreational vehicles to be placed or substantially improved within Zones V1 – V30, V, and VE on the **Town of Chincoteague's** Flood Insurance Rate Map on sites must meet the standards of Article 4, Section 4.9 (A) though (H) and Article 4, Section 4.3 (D).

Section 30-19 Anchoring Fuel Tanks

- (a) All new, replaced, or existing oil, and propane tanks must be anchored against floatation, collapse, and lateral movement under flood conditions by means of an approved anchorage system or shall be installed at or above base flood elevation and shall be set upon a firm foundation and supports to prevent floatation, collapse or lateral movement under flood conditions. It shall be unlawful to fill or refill any such tank that is not so anchored or elevated.
- (b) All new, replaced, or existing oil tanks shall have their vent pipe extended at least three feet above the top most portion of the body of the tank. This provision shall also apply to substantial improvement buildings and buildings experiencing repetitive loss.
- (c) All new, replaced, or existing oil tanks must all be fitted with a fill tube screw-on tight fit cap with gasket.
- (d) This section shall be effective November 4, 2010 for existing or replaced fuel tanks.
(Amended 4/7/08)
- (e) Any person violating the provision of this section shall, upon conviction, be guilty of a class 4 misdemeanor and be punished by a fine of not more than two hundred and fifty dollars (\$250.00). Each day in violation shall constitute a separate offense.
(Adopted 11/5/07)

ARTICLE V - VARIANCES: FACTORS TO BE CONSIDERED

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 showing of good and sufficient cause.
- B. The danger to 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 District that will cause any increase in the one hundred (100)-year flood elevation.
- C. The danger that materials may be swept on to other lands or downstream to the injury of others.
- D. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- E. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- F. The importance of the services provided by the proposed facility to the community.
- G. The requirements of the facility for a waterfront location.
- H. The availability of alternative locations not subject to flooding for the proposed use.
- I. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- J. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- K. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- L. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- M. 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.
- N. Such other factors which are relevant to the purposes of this ordinance.

**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 the adequacy of the plans for flood protection and other related matters.

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

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

ARTICLE VI – EXISTING STRUCTURES IN FLOODPLAIN AREAS

**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:*

- A. *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 practices that the proposed expansion would not result in any increase in the base flood elevation.*
- B. *Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.*
- C. *The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.*

ARTICLE VII - ENACTMENT

ENACTED AND ORDAINED THIS ____ DAY OF _____, 20___. This ordinance shall become effective upon passage.

Signed

Attested

**All amendments from the Town's current floodplain ordinance have an asterisk and are italicized.*