

ORDINANCE COMMITTEE

A G E N D A

TOWN OF CHINCOTEAGUE

March 10, 2011 - 5:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

ROLL CALL

OPEN FORUM / PUBLIC PARTICIPATION

AGENDA ADOPTION:

1. Possible Change in the Town Code, Chapter 30, Floods, Article IV, District Provisions, Sec 30-19 Anchoring fuel tanks, Paragraph (e) Violations.
 - a. Consider revision to identify who will be responsible for a violation and the impact of a \$250 'per day' fine for violations.
2. Possible Changes in the Town Code, Chapter 30, Floods.
 - a. Review of recommended changes (in blue-line) from Charley Banks, Floodplain Program Engineer, VA Department of Conservation & Recreation.
3. Committee Member Comments

ADJOURN:

**ORDINANCE COMMITTEE
TOWN OF CHINCOTEAGUE
November 10, 2010**

Meeting Minutes

PRESENT

The Honorable Terry Howard, Chairman
The Honorable John Howard, Councilman

ABESENT

The Honorable Nancy Conklin

STAFF

Robert G. Ritter, Town Manager
Harvey Spurlock, Director of Public Works

CALL TO ORDER

Chairman Terry Howard called the meeting to order at 5:00 PM

OPEN FORUM/PUBLIC PARTICIPATION

Ray and Nancy Rosenberger stated that they were there to show support for the Ordinance Committee

AGENDA ADOPTION

A motion was made by John Howard, seconded by Terry Howard to adopt the agenda, Motion Carried

ITEM #1 ~ Consider a new division to the Town Code Chapter 62, Division 5, Water Conservation, Section 120-123, and Move Current Division 5, to Division 6, Cross Control and Backflow Prevention

Town Manager Ritter explained that the Department of Environmental Quality is presently reviewing the Town's Groundwater Withdraw Permit application and has recommended the addition of a section addressing Water Conservation in the Town Code. A motion was made by Councilman John Howard, seconded by Chairman Terry Howard to recommend the ordinance as presented for approval by the Town Council, Motion Carried

COMMITTEE MEMBER COMMENTS

Chairman Terry Howard – None
Councilman John Howard – None

Town Manager Ritter asked the Ordinance Committee if there were any future ordinances that they would like staff to work on. Discussion ensued regarding an ordinance dealing with the filling of lots and whether such an ordinance would conflict with ruling from the County Wetlands Board. Public Works Director Spurlock indicated that this may be addressed once with the implementation of the Storm water Management Plan. Presently, the only requirement is that an existing drain cannot be obstructed.

Town Manager Ritter discussed the Planning Commission's work on the Home Occupation Ordinance. A discussion ensued regarding the definition of a home occupation versus a home business.

A motion was made by Councilman John Howard, seconded by Chairman Terry Howard to adjourn the meeting, Motion Carried.

The meeting adjourned at 5:13 PM.

MEMORANDUM

To: Ordinance Committee
From: Bill Neville, Town Planner
Date: March 8, 2011
Subject: Fuel Tank Anchoring Violation and Fines

The Town of Chincoteague Ordinance Committee has been requested to review a question and concern that was raised at during the February Council meeting. Selected minutes have been attached for reference.

MINUTES OF THE FEBRUARY 7, 2011 CHINCOTEAGUE REGULAR TOWN COUNCIL MEETING

Council Members Present:

*John H. Tarr, Mayor
Ellen W. Richardson, Vice Mayor
Nancy B. Conklin, Councilwoman
John N. Jester, Jr., Councilman
Tripp Muth, Councilman
John H. Howard, Councilman
Terry Howard, Councilman*

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for the public comment. There was none.

Mr. Spiro Papadopoulos stated that he and his wife were not counted in the Census at all. He also commented on the Code regarding the anchoring of fuel tanks. He expressed his concerns as to the ownership of the tank and the recipient of the fine if this isn't completed by the deadline. He asked Council if the property owner or the owner of the tank would be fined. He suggested addressing this issue.

Mayor Tarr directed Town Manager Ritter to take this matter to the Ordinance Committee.

MINUTES OF THE SEPTEMBER 16, 2010 CHINCOTEAGUE SPECIAL TOWN COUNCIL WORKSHOP

Council Members Present:

John H. Tarr, Mayor

Council Members Absent:

Ellen W. Richardson, Vice Mayor

*Tripp Muth, Councilman
John H. Howard, Councilman
Nancy B. Conklin, Councilwoman
Terry Howard, Councilman
John N. Jester, Jr., Councilman*

*Possible Change in the Flood Ordinance, Sec. 30-19 Anchoring Fuel Tanks
Councilman T. Howard explained that at the last meeting of the Ordinance Committee they discussed the approaching deadline to be in compliance with the Anchoring of the Fuel Tanks Ordinance. He advised that the local Gas Companies were present and advised that the deadline was unrealistic. He stated that they voted and agreed to recommend to Council to extend the deadline to November 5, 2012.*

There was discussion about the extension and the wording regarding the engineer stamp requirement.

Town Manager Ritter expressed his concern as to liability.

Council Members expressed their concerns regarding costs, responsibility, liability, deadlines and requirements.

Councilman Muth asked if the Town should uphold an ordinance that goes beyond the state Code.

Councilman T. Howard asked if the Town is liable by recommending FEMA guidelines.

Mayor Tarr asked about the verbiage for specifications. He stated that the only reason this was adopted was for safety.

Discussion continued.

Mayor Tarr suggested an addition to the verbiage from the FEMA recommended guidelines: "...strapping and anchoring fuel tanks shall follow the recommended guidelines or shall follow an approved engineering anchoring system." He suggested informing the residents of the requirements and deadline.

Councilwoman Conklin motioned, seconded by Councilman Muth to include the engineering anchoring system to the requirements and extend the deadline for compliance 2 years to November 5, 2012. Unanimously approved.

MEMORANDUM

THE TOWN OF CHINCOTEAGUE

To: Mayor and Town Council
From: Mr. Robert Ritter, Town Manager
Date: September 14, 2010
Subject: Flood Ordinance, Article IV, District Provision, Sec 30-19 Anchoring fuel tanks

At the Ordinance Committee Meeting of September 9, 2010, the committee made recommendations to the full Council to change the effective date of the ordinance on anchoring fuel tanks and set requirements on the strapping and anchoring of the fuel tanks. The following are the changes in bold print:

Sec. 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 and 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) **The installation requirements for strapping and anchoring fuel tanks shall follow FEMA recommended guidelines.**

(e) This section shall be effective November ~~4, 2010~~ **5, 2012** 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*)

MEMORANDUM

To: Ordinance Committee
From: Bill Neville, Town Planner
Date: March 8, 2011
Subject: Floodplain Ordinance

The following correspondence was received by email and referred to the Ordinance Committee for further consideration.

Greetings

Thanks very much for your time on February 16 and for the information you provided during the Community Assistance Visit (CAV). The Elevation Certificates (ECs) and the map were great to have during my floodplain tour. I have attached the CAV report form that I send to FEMA. The Town is doing a very good job with floodplain management, especially considering the terrain of the island.

As I think I mentioned in the meeting, FEMA is looking at floodplain ordinances with greater scrutiny. I have reviewed the floodplain ordinance, and have made some recommended revisions in the attached "track changes" version. The recommendations are based on the model that I left with you. Please consider the revisions, and let me know what changes will be made, and the time frame for those changes.

<<Chincoteague CAV Report form- 2-16-2011.doc>> <<Chincoteague FPO track changes 3-3-2011 .doc>>

Thanks.

*Charley Banks, CFM
Floodplain Program Engineer
VA Department of Conservation & Recreation
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Richmond, VA 23219
(804) 371-6135, charley.banks@dcr.virginia.gov*

FLOODS*

Article I. General Provisions

Sec. 30-1. Purpose.

Sec. 30-2. Applicability.

Sec. 30-3. Compliance and liability.

Sec. 30-4. Abrogation and greater restrictions.

Sec. 30-5. Severability.

Sec. 30-6. Reserved.

Article II. Floodplain Management

Sec. 30-7. Definitions.

Sec. 30-8. Reserved.

Article III. Establishment of Zoning Districts

Sec. 30-9. Description of districts.

Sec. 30-10. Official floodplain map.

Sec. 30-11. District boundary changes.

Sec. 30-12. Interpretation of district boundaries.

Sec. 30-13. Reserved.

Article IV. District Provisions

Sec. 30-14. Permit and application requirements.

Sec. 30-15. General standards.

Sec. 30-16. Specific standards.

Sec. 30-17. Standards for subdivision proposals.

Sec. 30-18. Standards for the coastal high hazard district.

Sec. 30-19. Anchoring fuel tanks.

Article V. Variances

Sec. 30-20. Factors to be considered.

Article VI. Enactment

***Cross references**—Buildings and building regulations, ch. 14; environment, ch. 22; streets, sidewalks and other public places, ch. 50; utilities, ch. 62; waterways, ch. 70; zoning, app. A; land subdivision and development, app. B.

State law reference—Flood Damage Reduction Act, Code of Virginia, § 10.1-600 et seq.

ARTICLE I. GENERAL PROVISIONS

Sec. 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.
- (d) protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Sec. 30-2. Applicability.

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

Sec. 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 will be kept on file and maintained by the zoning administrator.

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

Sec. 30-4. Abrogation and greater restrictions.

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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.

Sec. 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.

Add a penalties section

Penalty for violations

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of the [community] shall be guilty of a [] and subject to the penalties therefore.

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 or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the [community] to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

Sec. 30-6. Reserved.

ARTICLE II. FLOODPLAIN MANAGEMENT

Sec. 30-7. Definitions.

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

Base flood, means the flood having a one percent chance of being equaled or exceeded in any given year.

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

Basement means any area of the building having its floor sub-grade (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 Zoning Administrator in the interpretation of this ordinance.

Breakaway wall means 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.

Coastal high hazard area means 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.

Development means 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.

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Elevated building means 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).

Flood or flooding means:

(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.

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

Flood Insurance Study (FIS) – an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source.

Flood proofing - 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.

Freeboard means 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.

Fuel oil tank means any container greater than 10 gallons used for storage of fuel oil.

Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure 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,
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- (b) directly by the Secretary of the Interior in states without approved programs.

Lowest floor means 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.

Manufactured home means 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 on a site for greater than 180 consecutive days.

New construction means for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after 3/1/1977~~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 2/2/1989~~effective date of a floodplain management regulation adopted by a community~~ and includes any subsequent improvements to such structures.

Primary frontal dune - A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Propane or liquefied petroleum gas tank means a container greater than 50 pounds used for the storage of propane.

Recreational vehicle means 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.

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.

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 Article III, Section 30-10 of this ordinance.

Start of construction 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 on the property of accessory

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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 - for flood plain 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. ``Structure'' for insurance coverage purposes, means

- 1. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;**
- 2. A manufactured home (“a manufacture home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or**
- 3. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws.**

For the latter pupose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

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 structure's continued designation as a historic structure.

Sec. 30-8. Reserved.

ARTICLE III. ESTABLISHMENT OF ZONING DISTRICTS

Sec. 30-9. Description of districts.

(a) Basis of Districts - The various floodplain districts shall include areas subject to inundation by waters of the one hundred (100)-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) for the Town prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated June 1, 1984, as amended.

(1) 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.

(2) 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

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provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

(2) 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.

Sec. 30-10. Official floodplain 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 offices.

Sec. 30-11. District boundary changes.

The delineation of any of the Floodplain Districts may be revised by the town 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.

Sec. 30-12. Interpretation of district boundaries.

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. 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.

Add section on submitting new technical data

Submitting Technical Data

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. 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.

Sec. 30-13. Reserved.

ARTICLE IV. DISTRICT PROVISIONS

Sec. 30-14. 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 with all other applicable codes and ordinances, as amended and the town subdivision regulations. 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 and shall review all sites to assure that they are reasonably safe from flooding.

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(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) ~~For structures to be elevated,~~ The elevation of the lowest floor (including basement).
- (2) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed and the supporting engineering certificate.
- (3) The elevation of the one hundred (100)-year flood.
- (4) Topographic information showing existing and proposed ground elevations.

Sec. 30-15. General standards.

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

- (a) New construction and substantial improvements shall be 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 duct work, 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.

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- (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.

[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 \(a joint permit application is available from any of these organizations\). Furthermore, in riverine areas, 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 Administrator.](#)

[The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.](#)

Sec. 30-16. Specific standards.

In all special flood hazard areas 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 base flood elevation. Floodproofing option? 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. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by (title of community administrator).

(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 IV, Section 30-18.

(4) include, in Zones AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of flood waters. 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.

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(c) If a building has more than one enclosed area, each area must have openings to allow flood waters 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 flood waters 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 substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.

(2) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

(a) the lowest floor of the manufactured home is elevated no lower than base flood elevation; or,

(b) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the grade;

(c) the manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement;

(d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage," any manufactured home placed or substantially improved must meet the standards of Article IV, Section 30-16(d)(2)(a), (b) and (c) above.

(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,

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(c) meet all the requirements for new construction, including anchoring and elevation requirements of Article IV, Section 30-16(d)(1) or (2)(a) and (c), above.

Sec. 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.

Sec. 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 > 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 IV, Section 30-18(a).
- (c) 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.

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- (e) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting 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 useable 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) Prohibit the use of fill for structural support of buildings. 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) Prohibit man-made alteration of sand dunes which would increase potential flood damage.

(i) All manufactured homes to be placed or substantially improved within Zones V1—V30, V, and VE on the town's Flood Insurance Rate Map on sites must meet the standards of Article IV, Section 30-18(a) through (h) and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision with Zones V1—V30, V, and VE on the Flood Insurance Rate Map meet the requirements of Article IV, Section 30-16(e)(1) and (2), if they are located:

- (1) outside of a manufactured home park or subdivision,
- (2) in a new manufactured home park or subdivision,
- (3) in an expansion to an existing manufactured home park or subdivision, or
- (4) in an existing manufactured home park or subdivision in which a manufactured home has incurred "substantial damage."

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(j) Recreational vehicles placed on sites within Zones V1—V30, V, and VE on the community's Flood Insurance Rate Map must either:

- (1) be on the site for fewer than 180 consecutive days,
- (2) be fully licensed and ready for highway use, 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,
- (3) meet the requirements of Article IV, Section 30-14 and Article IV, Section 30-18(a) through (h).

Sec. 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 and 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

Sec. 30-20. 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.

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(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.

All applicants must obtain documentation pertaining to the request for a variance from a Virginia certified engineer to evaluate the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters prior to referring such to the board of zoning appeals.

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)

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create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variations 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.

Section on Existing structures

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 VI. ENACTMENT

This ordinance shall become effective upon passage on September 21, 2006.