

# ORDINANCE COMMITTEE

## A G E N D A

TOWN OF CHINCOTEAGUE

November 14, 2013 - 5:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

ROLL CALL

OPEN FORUM / PUBLIC PARTICIPATION

AGENDA ADOPTION:

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1. Discuss Possible Revision to the Floodplain Ordinance
2. Committee Member Comments

ADJOURN:





## STAFF REPORT

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To: Ordinance Committee  
 Through: Robert Ritter, Town Manger  
 From: Bill Neville, Director of Planning  
 Date: November 14, 2013  
 Subject: Floodplain Ordinance Revisions  
 Town Code Section 30 - Floods

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FEMA is working on a Coastal Flood Study that will revise the Flood Insurance Rate Maps for Chincoteague Island. Prior to adopting the new community flood maps, other actions must be taken as follows:

### Community Responsibilities

- Review FIRMs**
  - Review preliminary FIRMs and **make corrections, comments and appeals** when appropriate
- Conduct Outreach**
  - **Conduct outreach** to those citizens affected by changes on the FIRMs
- Update Ordinance**
  - **Adopt a floodplain ordinance** that meets the National Flood Insurance Program (NFIP) requirements



### Virginia - Mapping Status

#### ACCOMACK COUNTY

Digital Flood Insurance Rate Map (DFIRM) Dates  
 Preliminary Flood Map Release: **07.19.13**  
 Appeals Period\*: **TBD**  
 Letter of Final Determination: **04.02.14\*** ★  
 Final Effective FIRM: **10.02.14\*** ★

Contacts  
 FEMA Map Information eXchange (FMIX):  
 1-877-336-2627  
 Project Planner Mari Radford: 215-931-2880  
 Project Engineer Robin Danforth: 213-931-5573

FEMA Region III 5

In addition to the map changes and ordinance revisions, the Town must also complete a recertification under the new NFIP Community Rating System (CRS) manual in early 2014. The new point system to calculate flood insurance discounts relies heavily on increased community participation through an advisory committee and improved website information. Outreach to the public over the next several months will be required and will provide necessary CRS credit.

As the result of a citizen complaint to FEMA, the Town of Chincoteague has received notice that mandatory revisions to Town Code Chapter 30-Floods are required to meet minimum National Flood Insurance Program (NFIP) requirements and the **changes must be adopted by April 4, 2014.**

Included in the Staff Report are several attachments for review by the Ordinance Committee:

- A)** Redline version of the Chincoteague Floodplain Ordinance showing changes required to meet minimum NFIP requirements (markup provided by C. Banks on March 4, 2011)
- B)** State Model Ordinance - Checklist for Virginia DCR review of local ordinances before they will be sent to FEMA for approval (provided by C. Banks on October 8, 2013)
- C)** Letter from FEMA dated October 4, 2013
- D)** Worksheet for tracking other locally proposed changes to the Floodplain Ordinance
  - Fill and Grading (definition or exemption)
  - Coastal standards
  - Permit requirements (cross references)
  - Separation of Stormwater Management/Drainage requirements

Town Staff will be prepared to review this material with the Committee and to identify which changes may require additional research or modification before preparing a recommendation for Town Council.

## William Neville

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**From:** Banks, Charley (DCR) [Charley.Banks@dcr.virginia.gov]  
**Sent:** Friday, March 04, 2011 8:22 AM  
**To:** William Neville; kenny@chincoteague-va.gov  
**Subject:** CAV report for 2-16-2011  
**Attachments:** Chincoteague CAV Report form- 2-16-2011.doc; Chincoteague FPO track changes 3-3-2011 .doc

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Greetings

Thanks very much for your time on February 16 and for the information you provided during the CAV. The 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  
203 Governor St., Suite 206  
Richmond, VA 23219  
(804) 371-6135, [charley.banks@dcr.virginia.gov](mailto: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, -

**except that the term shall not include:**

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;**
- (2) Individual utility service connections;**
- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;**
- (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;**
- (5) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;**
- (6) Repair or rebuilding of existing roads, rights-of-way, bridges, communication facilities and other related structures and public facilities;**
- (7) Disturbed land areas of less than 10,000 square feet in size;**
- (8) Cemetery graves;**
- (9) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;**
- (10) Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Virginia Marine Resources Commission or the U. S. Army Corps of Engineers; however, any associated land that is disturbed**

outside of this exempted area shall remain subject to this ordinance; and  
(11) Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the building code official.\*

*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).

***Fill or Filling - means any depositing or stockpiling of earth materials exceeding 10,000 square feet in surface area within any one year period.\****

***Grade or Grading - means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions which exceeds 10,000 square feet in surface area within any one year period.\****

***(\* Locally proposed definitions)***

*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 subsidence 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 purpose, “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, T~~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,

## FLOODS

### CD30:11

(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.

## CHINCOTEAGUE CODE

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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."

**FLOODS**

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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.

## **CHINCOTEAGUE CODE**

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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.

Variations 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)

#### FLOODS

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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 variations. Any variations 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. (\* does not apply in coastal areas)~~**
- 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~~**April 4, 2014**.



# XVI. Example FEMA Region III Local Floodplain Ordinance Review Checklist

Community: \_\_\_\_\_  
 CID: \_\_\_\_\_ State: Virginia Date: \_\_\_\_\_  
 REVIEWER: \_\_\_\_\_ (CIRCLE ONE) FEMA STATE OTHER: \_\_\_\_\_  
 REVIEWER'S DETERMINATION:  **Compliant**  **NON - Compliant**

Flood Zones: **A AE w/o FW AE w/FW**  
**AO AH V VE**  
 Level of Regulations: **a b c d e**  
 (If a community has both floodways & coastal high hazard areas, circle d & e.)

APPROVED BY: \_\_\_\_\_ (FEMA ONLY) DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

**NOTE:** The "Item Description" is a synopsis of the regulatory requirement and should not be construed as a complete description. Refer to the actual language contained in the National Flood Insurance Program Rules and Regulations for complete descriptions of the required standards.

Item Description (Section reference to NFIP Regulations follows)	State Model	Community's Ordinance	
		Review	Approval
<b>"Required" provisions for all ordinances</b>			
1. Citation of Statutory Authorization. [59.22(a)(2)]	Art. I, Sect. 1.1		
2. Purpose section citing health, safety, and welfare reasons for adoption. [59.22(1)]	Art. I, sect. 1.1		
3. Adopt definitions of: <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Base Flood</li> <li><input checked="" type="checkbox"/> Base Flood Elevation</li> <li><input checked="" type="checkbox"/> Basement</li> <li><input checked="" type="checkbox"/> Development</li> <li><input checked="" type="checkbox"/> Existing Manufactured Home Park or Subdivision</li> <li><input checked="" type="checkbox"/> Expansion to an Existing Manufactured Home Park or Subdivision</li> <li><input checked="" type="checkbox"/> Flood Insurance Rate Map</li> <li><input checked="" type="checkbox"/> Flood Insurance Study</li> <li><input checked="" type="checkbox"/> Floodway</li> <li><input checked="" type="checkbox"/> Lowest Floor</li> <li><input checked="" type="checkbox"/> Floodproofing</li> <li><input checked="" type="checkbox"/> Historic Structures</li> </ul> & other definitions as appropriate such as: <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Manufactured Home</li> <li><input checked="" type="checkbox"/> Manufactured Home Park or Subdivision</li> <li><input checked="" type="checkbox"/> New Construction/Date _____</li> <li><input checked="" type="checkbox"/> New Manufactured Home Park or Subdivision</li> <li><input checked="" type="checkbox"/> Recreational Vehicle</li> <li><input checked="" type="checkbox"/> Special Flood Hazard Area</li> <li><input checked="" type="checkbox"/> Start of Construction</li> <li><input checked="" type="checkbox"/> Structure</li> <li><input checked="" type="checkbox"/> Substantial Damage</li> <li><input checked="" type="checkbox"/> Substantial Improvement</li> <li><input checked="" type="checkbox"/> Violation</li> <li><input checked="" type="checkbox"/> Highest Adjacent Grade (AC [59.1])</li> </ul>		NOTE: Definitions for <u>Existing</u> , <u>Expansion to An Existing</u> , <u>Manufactured Home Park or Subdivision</u> or <u>New Manufactured Home Park</u> are not required if community requires elevation of all manufactured homes to the BFE (1986 regulations).  <input checked="" type="checkbox"/> Community requires elevation of all manufactured homes placed/substantially improved to the BFE (1986 regulations).	
	Glossary		
4. Adopt or reference correct Flood Insurance Rate Map (and where applicable, Flood Boundary Floodway Map) and date. [60.2(h)]	Art. III, 3.1		
5. Adopt or reference correct Flood Insurance Study and date. [60.2(h)]	Art. III, 3.1		

6. Include a reference to all subsequent revisions and amendments to above-referenced flood maps and Flood Insurance Study.	Art. III, 3.1		
7. Adequate enforcement provisions including a violations/penalty section specifying community actions to assure compliance. <b>[60.2(e)]</b>	Art. I, 1.6		
8. Abrogation and Greater Restriction section. <b>[60.1(b)]</b>	Art. I, 1.4		

Item Description (Section reference of NFIP Regulations follows)	State Model	Community's Ordinance	
		Review	Approval

**Required provisions for all ordinances (continued)**

9. Disclaimer of Liability (Degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.)	Art. I, sect. 1.3		
10. Severability section. (If any section, provision or portion of the ordinance is deemed unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.)	Art. I, sect. 1.6		
11. Framework for administering the ordinance (permit system, establish office for administering the ordinance, recordkeeping, etc.) <b>[59.22(b)(1)]</b>	Art..II, 2.1		
12. Designate title of community Floodplain Administrator <b>[59.22 (b)]</b>	Art. II, 2.1		
13. Requirement to submit new technical data: within 6 months, notify FEMA of changes in the base flood elevation by submitting technical or scientific data so insurance & floodplain management can be based on current data. <b>[65.3]</b>	Art. II, sect. 2.7		
14. Variance section with evaluation criteria & insurance notice. <b>[60.6(a)]</b>	Art. VI		
15. For adopted ordinance: Signature of Appropriate Official & Certification. Date ordinance adopted: _____ <i>Effective Date</i> _____ <i>Ordinance Number</i> _____	Art. VII		

**60.3 (a) When no SFHA's have been identified, no water surface elevation data has been provided, and floodways and coastal high hazards areas have not been identified and the community applies for participation in the NFIP, the following are required:**

16. Require permits for all proposed construction or other development including placement of manufactured homes. <b>[60.3(a)(1)]</b>	Art. IV, 4.1		
17. Assure that all other State and Federal permits are obtained. <b>[60.3(a)(2)]</b>	Art. IV, 4.1		
18. Review permits to assure sites are reasonably safe from flooding and require for new construction and substantial improvements in flood-prone areas: <b>[60.3(a)(3)]</b>	Art. IV, sect. 4.1		
(a) Anchoring (including manufactured homes) to prevent floatation, collapse, or lateral movement. <b>[60.3(a)(3)(i)]</b>	4.2, A, B		
(b) Use of flood-resistant materials. <b>[60.3(a)(3)(ii)]</b>	4.2. C		
(c) Construction methods/practices that minimize flood damage. <b>[60.3(a)(3)(iii)]</b>	4.2. D		
(d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities designed and/or located to prevent water entry or accumulation. <b>[60.3(a)(3)(iv)]</b>	4.2. E		
19. Review subdivision proposals to assure that: (a) Such proposals minimize flood damage. <b>[60.3(a)(4)(i)]</b>	Art. IV, 4.4		

(b) Public utilities and facilities are located & constructed so as to minimize flood damage. <b>[60.3(a)(4)(ii)]</b>	Art. IV, 4.4		
(c) Adequate drainage is provided. <b>[60.3(a)(4)(iii)]</b>	Art. IV, 4.4		
20. Require new and replacement water supply and sanitary sewer systems to be designed to minimize or eliminate infiltration. <b>[60.3(a)(5) &amp; (6)]</b>	4.2 F, G		
21. Require on-site waste disposal systems be located to avoid impairment or contamination. <b>[60.3(a)(6)(ii)]</b>	4.2 H		
<b>ITEM DESCRIPTION</b> (Section reference of NFIP Regulations follows)	<b>State Model</b>	<b>Community's Ordinance</b>	
		<b>Review</b>	<b>Approval</b>
<b>60.3(b) When SFHA's are identified by the publication of a community's FHBM or FIRM, but water surface elevation data have not been provided or a floodway or coastal high hazard area has not been identified, then all the above ordinance provisions for 60.3(a) and the following are required:</b>			
22. Require permits for all proposed construction and other development within SFHAs on the FIRM. <b>[60.3(b)(1)]</b>	Art. IV, sect 4.1		
23. Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. <b>[60.3(b)(3)]</b>	3.1		
24. In A Zones, in the absence of FEMA BFE data and floodway data, consider other available data as basis for elevating residential structures to or above base flood level, and for floodproofing or elevating nonresidential structures to or above base flood level. <b>[60.3(b)(4)]</b>	3.1		
25. Where BFE data are utilized, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements. <b>[60.3(b)(5)]</b>	Art. IV, sect. 4.1		
26. <i>In riverine areas</i> , notify neighboring communities of watercourse alterations or relocations. <b>[60.3(b)(6)]</b>	Art. IV, 4.2 I		
27. Maintain flood carrying capacity of altered or relocated watercourse. <b>[60.3(b)(7)]</b>	Art. IV, 4.2 J		
28. Require all manufactured homes to be elevated and anchored to resist flotation, collapse, or lateral movement. <b>[60.3(b)(8)]</b>	Art. IV, 4.3		
<b>60.3(c) When final flood elevations, but no floodways or coastal high hazard areas have been provided on a community's FIRM, then all the above ordinance provisions for 60.3(a) &amp; 60.3(b) and the following are required:</b>			
29. Require all new and substantially improved <u>residential</u> structures within A1-30, AE, and AH Zones have their lowest floor (including basement) elevated to or above the BFE. <b>[60.3(c)(2)]</b>	Art. IV, sect. 4.3		
30. In AO Zones, require that new and substantially improved <u>residential</u> structures have their lowest floor (including basement) at or above the highest adjacent grade at least as high as the FIRM's depth number. <b>[60.3(c)(7)]</b>	---Community has no AO zones.		
	3.1		
31. Require that new and substantially improved <u>nonresidential</u> structures within A1-30, AE, and AH Zones have their lowest floor elevated or floodproofed to or above the base flood elevation. <b>[60.3(c)(3)]</b>	Art. IV, sect. 4.3		

32. In AO Zones, require new and substantially improved <u>nonresidential</u> structures have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number on the FIRM. <b>[60.3(c)(8)]</b>	-----Community has no AO zones.		
33. Require that, for floodproofed non-residential structures, a registered professional/architect certify that the design and methods of construction meet requirements at (c) (3) (ii). <b>[60.3(c)(4)]</b>	Art. IV, sect. 4.3		
34. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage have permanent openings designed to allow the entry and exit of flood waters in accordance with specifications of <b>60.3(c)(5)</b> .	Art. IV, sect. 4.3		
35. Within Zones A1-30 and AE without a designated floodway, new development shall not be permitted unless it is demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than 1 foot. <b>[60.3(c)(10)]</b>	<input type="checkbox"/> All AE zones have floodways designated.		
36. In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. <b>[60.3(c)(11)]</b>	3.1	n/a	
37. Require that manufactured homes placed or substantially improved within A1-30, AH, and AE Zones, which meet one of the following location criteria, to be elevated such that the lowest floor is at or above the BFE and be securely anchored: i. outside a manufactured home park or subdivision; ii. in a new manufactured home park or subdivision; iii. in an expansion to an existing manufactured home park or subdivision; iv. on a site in an existing park which a manufactured home has incurred substantial damage as a result of flood. <b>[60.3(c)(6)]</b>	<input type="checkbox"/> Community requires elevation of all manufactured homes placed/substantially improved to the BFE (1986 regulations).		
38. In A1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an <u>existing</u> manufactured home park to be elevated so that: i. the lowest floor is at or above the BFE <u>or</u> ii. the chassis is supported by reinforced piers no less than 36 inches above grade and securely anchored. <b>[60.3(c)(12)]</b>	Art. IV, sect. 4.3 D		
39. In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored <u>or</u> be on the site for less than 180 consecutive days <u>or</u> be fully licensed and highway ready. <b>[60.3(c)(14)]</b>	Art. IV, sect. 4.3 D 2		
<b>60.3(d) When final flood elevations and floodway delineations have been provided on a community's FIRM, then all the above ordinance provisions for 60.3(a), 60.3(b) &amp; 60.3(c) and the following are required:</b>			
40. In a regulatory floodway, prohibit any encroachment which would cause any increase in the base flood level unless hydrologic and hydraulic analyses prove that the proposed encroachment would not increase flood levels during the base flood discharge. <b>[60.3(d)(3)]</b>	3.1		

Item Description (Section reference of NFIP Regulations follows)	State Model	Community's Ordinance	
		Review	Approval
<b>60.3(e)</b> When final flood elevations & coastal high hazard areas have been provided on a community's FIRM, then all the above ordinance provisions for 60.3(a), 60.3(b) & 60.3(c) & the following are required: <b>NOTE:</b> If a community has both floodways & coastal high hazard areas, it must meet the requirements of both 60.3(d) & (e).			
41. In V1-30, VE, and V Zones, obtain and maintain the elevation of the bottom of the lowest horizontal structural member of the lowest floor of all new and substantially improved structures. <b>[60.3(e)(2)]</b>	3.1		
42. In V1-30, VE, and V Zones, require that all new construction and substantial improvements: (a) Are elevated on pilings/columns so that the bottom of the lowest horizontal structural member is at or above the BFE and the piles/column foundation/structure are anchored to resist flotation, collapse & lateral movement. <b>[60.3(e)(4)]</b>	3.1		
(b) A registered professional engineer/architect shall develop/ review structural design, specs & plans; and shall certify that the design and methods of construction meet elevation and anchoring requirements at (e)(4)(i) and (ii). <b>[60.3(e)(4)]</b>	3.1		
(c) Have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls. Such enclosed space shall be useable solely for parking, building access, or storage. <b>[60.3(e)(5)]</b>	3.1		
(d) All new construction is landward of the reach of mean high tide. <b>[60.3(e)(3)]</b>	3.1		
(e) Prohibit use of fill for structural support. <b>[60.3(e)(6)]</b>	3.1		
(f) Prohibit alteration of sand dunes and mangrove stands which would increase potential flood damage. <b>[60.3(e)(7)]</b>	3.1		
43. Require that manufactured homes placed or substantially improved within V1-30, VE, and V Zones, which meet one of the following location criteria, meet the V Zone standards in 60.3(e)(2) through (e)(7): i. outside a manufactured home park or subdivision; ii. in a new manufactured home park or subdivision; iii. in an expansion to an existing manufactured home park or subdivision; iv. on a site in an existing park which a manufactured home has incurred substantial damage as a result of flood. <b>[60.3(e)(8)]</b>		<input type="checkbox"/> Community requires elevation of all manufactured homes placed/substantially improved to the BFE (1986 regulations).	
	3.1		
44. In V1-30, VE and V Zones, require that manufactured homes to be placed or substantially improved in an <u>existing</u> manufactured home park to be elevated so that: i. the lowest floor is at or above the BFE, <b><i>or</i></b> ii. the chassis is supported by reinforced piers no less than 36 inches above grade and securely anchored. <b>[60.3(e)(8)(iv); 60.3(c)(12)]</b>		<input type="checkbox"/> Community requires elevation of all manufactured homes placed/substantially improved to the BFE (1986 regulations).	
	3.1		
45. In V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored <b><i>or</i></b> be on the site for less than 180 consecutive days <b><i>or</i></b> be fully licensed & highway ready. <b>[60.3(e)(9)]</b>	3.1		



**FEMA**

October 4, 2013

Mr. Robert Ritter  
Town Manager  
Town of Chincoteague  
6150 Community Drive  
Chincoteague, Virginia 23336

Re: Town of Chincoteague  
Accomack County, VA

CID # 510002

Dear Mr. Ritter:

I am following up on my letter dated August 26, 2013, concerning non-compliance with the National Flood Insurance Program. I am pleased to report that communication with Mr. Neville has shown the Town has made progress in addressing our concerns, and we would like to summarize any remaining issues and establish a timeline for compliance.

The Town of Chincoteague's Floodplain Ordinance was identified as non-compliant in March 2011 and an update was highly recommended. Adoption of a compliant floodplain ordinance that meets all program requirements is now mandatory and must be accomplished within six months of the date of this letter. The Virginia Department of Conservation and Recreation (VADCR) can provide you with a current model ordinance and additional assistance as needed.

Your documentation package shows that a zoning permit was retroactively issued for 5557 Main Street, meeting the requirement that development in the Special Flood Hazard Area (SFHA) first receive all other required permits before being permitted or denied. This permitting requirement should be applied to all development (including fill) moving forward.

Our earlier discussion on trying to track development that might cause a Base Flood Elevation (BFE) rise in the SFHA was frustrating for all concerned. 44CFR 60.3 (c) 10 states that until a regulatory floodway is established, the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface of the base flood more than one foot at any point within the community.

We have since received guidance from FEMA Headquarters which states, "The requirement in 60.3(c)(10) only applies along rivers, streams, and other watercourses where FEMA has provided base flood elevations. The requirement does not apply along lakes, bays and estuaries, and the ocean coast."

Mr. Robert Ritter

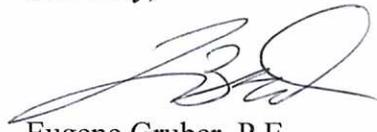
Page 2

While this clarification means that incremental tracking is not required, the Town of Chincoteague (particularly as a Community Rating System Community) should consider adopting higher standard language that requires further analysis for large amounts of fill.

Thank you for your ongoing cooperation and willingness to correct these deficiencies in your Floodplain Management Program. FEMA and DCR will continue to provide support to help ensure that the Town of Chincoteague remains a participating community within the National Flood Insurance Program (NFIP) and the elite Community Rating System.

If you have any questions or need additional information, please feel free to contact Mari Radford at (215) 931-2880, or Charley Banks at VADCR, (804) 371-6135.

Sincerely,



Eugene Gruber, P.E.  
Director, Mitigation Division  
FEMA Region III

cc: William Neville, Director of Planning, Town of Chincoteague  
Jon Poulson, Attorney, Town of Chincoteague  
Dave Fluehart, Director, Building and Zoning, Accomack County  
Robert Bennett, Division Director, VADCR  
Charley Banks, NFIP Coordinator, VADCR

## Floodplain Ordinance Worksheet

Section	Committee Action Recommended/Modified	Town Council Action Approved/Modified	Date	Notes and Comments
<b>DCR Proposed Changes</b>				
Penalty for Violations				
Definitions				
Flood Insurance Rate Map				
Flood Insurance Study				
Flood Proofing				
Highest Adjacent Grade				
Primary Frontal Dune				
Shallow Flooding Area				
Structure				
Submitting Technical Data				
Permit Requirement				
Engineering Certificate				
Flood Channel Alteration/Capacity				
Flood Proofing				
Existing Structures				
<b>Locally Proposed Changes</b>				
Definitions				
Fill				
Grading				
Drainage				
Permit requirements				
Coastal standards				
Cross references				
Stormwater Management Plan				
Other Ordinances				