

AN ORDINANCE AMENDING THE ORIGINAL RICHMOND COUNTY VIRGINIA FLOODPLAIN ORDINANCE DATED MARCH 9, 1989, ESTABLISHING FLOODPLAIN DISTRICTS, REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, PROVIDING CERTAIN MINIMUM STANDARDS FOR DEVELOPMENT, AND PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCE.

BE IT ENACTED AND ORDAINED by the Board of Supervisors for Richmond County, Virginia, as follows:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 - 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 areas subject to flooding.
- C. Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
- D. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 - Applicability

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

Section 1.3 - 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 areas outside the floodplain districts, or that land uses permitted within such districts will be free from flooding or flood damages.

- C. This ordinance shall not create liability on the part of Richmond County, Virginia, or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- D. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Zoning Administrator.

Section 1.4 - Abrogation and Greater Restrictions

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

Section 1.5 - 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.

Section 1.6 -Penalties

- A. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the designated enforcement official for Richmond County, Virginia, shall be guilty of a misdemeanor of the first class and subject to the penalties therefor.
- B. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this ordinance shall not excuse the violation or noncompliance to 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 non-compliance with this ordinance may be declared by the Board of Supervisors for Richmond County, Virginia, to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this ordinance.

ARTICLE II -- DEFINITIONS

- A. Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
- B. Base flood elevation - The Federal Emergency Management Agency designated one hundred (100) -year water surface elevations.
- C. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- D. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- E. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or storage of equipment or materials.
- F. Elevated Building - A non-basement building to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings or columns (post and piers).
- G. Encroachment - The advance of infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- H. Flood or flooding -
1. A general or temporary condition of partial or complete inundation of normally dry land areas from
 - a. the overflow of inland or tidal waters; or,
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
 2. The collapse or subsidence of land along the shore of a 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 some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
- I. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- J. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the designated height.
- K. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to

compensate for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

- L. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- M. Manufactured home- A structure, transportable in one or more sections, which is built on a permanent chassis, and designed to be used with or without permanent foundation, when connected to the required utilities. The term also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 days.
- N. Manufactured home park/subdivision - A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.
- O. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- P. Recreational vehicle - A vehicle which is
 - 1. built on a single chassis;
 - 2. 400 square feet or less when measured at the largest horizontal projection;
 - 3. designed to be self propelled or permanently towable by a light duty truck; and
 - 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- Q. 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.
- R. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.2 of this ordinance.

- S. Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- T. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include 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.
- U. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE III - ESTABLISHMENT OF FLOODPLAIN DISTRICT

Section 3.1 - Description of District

The Floodplain District shall include areas subject to inundation by waters of the one hundred (100)-year flood. The basis for the delineation of the district shall be the one hundred (100)-year flood elevations or profiles contained in the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for Richmond County, Virginia, prepared by the Federal Emergency Management Agency, Federal Insurance Administration dated December 16, 2008, as amended.

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

- B. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided but for which no floodway has been delineated.

Section 3.2 - Official Floodplain Map

The boundaries of the Floodplain District are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Richmond County offices.

Section 3.3 - District Boundary Changes

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

Section 3.4 - Interpretation of District Boundaries

Initial interpretation of the boundaries of the Floodplain District shall be made by the Designated Enforcement Officer. Should a dispute arise concerning the boundaries of the District, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

ARTICLE IV - DISTRICT PROVISIONS

Section 4.1 - General Provisions

- A. All uses, activities, and development occurring within the Floodplain Districts shall be undertaken only upon the issuance of a special permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code (VA USBC). Prior to the issuance of any such permit, the Designated Enforcement Officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- B. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this municipality, approval shall be obtained from the U.S. Army Corps of Engineers and the Marine Resources Commission, and certification from the Department of Environmental Quality may be necessary (a joint permit application is available from any one of these three organizations). Further notification of the proposal shall be

given to all affected adjacent municipalities. Copies of such notifications shall be provided to the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.

- C. All applications for development in the floodplain districts and all special permits issued for the floodplain shall incorporate the following information:
 - 1. For structures that have been elevated, the elevation of the lowest floor (including basement).
 - 2. For structures that have been floodproofed (non-residential only), the elevation to which the structure has been floodproofed.
 - 3. The elevation of the Base Flood for the site.

Section 4.2 - General Standards

In all flood hazard areas the following provisions shall apply:

- A. New construction and substantial improvements shall be done according to the VA USBC and anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. All manufactured homes to be placed or substantially improved within the floodplain district shall be placed on a permanent foundation and elevated and anchored in accordance with the Virginia Uniform Statewide Building Code.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvement shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including ductwork, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

- I. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.
- J. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- K. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
- L. All recreational vehicles placed on sites must either be on site for fewer than 180 consecutive days or 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).

Section 4.3 - Standards for the Special Floodplain District

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zone AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within Richmond County, VA.

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

ARTICLE V - EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS

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. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than fifty (50) percent of its market value, shall conform to the VA USBC.
- B. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of 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.

- C. Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

ARTICLE VI - VARIANCES: FACTORS TO BE CONSIDERED

Whenever any person is aggrieved by a decision of the Designated Enforcement Officer with respect to the provisions of this ordinance, it is the right of that person to appeal to the Board of Zoning Appeals for a variance. Such appeal must be filed, in writing, within thirty (30) days after the determination by the Designated Enforcement Officer. Upon receipt of such an appeal, the Board of Zoning Appeals shall set a time and place for the purpose of hearing the appeal, which shall be not less than ten (10) nor more than thirty (30) days from the date of the receipt of a complete application for the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they may appear and be heard. The determination by the Board of Zoning Appeals shall be final in all cases.

In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of this ordinance and consider the following additional factors:

- A. The danger to life and property due to increase flood heights or velocities caused by encroachments.
- B. The danger that materials may be swept onto other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.

- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. Such other factors which are relevant to the purposes of this ordinance.

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

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense, and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from 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, which are issued, shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

ARTICLE VII - ENACTMENT

ENACTED AND ORDAINED THIS _____ DAY OF _____,
2008. This ordinance shall become effective upon passage.

Chairman, Richmond County
Board of Supervisors

Attest:

County Administrator