

Chapter 26

**FLOODS\***

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\***Cross reference(s)**--Buildings and building regulations, ch. 10; environment, ch. 18; health and sanitation, ch. 30; site plan, ch. 46; streets, sidewalks and other public places, ch. 50; subdivisions, ch. 54; zoning, ch. 66.

**State law reference(s)**--Flood Damage Reduction Act, Code of Virginia, § 10.1-600 et seq.

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**ARTICLE I. IN GENERAL**

**Secs. 26-1--26-30. Reserved.**

**ARTICLE II. FLOODPLAIN MANAGEMENT**

**Sec. 26-31. Authority and Purpose.**

This article is adopted pursuant to Va. Code § 10.1-600 et seq.

The purpose of this article 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:

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

(Code 1981, § 12-1; Ord. O-2016-01, §26-31 )

**Sec. 26-32. Applicability.**

This article shall apply to all privately and publicly owned lands within the jurisdiction of the town and identified as Special Flood Hazard Areas by the Federal Emergency Management Agency.

(Code 1981, § 12-2; Ord. O-2016-01, §26-32)

**Sec. 26-33. Compliance and liability.**

(a) No land shall 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 article and any other applicable ordinances and regulations that apply to uses within the jurisdiction of this article.

(b) The degree of flood protection sought by the provisions of this article 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 manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article 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 article shall not create liability on the part of the town or any officer or employee of the town for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.

(Code 1981, § 12-3; Ord. O-2016-01, §26-33)

**Sec. 26-34. Abrogation and greater restrictions.**

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

(Code 1981, § 12-4; Ord. O-2016-01, §26-34)

**Sec. 26-35. 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 a flood that has a one percent chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood.

*Base Flood Elevation (BFE)* means the water surface elevation of the Base Flood in relation to the datum specified on the Flood Insurance Study and Flood Insurance Rate Map.

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

*Development* means any manmade 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 or drilling operation, or storage of equipment or materials, and the subdivision of land.

*Elevation Certificate* means a FEMA approved form which documents the elevation of a Structure.

*Flood* means a general and temporary inundation of normally dry land areas.

*Flood Insurance Rate Map (FIRM)* means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

*Flood Insurance Study (FIS)* means a report by the Federal Emergency Management Agency that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards

*Floodplain* means:

- (1) A relatively flat or low land area adjoining a river, stream or watercourse that is subject to partial or complete inundation;
- (2) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

*Floodplain Administrator (FA)* means the Town Manager, or in the Town Manager's absence another person appointed by Town Council to perform the Town Manager's duties, or any deputy or assistant appointed by the Town Manager to administer this Chapter.

*Floodprone Area* means any land area susceptible to being inundated by water from any source.

*Floodproofing* means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents, as provided in the Virginia Uniform Statewide Building Code.

*Floodway* means 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 one foot at any point within the town.

*Historic Structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the department of the 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 that have been approved by the secretary of the interior; or
- (4) Individually listed in Section 66-222 of the town's Zoning Ordinance.

*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 is not considered a building's lowest floor provided such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

*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.

*Manufactured Home Park or Subdivision* means a parcel (or contiguous parcels) of land divided into two or more Manufactured Home lots for rent or sale.

*New Construction* means, for floodplain management purposes, structures for which the Start of Construction commenced on or after November 1, 1994, and includes any subsequent improvements to such structures.

*Recreational Vehicle* means a vehicle that is:

- (1) Built on a single chassis;
- (2) No more than 400 square feet 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.

*Special Flood Hazard Area (SFHA)* 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 Section 26-36 of this article.

*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 of streets and/or walkways; nor does it include excavation for a Basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a Substantial Improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a Manufactured Home.

*Substantial Damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial Improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure before the Start of Construction of the improvement. This term includes structures that 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 that have been identified by the local code enforcement official and are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of an Historic Structure, provided the alteration will not preclude

the structure's continued designation as an Historic Structure as determined by the town's Architectural Review Board as defined in Section 66-220 of the town's Zoning Ordinance.

*Violation* means the failure of a structure or other Development to be fully compliant with the town's floodplain management regulations. A structure or other Development without the Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided to the Floodplain Administrator.

(Code 1981, § 12-6; Ord. of 5-13-1997, ch. 12, § 12-6; Ord. O-2016-01, §26-35)

**Cross reference(s)**--Definitions generally, § 1-2.

### **Sec. 26-36. Description of districts.**

(a) The various floodplain districts shall include the Special Flood Hazard Area (SFHA). The basis for the delineation of these districts shall be the flood insurance study (FIS) and Panel 51153C0217 D of Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency for Prince William County, Virginia and Incorporated Areas, dated August 3, 2015 and January 5, 1995, respectively as amended or revised.

(b) The Floodway district is delineated, for purposes of this article, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the Base Flood without increasing the water surface elevation of that Flood more than one foot at any one point. The areas included in this district are specifically defined in the Flood insurance study and shown on the accompanying FIRM.

(c) The flood fringe district shall be that area of the one percent annual chance floodplain not included in the Floodway district. The basis for the outermost boundary of this district shall be the Base Flood Elevations contained in the flood profiles of the flood insurance study and as shown on the accompanying flood insurance rate map.

(d) The approximated floodplain district shall be that floodplain area for which no detailed Flood profiles or elevations are provided, but where the SFHA floodplain boundary has been approximated. Such areas are shown as zone A on the maps accompanying the flood insurance study. For these areas, the BFE and Floodway information from federal, state and other acceptable sources shall be used, when available. Where the specific BFE 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 Floodplain Information Reports, and U.S. Geological Survey Flood-Prone Quadrangles, 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, and similar data or reports shall be submitted in sufficient detail to allow a thorough review by the town.  
(Code 1981, § 12-7; Ord. O-2016-01, §26-36)

**Sec. 26-37. Official floodplain map.**

The boundaries of the floodplain districts are established as shown on the FIRM, which is declared to be a part of this article and which shall be kept on file at the town offices.

(Code 1981, § 12-8; Ord. O-2016-01, §26-37)

**Sec. 26-38. District boundary changes.**

The delineation of any of the floodplain districts may be revised by the Town Council where natural or manmade 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 possibility for such change. However prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A final Letter of Map Revision (LOMR) from FEMA is a record of this approval.

(Code 1981, § 12-9; Ord. O-2016-01, §26-38)

**Sec. 26-39. Interpretation of district boundaries.**

Initial interpretations of the boundaries of the floodplain districts shall be made by the Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the districts, the Town Council 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 Council and to submit his own technical evidence if he so desires.

(Code 1981, § 12-10; Ord. O-2016-01, §26-39)

**Sec. 26-40. District provisions.**

(a) All uses, activities and Development occurring within any floodplain district, including the placement of Manufactured Homes, shall be undertaken only upon the issuance of a Special Exception in accordance with 26-44 of this ordinance. Such Development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code. Prior to the issuance of any such permit, the Floodplain Administrator 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 or 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 jurisdiction, a permit from the U.S. Army Corps of Engineers or the Virginia Marine Resources Commission or the certification from the Virginia State Water Control Board may be necessary (a joint permit application is available from any one of these organizations). Further notification of the proposal shall be given to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Emergency Management Agency.

(c) All applications for the Development in the floodplain district and all Special Exceptions 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 (nonresidential only), the elevations to which the structure has been floodproofed.
- (3) The elevation of the 100-year Flood.
- (4) Topographic information showing the existing and proposed ground elevations.

(Code 1981, § 12-11; Ord. O-2016-01, §26-40)

#### **Sec. 26-41. Floodway district.**

In the Floodway district, no Development, including fill or Substantial Improvements, shall be permitted except where the effect of such Development on flood heights is fully offset by accompanying improvements that shall have demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed Development will not result in any increase in the Base Flood Elevation.

If the above is satisfied, all New Construction and Substantial Improvements shall comply with the VA USBC and all applicable provisions of the General Standards Article of this Chapter and the Elevation and Construction Standards section and Subdivision Standards section in this Article.

The placement of Manufactured Homes is prohibited, except when replacing an existing Manufactured Home in an existing Manufactured Home park or subdivision. A replacement Manufactured Home may be placed on a lot in an existing Manufactured Home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

(Code 1981, § 12-12; Ord. O-2016-01, §26-41)

**Sec. 26-42. Flood fringe and approximated floodplain districts.**

(a) In Zone AE, as designated and defined on the FIRM, until a regulatory Floodway is designated, no New Construction, Substantial Improvements, or other Development (including fill) shall be permitted, unless it is demonstrated that the cumulative effect of the proposed Development, when combined with all other existing and anticipated Development, will not increase the water surface elevation of the Base Flood more than one foot at any point within the town.

(b) In the flood fringe and approximated floodplain districts, the Development and/or use of land shall be permitted in accordance with the regulations of this article provided that all such uses, activities and/or Development shall be undertaken in strict compliance with the Floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code, the General Standards Article of this Chapter and the Elevation and Construction Standards section and Subdivision Standards section in this Article, and all other applicable codes and ordinances.

(c) Within the approximated floodplain areas, the applicant shall also delineate a Floodway area based on the requirement that all existing and future Development not increase the 100- year Flood elevation more than one foot at any one point. The engineering principle--equal reduction of conveyance--shall be used to make the determination of increased Flood heights.

(d) Within the Floodway area delineated by the applicant, the provisions of section 26-41 shall also apply.

(Code 1981, § 12-13; Ord. O-2016-01, §26-42)

**Sec. 26-43. Design criteria for utilities and facilities.**

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

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

(c) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. Systems shall ensure drainage away from buildings and on-site waste disposal sites. The Town Council may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

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

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

(Code 1981, § 12-14; Ord. O-2016-01, §26-43)

**Sec. 26-44. Variances; factors to be considered.**

(a) *Appeals.*

(1) Whenever any person is aggrieved by a decision of the Floodplain Administrator with respect to the provisions of this article, it is the right of that person to appeal to Town Council. Such appeal must be filed, in writing, within 30 days after the determination by the permit officer.

(2) Upon receipt of such an appeal, the Town Council shall set a time and place for the purpose of hearing the appeal, which shall be not less than ten nor more than 30 days from the date of the receipt of the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they may appear and be heard. The determination by the Town Council shall be final in all cases.

(3) In ruling upon an appeal, the Town Council shall consider the criteria listed in subsection (c) of this section.

(b) *Special Exceptions.*

(1) The Special Exception provisions of this Chapter fulfill the regulatory mandate of 44 CFR 60.6.

(2) In passing upon applications for a Special Exception, the Town Council shall satisfy all relevant factors and procedures specified in other sections of this article and consider the factors listed in subsection (c) of this section.

(c) *Criteria for Appeals and Special Exceptions.* In considering an appeal or a request for a Special Exception, the Town Council shall consider the following factors:

(1) The danger to life and property due to increased Flood heights or velocities caused by encroachments. No Special Exception or appeal shall be granted for any proposed use, Development or activity within the Floodway district that will cause any increase in Flood levels during the Base Flood.

(2) The danger that materials may be swept on to other lands or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(5) The importance of the services provided by the proposed facility to the town.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing Development and Development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access by ordinary and emergency vehicles to the property in time of Flood.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

(12) The historic nature of a structure. Special Exceptions for repair or rehabilitation of Historic Structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the Special Exception is the minimum necessary to preserve the historic character and design of the structure.

(13) Such other factors relevant to the purposes of this article.

(d) The Town Council may refer any application and accompanying documentation pertaining to any request for a Special Exception or Appeal to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to Flood height and velocities, and the adequacy of the plans for the flood protection, and other related matters.

(e) Special Exceptions shall be issued and Appeals granted only upon (i) a showing of good and sufficient cause, (ii) after the Town Council has determined that failure to grant the Special Exception or Appeal would result in exceptional hardship to the applicant, and (iii) after the Town Council has determined that the granting of such will not result in unacceptable or prohibited increases in Flood heights, additional threats to public safety or extraordinary public expense, and will not create a nuisance, cause fraud or victimization of the public, or conflict with local laws or ordinances.

(f) While the granting of Special Exceptions generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a Special Exception increases. Special Exceptions may be issued by the Town Council for New Construction and Substantial Improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Base Flood level, in conformance with the provisions of this section.

(g) Special Exceptions may be issued for New Construction and Substantial Improvements and for other Development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other Development is protected by methods that minimize flood damages during the Base Flood and create no additional threats to public safety.

(h) Special Exceptions shall be issued only after the Town Council has determined that the Special Exception will be the minimum required to provide relief from any hardship to

the applicant.

(i) The Town Council shall notify the applicant for a Special Exception, in writing, that the issuance of a Special Exception to construct a structure below the 100-year Flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.

(j) A record of the notification required by subsection (g) of this section, as well as all Special Exception actions, including justification for their issuance, shall be maintained; and any Special Exceptions shall be noted in the annual or biennial report submitted to the Federal Emergency Management Agency.

(Code 1981, § 12-15; Ord. O-2016-01, §26-44)

#### **Sec. 26-45. Existing structures in floodplain districts.**

A structure or use of a structure or premises which lawfully existed before November 1994, but which is not in conformity with this article, may be continued subject to the following conditions:

(1) Existing structures and/or uses located in the Floodway district shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on Flood heights is fully offset by accompanying improvements.

(2) Any modifications, 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 50 percent of its market value shall conform to the Virginia Uniform Statewide Building Code and the appropriate provisions of this article.

(3) The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with this article, and the entire structure shall conform to the provisions of this Article and the Virginia Uniform Statewide Building Code.

(4) Uses or their adjuncts that are or become nuisances shall not be permitted to continue.

(5) No building or structure shall be occupied/reoccupied after a natural disaster such as fire or flood without an inspection and approval for structural stability and livability by the Town Building Official.

(Code 1981, § 12-16; Ord. of 5-13-1997, ch. 12, § 12-16; Ord. O-2016-01, §26-45)

**ARTICLE III.  
GENERAL STANDARDS**

**Sec. 26-46 General standards.**

The following provisions shall apply to all permits:

(a) New Construction and Substantial Improvements shall be built according to this ordinance and the Virginia Uniform Statewide Building code, and anchored to prevent flotation, collapse or lateral movement of the structure.

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

(i) In addition to provisions A – H above, in all Special Flood Hazard Areas, the Flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

**Sec. 26-47 Elevation and construction standards.**

In all identified flood hazard areas where Base Flood Elevations have been provided in the FIS or generated by a certified professional in accordance with Section 26-36(c), the following provisions shall apply:

(a) Residential Construction

New Construction or Substantial Improvement of any residential structure (including Manufactured Homes) in Zones AE and A (as defined on the FIRM) with detailed Base Flood Elevations shall have the Lowest Floor, including Basement, elevated to or above the Base Flood level plus eighteen(18) inches.

(b) Non-Residential Construction

- (1) 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 or above the Base Flood level, plus eighteen (18) inches.
- (2) Non-residential buildings located in all AE zones (as defined on the FIRM) 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 two feet 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 the Floodplain Administrator.

(c) Space Below the Lowest Floor

In zones A and AE (as defined on the FIRM), fully 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 be used solely 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). Be constructed entirely of Flood resistant materials below the regulatory Flood protection elevation;

- (2) Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
  - c. If a building has more than one enclosed area, each area must have openings to allow Floodwaters to automatically enter and exit.
  - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
  - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
  - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(d) Standards for Manufactured Homes and Recreational Vehicles

- (1) In zones A and AE (as defined on the FIRM), all Manufactured Homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for New Construction, including the elevation and anchoring requirements in the General Standards section, and the Elevation and Construction Standards section of this Article.
- (2) All Recreational Vehicles placed on sites must either,
  - a. Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a Recreational Vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick

disconnect type utilities and security devices and has no permanently attached additions); or

- b. Meet all the standards for Manufactured Homes in this Article.

**Sec. 26-48 Subdivision standards.**

Subdivision standards are set forth in the Subdivision Ordinance, Chapter 54, Section 54-168, Base Flood Elevation.

**Sec. 26-49 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.

**Sec. 26-50 Penalty for violations.**

Any person who fails to comply with any of the requirements or provisions of this article or directions of the Floodplain Administrator or any authorized employee of the town shall be guilty of a Class 1 misdemeanor and subject to the penalties thereof.

The Virginia Uniform Statewide Building Code addresses building code violations and the associated penalties in Section 104 and Section 115.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time.

Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the town to be a public nuisance and abatable as such.

**Sec. 26-51 Records.**

Records of actions associated with administering this ordinance shall be kept on file and maintained by or under the direction of the Floodplain Administrator.

**Section 26-52 Administration – designation of the Floodplain Administrator.**

The Town Manager is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- (a) Cause work to be performed as necessary to comply with the terms of this Chapter.
- (b) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- (c) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

**Sec. 26-53 Duties and responsibilities of the floodplain administrator.**

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

- (a) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area.
- (b) Interpret floodplain boundaries and provide available Base Flood Elevation and flood hazard information.
- (c) Review applications to determine whether proposed activities will be reasonably safe from flooding and require New Construction and Substantial Improvements to meet the requirements of these regulations.
- (d) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the BFE and SFHA of free-flowing non-tidal waters of the State.
- (e) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam

- Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.
- (f) Approve applications and issue permits to develop in Flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
  - (g) Inspect or cause to be inspected, buildings, structures, and other Development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
  - (h) Review Elevation Certificates and require incomplete or deficient certificates to be corrected. Obtain the elevation of the Lowest Floor, including the Basement, of all new and substantially improved structures; and, if the structure has been flood-proofed in accordance with the requirements of this article, the elevation to which the structure has been flood-proofed.
  - (i) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the town, within six months after such data and information becomes available if the analyses indicate changes in Base Flood Elevations.
  - (j) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
    - (1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Revision; and
    - (2) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, Special Exceptions, and records of enforcement actions taken to correct violations of these regulations.
  - (k) Enforce the provisions of these regulations, investigate violations, issue notices of violations, request the Building Official to issue stop work orders, and require permit holders to take corrective action.

- (l) Advise the Town Council regarding the intent of these regulations and, for each application for a Special Exception, prepare a staff report and recommendation.
- (m) Administer the requirements related to proposed work on existing buildings:
  - (1) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
  - (2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (n) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with Substantial Damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in Special Flood Hazard Areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- (o) Notify the Federal Emergency Management Agency when the corporate boundaries of the town have been modified and:
  - (1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
  - (2) If the FIRM for any annexed area includes Special Flood Hazard Areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

- (p) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for Development in the SFHA, and number of Special Exceptions issued for Development in the SFHA.
- (q) It is the duty of the Floodplain Administrator to take into account Flood, mudslide and Flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the town, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

#### **Sec. 26-54 Use and interpretation of FIRMs.**

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of Special Flood Hazard Areas, floodplain boundaries, and Floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

- (a) Where field surveyed topography indicates that adjacent ground elevations:
  - (1) Are below the Base Flood Elevation, even in areas not delineated as a Special Flood Hazard Area on a FIRM, the area shall be considered as Special Flood Hazard Area and subject to the requirements of these regulations;
  - (2) Are above the Base Flood Elevation, the area shall be regulated as Special Flood Hazard Area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
- (b) In FEMA-identified Special Flood Hazard Areas where Base Flood Elevation and Floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- (c) Base Flood Elevations and designated Floodway boundaries on FIRMs and in FISs shall take precedence over Base Flood Elevations and Floodway boundaries by any other sources if such sources show reduced Floodway widths and/or lower Base Flood Elevations.
- (d) Other sources of data shall be reasonably used if such sources show increased Base Flood Elevations and/or larger Floodway areas than are shown on FIRMs and in FISs.
- (e) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

- (1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
- (2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 26-36(c) and used where no Base Flood Elevations and/or Floodway areas are provided on the effective FIRM.
- (3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary Base Flood Elevations or Floodway areas exceed the Base Flood Elevations and/or designated Floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

#### **Sec. 26-55 Jurisdictional boundary changes.**

Before the town boundary with Prince William or Fairfax County changes, the Town Council shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards. If the FIRM for any added area includes Special Flood Hazard Areas that have flood zones that have regulatory requirements that are not set forth in these regulations, the Floodplain Administrator shall prepare amendments to this ordinance to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of boundary change and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) the town will notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the town have been modified or the town has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the town's boundaries, a copy of a map of the town suitable for reproduction, clearly delineating the new corporate limits or new area for which the town has assumed or relinquished floodplain management regulatory authority shall be included with the notification.

#### **Sec. 26-56 Submitting model backed technical data.**

The town'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, the town shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The town may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

**Sec. 26-57 Letters of Map Revision.**

When Development in the floodplain will cause or causes a change in the Base Flood Elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

Example cases:

- Any Development that causes a rise in the Base Flood Elevations within the Floodway.
- Any Development occurring in Zones A1-30 and AE (as defined on the FIRM) without a designated Floodway, which will cause a rise of more than one foot in the Base Flood Elevation.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges) *44 Code of Federal Regulations §65.3 and §65.6(a)(12)*