

## DIVISION 2. - FLOODPLAIN DEVELOPMENT REGULATIONS

## Sec. 45-3110. - Purpose and authority.

This division is adopted pursuant to authority granted by Virginia Code § 15.2-2280 and Virginia Code §10.1-600, et seq. 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:

- (1) 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.
- (2) Restricting or prohibiting certain uses, activities, and development from locating within district subject to flooding.
- (3) Requiring all those uses, activities, and developments that do occur in flood-prone districts 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.

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1)

## Sec. 45-3111. - General provisions.

- (a) *Applicability*: These provisions shall apply to all privately and publicly owned lands within the jurisdiction of Newport News and identified as areas of special flood hazard according to the flood insurance rate map that is provided to the City of Newport News by FEMA, as set forth in section 45-3114(a)(1) below.
- (b) *Compliance and liability*: 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 chapter and other applicable ordinances and regulations which apply to uses within the jurisdiction of this chapter.
  - (1) The degree of flood protection sought by the provisions of this chapter 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 chapter 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.

- (2) This section shall not create liability on the part of the City of Newport News or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.
- (c) *Records*: Records of actions associated with administering this section shall be kept on file and maintained by the floodplain administrator.
- (d) *Abrogation and greater restrictions*: This division supersedes any ordinance currently in effect in flood-prone districts.
- (e) *Severability*: If any section, subsection, paragraph, sentence, clause, or phrase of this division shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this division. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this division are hereby declared to be severable.
- (f) *Penalty for violations*: Any person who fails to comply with any of the requirements or provisions of the division of this article shall be guilty of a misdemeanor and subject to the penalties therefore.
- (1) Chapter 13 Building Regulations of the Newport News City Code section 13-23 Adopted; general construction standards adopts the Virginia Uniform Statewide Building Code (VA USBC). Section 13-2 addresses the general penalty for violations of chapter 13. Violations and associated penalties of chapter 45, Zoning Ordinance, of Newport News City Code are addressed in article 35, Administration, Enforcement, Violation Penalty and Remedy. Any violations of chapter 13 and chapter 45 may be enforced according to said sections and may be brought in addition to the violations of division 2, article XXXI of chapter 45.
- (2) 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 noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the City of Newport News to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

(Ord. No. 7123-14, § 1)

#### Sec. 45-3112. - Definitions.

- (a) *Administrator*: the federal insurance administrator responsible for the administration of the National Flood Insurance Program (34 F.R. 2600-81, February 27, 1969).
- (b) *Appurtenant or accessory structure*: Accessory structures not to exceed 200 sq. ft.
- (c)

*Base flood/one-hundred-year flood:* A flood having a one percent chance of occurring each year being equaled or exceeded in any given year.

- (d) *Base flood elevation:* The water surface elevation at which the Federal Emergency Management Agency (FEMA) designated one (1) percent annual chance water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this division, the one-hundred-year flood or one (1) percent annual chance flood.
- (e) *Basement:* Any area of the building having its floor sub-grade (below ground level) on all sides.
- (f) *Board of zoning appeals:* The board appointed to review appeals, variances and special exceptions made by individuals with regard to decisions of the zoning administrator in the interpretation of this chapter of the City Code.
- (g) *Channel:* A natural or artificial watercourse with a definite bed and banks to confine and conduct continuously or periodically flowing water.
- (h) *Coastal A Zone:* Flood hazard areas that have been delineated as subject to wave heights between one and one-half (1.5) feet and three (3) feet.
- (i) *Coastal high hazard area:* Areas of waves greater than three (3) feet and seaward of the landward toe of the primary frontal dune.
- (j) *Development:* Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, storage of equipment and materials, mining, dredging, filling, grading, paving, excavation or drilling operations.
- (k) *Elevated building:* A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).
- (l) *Encroachment:* The advance or infringement of uses, plant growth, introduction of fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- (m) *Existing construction:* structures for which the "start of construction" commenced before the effective date of the FIRM or before May 2, 1977 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
- (n) *Flood or flooding:*
  - (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
    - a. The overflow of inland or tidal waters.
    - b. The unusual and rapid accumulation or runoff of surface waters from any source.
    - c.

Mudflows which are proximately caused by flooding as defined in subsection b. above of this definition and are akin to a river of liquid and flowing on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

- (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 a flash flood or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1) above.
- (o) *Flood boundary and floodway map (FBFM)*: An official map of a community issued by the administrator, where the boundaries of the flood, mudslide, and related erosion areas have been designated and the floodway, floodway fringe, approximated floodplain and coastal high hazard areas have been delineated.
- (p) *Flood hazard district*: A district established by the Zoning Ordinance for the City of Newport News and in which the restrictions and conditions of these regulations apply.
- (q) *Flood insurance rate map (FIRM)*: An official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- (r) *Flood Insurance Study (FIS)*: a report by FEMA 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.
- (s) *Floodplain*:
  - (1) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation;
  - (2) An area subject to the unusual and rapid accumulation of runoff of surface water from any source.
- (t) *Flood-prone area*: Any land area susceptible to being inundated by water from any source.
- (u) *Flood proofing*: means any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structure and contents of buildings to include the provisions of the Virginia Uniform Statewide Building Code as amended.
- (v) *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 one (1) foot.
- (w)

*Freeboard*: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.

- (x) *Highest adjacent grade*: the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (y) *Historic structure*: Any structure that is:
  - (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; or
  - (3) Individually listed on a state inventory of historic places which has been approved by the Secretary of the Interior.
  - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
    - a. By an approved state program as determined by the Secretary of the Interior; or,
    - b. Directly by the Secretary of the Interior in states without approved programs.
- (z) *Hydrologic and hydraulic engineering analysis*: Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.
- (aa) *Intermediate regional flood*: A flood which is caused by rainfall runoff and is not primarily affected by tidal action.
- (bb) *Intermediate regional tidal flood*: a flood which is caused by tidal action and is not primarily affected by rainfall runoff.
- (cc) *Letters of map change (LOMC)*: A Letter of map change is an official FEMA determination, by letter, that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:
- (dd) *Letter of map amendment (LOMA)*: An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. ALOMA amends the current effective flood insurance rate map and establishes that a specific property or structure is not located in a special flood hazard area.

- (ee) *Letter of map revision (LOMR)*: A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of map revision based on fill (LOMR-F) is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (ff) *Conditional letter of map revision (CLOMR)*: A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision.
- (gg) *Lowest floor*: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- (hh) *Manufactured home*: A structure subject to federal regulations which is transportable in one (1) or more sections, which is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode or is three hundred twenty (320) or more square feet when erected on-site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation when connected to the required facilities; and includes plumbing, heating, air conditioning, and electrical systems contained in the structure. 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 one hundred eighty (180) consecutive days, but does not include a recreational vehicle.
- (ii) *Manufactured home park or subdivision*: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
- (jj) *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 FIRM or after May 2, 1977, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "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.
- (kk) *Post-FIRM structures*: A structure for which construction or substantial improvement occurred after May 2, 1977.

- (ll) *Pre-FIRM structures*: A structure for which construction or substantial improvement occurred on or before May 2, 1977.
- (mm) *Recreational vehicle*: A vehicle which is:
- (1) Built on a single chassis;
  - (2) Four hundred (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.
- (nn) *Repetitive loss structure*: A building covered by a contract for flood insurance that has incurred flood-related damages on two (2) occasions during a ten-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five (25) percent of the market value of the building at the time of each flood event.
- (oo) *Shallow flooding area*: A special flood hazard area with base flood depths from one (1) to three (3) 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.
- (pp) *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 the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for the City of Newport News prepared by the Federal Emergency Management Agency, Federal Insurance Administration.
- (qq) *Start of construction*: For other than new construction and substantial improvement under the Coastal Barriers resource Act (P.L. - 97-348) 16 U.S.C. § 3501, et seq., mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement within one hundred eighty (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 of the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds nor occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

- (rr) *Structure*: for floodplain 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.
- (ss) *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 fifty (50) percent of the market value of the structure before the damage occurred.
- (tt) *Substantial improvement*: Any reconstruction rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds fifty (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 structures continued designation as a "historic structure".
  - (3) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.
- (uu) *Trailer park (mobile home park)*: An area designed, constructed, equipped, operated and maintained for the purpose of providing spaces for trailers or mobile homes intended to be used as temporary or permanent living facilities.
- (vv) *Violation*: the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence required to demonstrate compliance with the City of Newport News floodplain management regulations is presumed to be in violation until such time as that documentation is provided.
- (ww) *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.

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1)



## Sec. 45-3113. - Administration.

- (a) *Designation of the floodplain administrator.* City manager, is hereby appointed to administer and implement these regulations and is referred to herein as the floodplain administrator, unless the city manager, in writing, appoints a floodplain administrator. The floodplain administrator may:
- (1) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
  - (2) 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.
- (b) *Duties and responsibilities of the floodplain administrator.* The duties and responsibilities of the floodplain administrator shall include but are not limited to:
- (1) Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
  - (2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
  - (3) 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.
  - (4) 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 one-hundred-year frequency floodplain of free flowing nontidal waters of the state.
  - (5) 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.
  - (6) 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.
  - (7)

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.

- (8) Review elevation certificates and require incomplete or deficient certificates to be corrected.
- (9) 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 City of Newport News, within six (6) months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- (10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
  - a. Flood insurance studies, Flood insurance rate maps (including historic studies and maps and current effective studies and maps) and letters of map change; and
  - b. 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 flood proofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (11) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (12) Advise the board of zoning appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (13) Administer the requirements related to proposed work on existing buildings:
  - a. 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.
  - b. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and 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.
- (14) 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.

- (15) Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Newport News have been modified and:
  - a. 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
  - b. 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 this division prepare amendments to this division to adopt the FIRM and appropriate requirements, and submit the amendments to City Council for adoption; such adoption shall take place at the same time or prior to the date of annexation and a copy of the amended division shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- (16) 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 variances issued for development in the SFHA.
- (17) 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 City of Newport News, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).
- (c) 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:
  - (1) Where field surveyed topography indicates that ground elevations:
    - a. 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 this division;
    - b. Are above the base flood elevation, the area shall be regarded as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.
  - (2) 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 special flood hazard areas, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
  - (3)

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.

- (4) 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.
- (5) If a preliminary flood insurance rate map and/or a preliminary flood insurance study has been provided by FEMA:
  - a. 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.
  - b. 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 1.5(C) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
  - c. 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.

(d) *Jurisdictional boundary changes.* All plats or maps of annexation shall show the floodplain boundaries, base flood elevation, and location of the floodway where determined.

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 this division, the floodplain administrator, with the assistance of the city attorney, will prepare amendments to this division to adopt the FIRM and appropriate requirements, and submit the amendments to the City Council 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 division 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 city must notify the Federal Insurance Administration and optionally the state coordinating office in writing whenever the boundaries of the city have been modified by annexation or the city 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 city's boundaries, a copy of a map of Newport News suitable for reproduction, clearly delineating the new corporate limits or new area for which the city has assumed or relinquished floodplain management regulatory authority must be included with

the notification.

- (e) *District boundary changes.* The delineation of any of the floodplain districts may be revised by the City of Newport News 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. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.
- (f) *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.
- (g) *Submitting technical data.* The city's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, the city shall notify the Federal Emergency Management Agency 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.
- (h) *Letters of map revision.* When development in the floodplain causes a change in the base flood elevation, the applicant must notify FEMA by applying for a conditional letter of map revision or a letter of map revision.

Examples:

- Any development that causes a rise in the base flood elevations within the floodway.
- Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one (1) foot in the base flood elevation.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges, as required by 44 C.F.R. § 65.3 and §65.6(a)(12).

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1)

Sec. 45-3114. - Establishment of flood hazard overlay district.

- (a) An overlay district to be known as the FH-flood hazard district is hereby established. Upon identification by the floodplain administrator, areas having special flood hazards but where water surface elevation data for the one-hundred-year flood and data sufficient to identify the floodway

have not been delineated, the definitions of section 45-3112 are in effect.

- (1) Basis of district. The various floodplain districts shall include the special flood hazard areas (SFHAs). The basis for the delineation of these districts shall be the flood insurance study (FIS) and the flood insurance rate maps (FIRM) for the City of Newport News prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated December 9, 2014 and any subsequent revisions or amendments thereto.

The City of Newport News may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA districts and floodplain districts are established as shown on the FIRM, which is declared to be a part of this division and which shall be kept on file at the City of Newport News Department of Engineering.

- a. The floodway district is in an AE Zone and is delineated, for purposes of this regulation, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one (1) percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this district are specifically identified in the above-referenced FIS and shown on the accompanying FIRM. The following provisions shall apply within the floodway district of an AE zone (see, 44 CFR 60.3(d)):

1. Within any floodway area, no encroachment, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. 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 the floodplain administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies, with the city on Newport News' endorsement, for a conditional letter of map revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If the requirements of this section are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of article 4.

2. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile 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.
- (b) The AE zone on the FIRM accompanying the FIS shall be those areas for which one (1) percent annual chance flood elevations have been provided and the floodway has not been delineated, The following provisions shall apply within an AE zone:
- (1) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the FIRM, 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 (1) foot at any point within the City of Newport News. This requirement, pursuant to 44 CFR 63.3(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.
  - (2) Development activities in Zones A1-A30 and AE, on the City of Newport News FIRM which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the applicant first applies, with the City of Newport News' endorsement, for a conditional letter of map revision, receives the approval of the Federal Emergency Management Agency.
- (c) The A zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one (1) percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply, pursuant to 44 CFR 60.3(b):
- (1) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one-hundred-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, local and other acceptable sources shall be used, when available. Where the specific one (1) percent annual chance 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 base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analysis, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the floodplain administrator.

- (2) The floodplain administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to two (2) feet above the base flood level. During the permitting process, the floodplain administrator shall obtain:
  - a. The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and
  - b. If the structure has been floodproofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been floodproofed.
- (3) Base flood elevation data shall be obtained from other sources or develop using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.
- (d) The AO zone on the FIRM accompanying the FIS shall of those areas of shallow flooding identified as AO on the FIRM. For those areas the following provisions shall apply:
  - (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two (2) feet above the highest adjacent grade.
  - (2) All new construction and substantial improvements of non-residential structures shall:
    - a. Have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade; or
    - b. Together with attendant utility and sanitary facilities be completely floodproofed to the specified flood level so that any space below that level is watertight with wall substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyance.
  - (3)



Adequate drainage paths around structures on slopes shall be provided to guide flood waters around and away from proposed structures.

- (e) The Coastal A Zone District shall be those areas designated as Limits of Moderate Wave Action (LiMWA) line and the VE Zone on the FIRM, and subject to wave heights between one and one-half (1.5) feet and three (3) feet. Buildings and structures in the these areas shall have the lowest floor elevated to or above the base flood elevation plus two (2) feet of freeboard, and must comply with applicable provisions of sections 45-3114 and 45-3115 of this division.
- (f) The VE or V Zones on FIRMs accompanying the FIS shall be those areas that are known as Coastal High Hazard areas, extending from offshore to the inland limit of a primary frontal dune along an open coast. For these areas, the following provisions shall apply:
  - (1) All new construction and substantial improvements in Zones V and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:
    - a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated two (2) feet above the base flood level if the lowest horizontal structural member is parallel to the direction of wave approach or elevated at least two (2) feet above the base flood level of the lowest horizontal structural member is perpendicular to the direction of wave approach; and.
    - b. 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 (1) percent chance of being equaled or exceeded in any given year (one (1) percent chance).
  - (2) 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 these regulations.
  - (3) The floodplain administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE. The floodplain administrator shall maintain a record of all such information.
  - (4) All new construction shall be located landward of the reach of mean high tide.
  - (5) All new construction and substantial improvements shall 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 ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty (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:

- a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - b. 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 (1) percent chance of being equaled or exceeded in any given year.
- (6) The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be portioned into multiple rooms, temperature-controlled, or used for human habitation.
- (7) The use of fill for structural support of buildings is prohibited. When non-structural 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.
- (8) The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.
- (g) Overlay concept. The floodplain districts described above shall be overlays to the existing underlying districts as shown on the official zoning ordinance map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

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.

(Ord. No. 5028-97, § 1; Ord. No. 6577-09; Ord. No. 7123-14, § 1)

Sec. 45-3115. - District provisions.

(a) *Permit and application requirements.*

(1)

*Permit requirement.* All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this division and with other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the City of Newport News Subdivision Regulations. 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 and shall review all sites to assure they are reasonably safe from flooding. 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.

(2) *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:

- a. The elevation of the base flood at the site.
- b. The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
- c. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
- d. Topographic information showing existing and proposed ground elevations.

(b) *General standards.* The following provisions shall apply to all permits:

- (1) New construction and substantial improvements shall be according to the this division and the Virginia Uniform Statewide Building Code (VA USBC), and anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) 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.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) 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.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  - (9) In addition to provisions (1)—(8) above, in all special flood hazard areas, the additional provisions shall apply (i) 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), other required agencies, and the Federal Emergency Management Agency and (ii) the flood-carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
- (c) *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 the following provisions shall apply:
- (1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) in zones AE, AO, and A with detailed base flood elevations shall at a minimum have the lowest floor, including basement, elevated to two (2) feet above the base flood level.
  - (2) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall at a minimum have the lowest floor, including basement, elevated to two (2) feet above the base flood level. Buildings located in all AE zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus two (2) feet are watertight 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.
  - (3) *Space below the lowest floor.* In zones A, AO, and AE, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
    - a.

Not be designed or used for human habitation, but shall only be used for parking, building access and storage 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).

- b. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation.
- c. 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:
  1. Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.
  2. 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.
  3. If a building has more than one (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
  4. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
  5. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
  6. 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, must meet all the requirements for new construction, including the elevation and anchoring requirements in section 45-3115(b) and (c).
- (2) All recreational vehicles placed on sites must either:
  - a. Be on the site for fewer than one hundred eighty (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 requirements for manufactured homes in section 45-3115(d)(1).

(e) *Standards for subdivision proposals.*

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
  - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
  - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
  - (4) Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a flood insurance study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.
- (f) *[Obtaining permits prior to work.]* Within any flood hazard district, the property owner or corporation having fee simple title or rights of construction to a property, shall obtain a permit for all proposed development prior to the initiation of work.

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1; Ord. No. 7593-19)

Sec. 45-3116. - Relationship of city approval to National Flood Insurance Act of 1968, as amended.

- (a) The city shall maintain for public inspection and furnish upon request, with respect to each area having special flood hazards, information on elevations (in relation to mean sea level) of the lowest floors, including basements, of all new or substantially improved structures and, where there is a basement, the distance between the first floor and the bottom of the lowest opening where water flowing on the ground will enter. For structures which have been floodproofed (nonresidential only), the elevation to which the structure has been flood proofed shall be maintained. For all structures within the coastal high hazard area, the elevation of the bottom of the lowest structural member of the lowest floor excluding pilings or columns shall also be recorded and maintained. All such information shall be filed in the department of codes compliance and planning.
- (b) In approving new construction and improvements, the city assumes no obligation to act on behalf of the property owner in obtaining approval for flood insurance under the terms of the Flood Insurance Act of 1968, as amended (42 U.S.C. 4001-4127). Nor does the city assume responsibility for errors or omissions in submitted material which may affect the flood insurance rates for an individual's property.

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1; Ord. No. 7913-23)

Sec. 45-3117. - 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:

- (1) 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.
- (2) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to this division and the VA USBC.
- (3) 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 division and shall require the entire structure to conform to the Virginia USBC.

(Ord. No. 5028-97, § 1; Ord. No. 5644-01; Ord. No. 7123-14, § 1)

Sec. 45-3118. - Uses permitted—General restrictions.

Any use normally permitted in the regular zoning district shall be permitted in a flood hazard district with the following restrictions:

- (1) No construction on or improvement of land within a flood hazard district except for nonstructural agricultural and outdoor recreational purposes and certain water related structures as provided in subsection (g) below may be initiated until a permit shall have been obtained as provided in section 45-3115(g).
- (2) No construction or improvement within the flood hazard district shall obstruct any channel whether or not such channel lies within a designated floodway.
- (3) All new construction or substantial improvement of residential structures shall have the lowest floor level (including basements) elevated a minimum of two (2) feet above the level of the one-hundred-year flood and adequately anchored to prevent flotation, collapse or lateral movement of the structure. The elevation of the lowest floor level shall be certified by a licensed land surveyor or professional engineer, and filed in the department of codes compliance and department of planning.
  - a. Manufactured homes, whether residential or nonresidential, to be located within the floodplain or the flood hazard district of the City of Newport News shall be placed in accordance with the building code adopted in chapter 13 of the City Code.
  - b.

An evacuation plan indicating alternate vehicular access and escape routes shall be filed by the owner with the civil defense director for manufactured home subdivisions located within the floodplain or flood hazard district.

- (4) All new construction and substantial improvements of nonresidential structures shall have the lowest floor (including basement) elevated a minimum of two (2) feet above the base flood level or together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement.
- (5) When flood proofing is not utilized, the elevation of the lowest floor level shall be certified by a licensed land surveyor or professional engineer and filed in the department of codes and compliance and planning.
- (6) Sites for the storage or processing of bases, chemicals or other materials that are buoyant, flammable or explosive shall be elevated to a level no less than three (3) feet above the level of the one-hundred-year flood and securely anchored; provided, however that buried fuel tanks, when adequately anchored to prevent flotation when empty and sealed to prevent entry of flood water or discharge of fuel therefrom, may be at the elevation of the one-hundred-year flood.
- (7) The following activities may occur below the level of the one-hundred-year flood:
  - a. Nonstructural agricultural activities providing that any storage or stockpiling of manure shall be elevated to a level no less than three (3) feet above the level of the one-hundred-year flood.
  - b. Outdoor recreational uses including park areas, golf courses, tennis courts, basketball courts, and swimming pools.
  - c. Water related structures such as docks, piers and wharves.
  - d. Access roads and parking areas for the above.
- (8) Adequate drainage shall be provided to reduce exposure to flood hazards.

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1; Ord. No. 7913-23)

Sec. 45-3119. - Special restrictions for riverine floodplain area.

- (a) In riverine situations, all adjacent communities and the state coordinating office shall be notified prior to any relocation or alteration of a watercourse; copies of such notifications shall be submitted to the federal insurance administrator.
- (b)



The city manager, or designee, shall assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1)

Sec. 45-3120. - Floodway.

The following special restrictions shall apply to construction or improvements to land within the floodway:

- (1) Existing nonconforming uses within the floodway may not be expanded; however, they may be repaired, altered or modified to incorporate flood proofing measures provided such measures do not raise the level of the one-hundred-year flood.
- (2) No use, change, fill or other encroachment within the designated floodway can be initiated or accomplished without obtaining a permit as provided in section 45-3115. There shall be no exceptions to this permit requirement in the floodway.
- (3) In no case shall a permit be issued for work which would impair the ability of the floodway to pass the one-hundred-year flood except where the effect upon elevations is fully offset by floodway improvements.

Such proposals shall be submitted to the city manager, or designee, along with plans, data and computations necessary to fully evaluate the effect of the proposal.

- (4) No manufactured home may be placed within a floodway except in an existing manufactured home subdivision.

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1)

Sec. 45-3121. - Coastal high hazard area (CHHA).

The following special restrictions apply to land within the coastal high hazard area:

- (1) Existing structures located on land below the elevation of the one-hundred-year flood in the CHHA shall not be expanded.
- (2) All new construction and substantial improvements in Zones V and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:
  - a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to two (2) feet above the base flood level if the lowest horizontal structural member is parallel to the direction of wave approach or elevated at least two (2) feet above the base flood level if the lowest horizontal structural member is perpendicular to the direction of wave approach; and,
  - b.

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 (1) percent chance of being equaled or exceeded in any given year (one (1) percent annual chance).

- (3) 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.
- (4) The floodplain administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE. The floodplain administrator shall maintain a record of all such information.
- (5) No land below the level of the one-hundred-year flood in a CHHA may be developed unless the structure or substantial improvements:
  - a. Is located landward of the reach of the mean high tide.
  - b. Is constructed in accordance with the building code adopted in chapter 13 of the City Code.
- (6) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty (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:
  - a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - b. 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 (1) percent chance of being equaled or exceeded in any given year.
- (7) The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.

- (8) The use of fill for structural support of buildings is prohibited. When fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
- (9) No manufactured home shall be placed within the CHHA except in existing manufactured home subdivisions.
- (10) No manmade alteration of sand dunes or mangrove stands within the CHHA will be permitted which will increase potential flood damage.

(Ord. No. 5028-97, § 1; Ord. No. 5644-01; Ord. No. 7123-14, § 1)

Sec. 45-3122. - Utilities.

All new or replacement water and/or sanitary sewage systems and all other new or replacement utilities or facilities shall be designed to minimize or eliminate infiltration of flood waters into the systems. On-site sanitary waste systems, including septic tank systems, shall be a minimum of two (2) feet above the level of the one-hundred-year flood.

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1)

Sec. 45-3123. - Special exception uses permitted in regular zoning district.

- (a) Special exception uses permitted in the regular zoning district may be authorized in the flood hazard district; provided that applicable restrictions of this article are observed, and provided that the plans as required for the issuance of a building permit shall be submitted to the city manager or designee for review and recommendation prior to public hearing by the board of zoning appeals.
- (b) Any application for special exception requested in the flood hazard district along with the required plans shall be referred to the zoning administrator and the director of engineering not less than thirty (30) days prior to the date of public hearing.

(Ord. No. 5028-97, § 1; Ord. No. 5644-01; Ord. No. 7123-14, § 1)

Sec. 45-3124. - Special regulations for land development.

- (a) For the purposes of this article the term "land development" shall include any subdivision of land as defined in the Subdivision Ordinance of Newport News, Virginia, as amended and any planned residential development, mobile home park, condominium, townhouse or apartment project, commercial or industrial project, and any community facility, whether publicly or privately owned, including but not limited to churches, schools, colleges, fire stations and libraries.
- (b)

In addition to the general and special restrictions of this article, the following special requirements pertain to a land development, whether new construction or improvement, when such development is in part or in whole within a flood hazard district:

- (1) All drawings and plans including record plats shall show thereon boundaries and locations of designated floodplains having special flood hazards, floodway, coastal high hazard areas and elevations of the one-hundred-year flood.
- (2) Each parcel or lot established for purposes of sale and/or construction thereon within the land development must be capable of permitting new construction meeting the requirements of the provisions of this chapter.
- (3) Utility systems such as water, sewer, gas and electrical systems shall be located and constructed to minimize or eliminate flood damage and infiltration of flood waters into the systems and discharges from such systems into flood waters. Sanitary sewer facilities shall be elevated two (2) feet above the level of the one-hundred-year flood so as to eliminate entrance of flood water into the system. Manhole tops shall either be elevated to a minimum of two (2) feet above the level of the one-hundred-year flood, or have installed water-tight frames and covers, or utilize manhole inserts to eliminate the entrance of flood water into the system.
- (4) It shall be the responsibility of the developer to provide such plans, data and computations, certified by a registered professional engineer, to demonstrate compliance with this section to the satisfaction of the city manager or designee.

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1)

#### Sec. 45-3125. - Annual report to administrator.

The city manager, or his designated representative, is hereby designated as the official responsible to submit an annual report to the administrator on the progress made during the past year in the development and implementation of floodplain and/or mudslide area management measures.

(Ord. No. 5028-97, § 1; Ord. No. 7123-14, § 1)

#### Sec. 45-3125.5. - Variances.

No variances to the provisions of division 2, Floodplain Development Regulations, shall be considered by the board of zoning appeals.

(Ord. No. 7123-14, § 1)

**Editor's note**— Ord. No. 7123-14, § 1, enacted provisions intended for use as § 45-3126. Inasmuch as there were already provisions so designated, said section has been included herein as § 45-3125.5 at the discretion of the editor.