

# ADOPTED

JAN 09 2018

Board of Supervisors  
James City County, VA

ORDINANCE NO. 31A-338

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL; SECTION 24-2, DEFINITIONS AND BY AMENDING ARTICLE VI, OVERLAY DISTRICTS; DIVISION 3, FLOODPLAIN AREA REGULATIONS SECTION 24-588, COMPLIANCE, LIABILITY, ABROGATION AND SEVERABILITY; SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS; SECTION 24-592, PERMITS; SECTION 24-595, REGULATIONS FOR CONSTRUCTION; SECTION 24-597, REGULATIONS FOR REPLACEMENT MANUFACTURED HOMES; SECTION 24-598, RECREATIONAL VEHICLES; AND SECTION 24-603, VARIANCES; FACTORS TO BE CONSIDERED.

BE IT ORDAINED by the Board of Supervisors of the County of James City County, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General; Section 24-2, Definitions and by amending Article VI, Overlay Districts; Division 3, Floodplain Area Regulations Section 24-588, Compliance, liability, abrogation and severability; Section 24-590, Designation of floodplain districts; Section 24-592, Permits; Section 24-595, Regulations for construction; Section 24-597, Regulations For replacement manufactured homes; Section 24-598, Recreational vehicles; and Section 24-603, Variances; factors to be considered.

This ordinance shall be effective on January 9, 2018.

## **Chapter 24. Zoning**

### **Article I. In General**

#### **Sec. 24-2. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Accessory building or structure. A subordinate building or structure customarily incidental to and located upon the same lot occupied by the main use or building. With the exception of detached accessory apartments, as may be approved by a special use permit, no such accessory building or structure shall be used for housekeeping purposes. Garages or other accessory structures such as carports, porches, decks and stoops attached to the main building shall be considered part of the main building. Accessory buildings and structures located ten feet or less from a main structure shall be considered part of the main structure for the purpose of determining side and rear yards. (Refer to the definition of "structure.") *Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, an accessory building or structure shall be considered non-residential.*

*Dry floodproofing - Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, dry floodproofing is a combination of measures that results in a structure, including the attendant utilities and equipment, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.*

*Wet floodproofing - Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, wet floodproofing is a floodproofing method that relies on the use of flood damage-*

*resistant materials and construction techniques in the areas of a structure that are below the elevation required by this standard by intentionally allowing those areas to flood.*

## **Article VI. Overlay Districts**

### **Division 3. Floodplain Area Regulations**

#### **Sec. 24-586. Statement of intent.**

- (a) This section is adopted pursuant to the authority granted to localities by Virginia Code § 15.2-2280. These regulations are intended 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, may cause unacceptable increases in flood heights, velocities and frequencies;
  - (2) Restricting or prohibiting certain uses, activities and development within districts subject to flooding;
  - (3) Requiring uses, activities and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and
  - (4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.
- (b) These regulations comply with the requirements of the National Flood Insurance Program (42 USC 4001-4128) of the Federal Insurance Administration. These regulations are necessary in order for all property owners within the county to be eligible for the National Flood Insurance Program and thereby purchase such insurance at nominal rates.

#### **Sec. 24-587. Applicability.**

These regulations shall apply to all property located within an area designated as a floodplain area, and as such shall supplement the regulations of the zoning district within which such property is located. Where these regulations are at variance with other provisions of this chapter, it is intended that these regulations shall apply. These regulations shall only apply to property which is designated as being within a floodplain area.

#### **Sec. 24-588. Compliance, liability, abrogation and severability.**

- (a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of these regulations and any other applicable ordinances and regulations; including, but not limited to: the Virginia Uniform Statewide Building Code (USBC), the Virginia Industrialized Building Safety Regulations (IBSR), and the Manufactured Home Safety Regulations (MHSR).
- (b) The degree of flood protection sought by the provisions of these regulations is for reasonable 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. These regulations do not imply that districts outside the

floodplain district or that land uses permitted within such district will be free from flooding or flood damage.

- (c) Records of actions associated with administering these regulations shall be kept on file and maintained by the director of community development or his designee *in perpetuity*.
- (d) These regulations shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.
- (e) Any person who fails to comply with any requirement or provision of this article shall be guilty of the appropriate violation and subject to penalties set forth in section 24-22 of this chapter.
- (f) To the extent that the provisions are more restrictive than previous requirements, this ordinance supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict, it shall remain in full force and effect. These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinances, the more restrictive shall govern.
- (g) 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.

#### **Sec. 24-589. Definitions and administrator.**

The terms used in these regulations are defined in section 24-2 of this chapter except for the board of zoning appeals, which is defined in section 24-645. The administrator of these regulations is set forth in section 24-5 of this chapter.

#### **Sec. 24-590. Designation of floodplain districts.**

- (a) The various floodplain districts shall include areas subject to inundation by waters of the one percent annual chance (100-year) flood. The minimum basis for the delineation of these districts shall be, but not be limited to, the December 16, 2015 ~~flood insurance study and flood insurance rate maps~~ *Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs)* prepared by the Federal Emergency Management Agency (FEMA), ~~Federal Insurance Agency (FIA)~~ and subsequent revisions or amendments thereto; ~~since other flood-prone areas exist in James City County which are not shown on the floodplain maps. To determine these areas,~~ *In areas with no base flood elevation provided by the FIRM/FIS, the best available data* for the one percent annual chance (100-year) flood elevations and floodways from federal, state and local sources ~~may~~ *shall* be used when available. Where the specific one percent annual chance (100-year) flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the director of community development or his designee in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the director of community development or his designee.

Where flood elevations are provided by the ~~FIA~~ *FEMA*, these elevations shall not be changed except with FEMA approval. Local sources of flood-prone area data include, but are not limited to, the Mill Creek-Lake Powell Watershed Study, GKY and Associates, 1988 report, locally approved watershed management plans and comprehensive drainage studies.

When base flood elevations have increased or decreased resulting from physical changes affecting flooding conditions, technical or scientific data shall be submitted to FEMA no later than six months after the date such information becomes available. Such submission is necessary so that, upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirement will be based upon current data.

- (b) The floodway district, minimally shown on the maps accompanying the flood insurance study, is established for purposes of these regulations using the criterion that certain areas within the floodplain must be kept free of encroachment in order that the one percent annual chance (100-year) flood be conveyed without increasing the water surface areas included in this district.
- (c) The flood-fringe district shall be that area of the one percent annual chance (100-year) flood not included in the floodway district. The basis for the outmost boundary of the district shall be the one percent annual chance (100-year) elevations minimally shown as Zones AE and AO on the maps accompanying the flood insurance study.
- (d) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a one percent annual chance (100-year) flood boundary has been approximated. Such areas are minimally shown as Zone A on the maps accompanying the flood insurance study. Consider other available data such as presented in subsection (a) of this section as the basis for elevating residential structures to or above base flood level, and for floodproofing or elevating nonresidential structures to or above base flood level.
- (e) Coastal A zones shall be those areas as defined by the Virginia Uniform Statewide Building Code that are subject to wave heights between 1.5 feet and 3 feet and identified on the FIRM as AE areas that are seaward of the Limit of Moderate Wave Action (LiMWA) line.
- (f) Coastal high-hazard area districts shall be those portions of land within the coastal floodplain subject to inundations by high velocity waters and wave action greater than three feet. Such areas are minimally shown as Zones V and VE.

**Sec. 24-591. Official map.**

The boundaries of floodway, flood-fringe and approximated floodplain districts in section 24-590(b), (c) and (d) above are established as minimum areas, as shown on the flood insurance rate map dated December 16, 2015, which is declared to be a part of these regulations and which shall be kept on file at the office of the director of community development.

**Sec. 24-592. Permits.**

*A permit is required for all proposed construction and other developments, including the placement of manufactured homes, within the floodway or any floodplain district.* An application for subdivision, site plan, rezoning, building permit, special use permit, Virginia Erosion and Sediment Control Program/Virginia Stormwater Management Program permit, wetlands permit or other local development permit shall be considered an application for development under these regulations. The applicant shall be informed of the provisions of this article as they may apply to the property and no permit shall be issued

until the applicant has complied with such provisions. *Applications will be reviewed to ensure the proposed construction or other developments will be reasonably safe from flooding.*

**Sec. 24-593. Permitted uses.**

Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district except as specifically modified herein.

**Sec. 24-594. Prohibited uses.**

(a) The following uses shall be specifically prohibited within all floodplain districts:

- (1) Sanitary landfills, junkyards, outdoor storage of inoperative vehicles.
- (2) Manufactured homes.
- (3) Surface mines and borrow pits.
- (4) Manufacture, bulk storage, transformation or distribution of petroleum, chemical or asphalt products or any hazardous materials as defined in either or both of the following:
  - a. Superfund Amendment and Reauthorization Act of 1986.
  - b. Identification and Listing of Hazardous Wastes, 40 CFR section 261 (1987).

The following products shall be specifically included:

- i. Oil and oil products including petrochemicals.
  - ii. Radioactive materials.
  - iii. Any material transported or stored in large commercial quantities (such as 55-gallon drums) which is a very soluble acid or base, causes abnormal growth of an organ or organism, or is highly biodegradable, exerting a strong oxygen demand.
  - iv. Biologically accumulative poisons.
  - v. Substances containing the active ingredients of poisons that are or were ever registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 135 et seq.).
  - vi. Substances highly lethal to mammalian or aquatic life.
- (5) Storage or land application of industrial wastes.
  - (6) Outdoor storage of equipment, materials or supplies which are buoyant, flammable or explosive.
- (b) Nonconforming uses of this chapter notwithstanding, no expansion of any of the above uses located within the floodplain district shall be permitted.

**Sec. 24-595. Regulations for construction.**

- a) The construction or placement of any structure or obstruction, filling or changing the cross-section or flow characteristics within the one percent annual chance (100-year) flood shall not be permitted unless the project is in conformance with the following requirements:
- (1) All construction shall use methods that minimize flood damage and which are in accordance with the Virginia Uniform Statewide Building Code. Structures shall be constructed with materials

and equipment resistant to flood damage and shall be anchored to prevent floatation, collapse, or lateral movement.

- (2) The finished elevation of the lowest floor, including the basement or cellar of any building, shall have at least two feet freeboard above the one percent annual chance (100-year) flood elevation. For nonresidential structures, *excluding accessory structures which conform to 24-595(a)(9)*, ~~watertight~~ *dry* floodproofing up to the level of two feet freeboard in accordance with the Virginia Uniform Statewide Building Code may be provided in lieu of the finished grade requirement described herein.
- (3) Utility and sanitary facilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be floodproofed up to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation.
- (4) Encroachments, including fill, new construction, substantial improvements and other development are prohibited within the floodway or any floodplain district unless it has been demonstrated through hydrologic and hydraulic analyses that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken by a professional engineer and shall be submitted in sufficient detail to allow a thorough review by the director of community development or his designee. Hydrologic and hydraulic analyses shall not be required for properties affected only by coastal (tidal) flooding.
- (5) All new construction and substantial improved structures in Zone AO shall meet the following requirements:
  - a. The lowest floor, including basements, shall be at or above the highest adjacent grade and two feet above the FIRM's depth number.
  - b. Nonresidential structures may use ~~watertight~~ *dry* floodproofing in accordance with the Virginia Uniform Statewide Building Code in lieu of the finished grade requirement described herein.
  - c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.
- (6) All new construction and substantial improvements in Zones V, VE, and Coastal A shall meet the following requirements:
  - a. The structure shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at least two feet above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to effects of wind and water loads acting simultaneously on all building components. A registered design professional engineer or architect shall develop and seal the structural design, specifications and plans for the construction, and shall certify the design and methods of construction.
  - b. The space below the lowest floor shall be 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. Breakaway walls shall collapse from water loads that are less than that which would occur during the base flood.

- c. New construction shall be landward of reach of mean high tide.
  - d. Fill for structural support and alterations of sand dunes are prohibited.
- (7) The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access or storage, have permanent openings designed to allow the exit of floodwaters in accordance with the Virginia Statewide Building Code and Federal Code 44CRF Section 60.3 approved by the director of building safety and permits. *This requirement applies to all floodplain districts, including Zones V, VE, and Coastal A.*
- (8) Prior to issuance of a certificate of occupancy, the owner of any structure located in a floodplain district shall submit a completed elevation certificate or floodproofing certificate from a registered professional engineer or architect, as appropriate, to the director of building safety and permits.
- (9) *Accessory structures shall comply with elevation or dry floodproofing requirements in section 24-595 (a)(2) or shall conform to the following standards:*
- a) *Not located in a floodway;*
  - b) *Not be used for human habitation;*
  - c) *Be limited to no more than 600 square feet in total floor area;*
  - d) *Be usable only for parking of vehicles or limited storage;*
  - e) *Be constructed with flood damage-resistant material to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation;*
  - f) *Be constructed and placed to offer the minimum resistance to the flow of floodwaters;*
  - g) *Be anchored to prevent flotation;*
  - h) *All utilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be elevated or floodproofed up to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation;*
  - i) *Shall be provided with flood openings which shall meet the following criteria:*
    - 1. *There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls;*
    - 2. *The total net area of all flood openings shall be at least one square inch for each square foot of enclosed area (non-engineered flood opening), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by ICC Evaluation Service, Inc.;*
    - 3. *The bottom of each flood opening shall be one foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening;*
    - 4. *Any louvers, screens or other covers for the flood opening shall allow the automatic flow of floodwaters into and out of the enclosed area.*
  - j) *Such accessory structure shall not be used to store any hazardous material as listed in section 24-593 (a)(4).*

(910) All other federal and state permits shall be obtained by the applicant before ~~a building permit can be issued~~ *the development will be permitted under this Chapter.*

- (b) It shall be the responsibility of the applicant to provide this data, certified by a licensed surveyor or engineer or other source acceptable to the director of building safety and permits.

**Sec. 24-596. Regulations for subdivisions and site plans.**

The applicant of any subdivision of land or site plan within the county shall submit with his application a statement by a licensed surveyor or engineer as to whether or not any property shown on the plat or plan is at an elevation lower than the one percent annual chance (100-year) flood level. Where a one percent annual chance (100-year) flood level exists, the extent of this area shall be shown on the plat or plan. Further, the elevation of the finished surface of the ground at each building location shall be shown. Lots created after February 6, 1991, which are within a non-coastal (non-tidal) floodplain district, shall contain a natural, unfilled building site at least one foot above the one percent annual chance (100-year) flood elevation adequate to accommodate all proposed buildings. All buildings shall be constructed solely within such building site and outside of the one percent annual chance (100-year) flood plain. All proposals shall be consistent with the need to minimize flood damage.

**Sec. 24-597. Regulations for replacement manufactured homes.**

- (a) Replacement manufactured homes shall be elevated on a permanent foundation ~~so that the lowest floor has two feet freeboard above the level of the one percent annual chance (100-year) flood elevation in accordance with the construction standards identified in section 24-595.~~
- (b) In floodplain areas, replacement manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in either of the following arrangements:
- (1) Over-the-top ties at each corner plus one frame tie at the middle of each side; or
  - (2) Frame ties at each corner plus no less than five evenly spaced additional frame ties per side.
- (c) All ties to the ground shall be able to carry a force of 4,800 pounds.

**Sec. 24-598. Recreational vehicles.**

Recreational vehicles placed on sites must either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use or meet requirements for placement, elevation and anchoring requirements for manufactured homes *for the floodplain district in which the recreational vehicle is located.*

**Sec. 24-599. Design criteria for utilities and facilities.**

- (a) *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities shall be designed to eliminate infiltration of floodwaters into the systems up to the one percent annual chance (100-year) flood level and discharges from the systems into the floodwaters in accordance with the Commonwealth of Virginia, Department of Health, Sewage Collection and Treatment Regulations. In addition, they should be located and constructed to eliminate flood damage and impairment.



- (b) *Water facilities.* All new or replacement water facilities shall be designed to eliminate infiltration of floodwaters into the systems and shall 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. The systems shall ensure drainage away from buildings and on site waste disposal sites.
- (d) *Septic tanks.* New or replacement septic tank drain fields shall be placed where they shall not be impaired or contaminated by a base flood. The Virginia Department of Health shall be consulted to verify compliance with this requirement.
- (e) *Utilities.* All utilities, such as gas lines, electrical and telephone systems, being placed in flood prone areas should be located and constructed to eliminate the chance of impairment during a 100-year flooding occurrence.
- (f) *Streets and sidewalks.* Streets and sidewalks should 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.

**Sec. 24-600. Regulations for filling in flood fringe and approximated floodplain districts.**

No permit shall be issued or approved until the site development plan for such fill meets the following requirements:

- (1) The filling of land shall be designed and constructed to minimize obstruction to and effect upon the flow of water and more particularly that:
  - a. Such fill will not result in any increase in flood levels during the occurrence of a one percent annual chance (100-year) flood discharge.
  - b. The flood-carrying capacity of the watercourse shall be maintained.
- (2) Fill shall be effectively protected against erosion by vegetative cover, riprap, gabions, bulkhead or other acceptable method. Any structure, equipment or material permitted shall be firmly anchored to prevent dislocation due to flooding;
- (3) Fill shall be of a material that will not pollute surface water or groundwater;
- (4) Where, in the opinion of the director of community development or his designee additional topographic, engineering and other data or studies are necessary to determine the effects of flooding on a proposed structure or fill and/or the effect of such structure or fill on the flow of water in flood stage, the applicant shall submit such data or studies.

**Sec. 24-601. Watercourse modification.**

The Federal Insurance Administrator, adjacent jurisdictions and the Department of Conservation and Recreation, Division of Dam Safety and Floodplain Management shall be notified and all federal and state permits shall be obtained prior to the alteration or relocation of any watercourse. The flood-carrying capacity to such watercourse shall be maintained.

**Sec. 24-602. Existing structures in floodplain districts.**

A structure or use of a structure or premises which lawfully existed before the enactment of these regulations, but which is not in conformity with these regulations, may be continued subject to the following conditions:

- (1) Existing structures in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the one percent annual chance (100-year) flood elevation flood elevation;
- (2) Any modification, alteration, repair, reconstruction or improvement of any kind to an existing structure and/or use located in any floodplain area to an extent or amount of less than 50 percent of its market value shall be elevated to conform to the Virginia Uniform Statewide Building Code; and,
- (3) The substantial improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of these regulations and the Virginia Uniform Statewide Building Code and shall require that the entire structure be brought into full compliance with these provisions.

**Sec. 24-603. Variances; factors to be considered.**

- (a) *Factors in passing upon applications for variance.* In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any floodway district that will cause any increase in the one (1%) percent annual chance (100-year) flood elevation.
  - (2) The danger that materials may be swept onto 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 community.
  - (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 repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (13) *No variance shall be granted for any accessory structure to be wet floodproofed if that structure exceeds 600 square feet.*
  - ~~(1314)~~ Such other factors which are relevant to the purposes of this section.
- (b) *Referral to qualified persons or agencies for technical assistance.* The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.
  - (c) *Factors considered in variance application review.* In reviewing all variance applications, the board of zoning appeals shall consider the following factors:
    - (1) Increases in flood heights;
    - (2) Additional threats to public safety;
    - (3) Extraordinary public expense;
    - (4) Creation of nuisances;
    - (5) Fraud or victimization of the public; and
    - (6) Conflicts with local laws or ordinances.
  - (d) *Issuance.* Variances shall be issued only after the board of zoning appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.
  - (e) *Notification of increased risk.* The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one percent annual chance (100-year) flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.
  - (f) *Records of variance actions.* A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

**Secs. 24-604-24-613. Reserved.**

*Ruth M. Larson*

Ruth M. Larson  
Chairman, Board of Supervisors

ATTEST:

*Teresa J. Fellows*  
Teresa J. Fellows  
Deputy Clerk to the Board

VOTES  
AYE    NAY    ABSTAIN

MCLENNON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ICENHOUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SADLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIPPLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LARSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

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