

SEP 25 2007

ORDINANCE NO. 31A-228

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

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 24-586, STATEMENT OF INTENT; SECTION 24-588, COMPLIANCE AND LIABILITY; SECTION 24-589, DEFINITIONS; SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS; SECTION 24-591, OFFICIAL MAP; SECTION 24-596, REGULATIONS FOR SUBDIVISIONS AND SITE PLANS; SECTION 24-600, REGULATIONS FOR FILLING IN FLOOD FRINGE AND APPROXIMATED FLOODPLAIN DISTRICTS; AND SECTION 24-602, EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, 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, Section 24-586, Statement of intent; Section 24-588, Compliance and liability; Section 24-589, Definitions; Section 24-590, Designation of floodplain districts; Section 24-591, Official map; Section 24-596, Regulations for subdivisions and site plans; Section 24-600, Regulations for filling in flood fringe and approximated floodplain districts; and Section 24-602, Existing structures in floodplain districts.

Chapter 24. Zoning

Article I. In General

Section 24-2. Definitions.

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

Base flood elevation. The Federal Emergency Management Agency (FEMA) designated 100-year water surface elevation.

Basement. A story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premises. *Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall mean any area of the building having its floor subgrade (below ground level) on all sides.*

Flood or flooding. The terms include:

- (1) *A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface water from any source.*
- (2) *The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 of this definition.*

Floodplain. A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation, and any area subject to the unusual and rapid accumulation or runoff of surface water from any source. *Any land area susceptible to being inundated by water from any source.*

Floodway. ~~The designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of these regulations, the floodway shall be capable of accommodating a flood of the 100-year magnitude. 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 a designated height.~~

Lowest Floor. *The lowest floor of the lowest enclosed area including the 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 requirement of Federal Code 44CFR Section 60.3.*

New Construction. *For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after July 18, 1975, the effective date of an initial Flood Insurance Rate Map, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after August 8, 1977, the effective date of these floodplain management regulations, and includes any subsequent improvements to such structures.*

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

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or*
- (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.*

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Article VI. Overlay Districts

Division 3. Floodplain Area Regulations

Sec. 24-586. Statement of intent.

(a) 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. 24-588. Compliance and liability.

(a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of these regulations and any other applicable ordinances and regulations.

(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 county engineer.*

(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.

Sec. 24-589. ~~Reserved.~~ Definitions

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.

Sec. 24-590. Designation of floodplain districts.

(a) The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The minimum basis for the delineation of these districts shall be, but not limited to, the ~~February 6, 1991~~ *September 28, 2007*, flood insurance study *prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Agency (FIA)*, since other flood-prone areas exist in the County which are not shown on the floodplain maps. To determine these areas, the 100-year flood elevations and floodways from federal, state and local sources may be used when available. Where the specific 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 county engineer 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 county engineer.

Where flood elevations are provided by the FIS, these elevations shall not be changed except with FEMA approval. Local sources of floodplain data include, but are not limited to, the following reports: *Drainage Study of Upper Powhatan Creek Watersheds, Camp Dresser and McKee 1987; Mill Creek-Lake Watershed Study, GKY and Associates, 1988.*

(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 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 100-year floodplain not included in the floodway district. The basis for the outmost boundary of the district shall be the 100-year flood elevations minimally shown as Zone AE 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 100-year floodplain boundary has been approximated. Such areas are minimally shown as Zone A on the maps accompanying the flood insurance study.

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 September 28, 2007*, which is declared to be a part of these regulations and which shall be kept on file at the office of the county engineer.

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 100-year flood level. Where a 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 floodplain district having a 100-year flood elevation greater than 87-½ feet, shall contain a natural, unfilled building site at least one foot above the 100-year flood elevation adequate to accommodate all proposed structures. All structures shall be constructed solely within such building site.

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 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 code compliance~~ *county engineer*, 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. 24-602. Existing structures in floodplain districts.

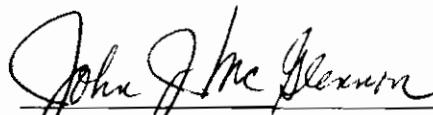
A structure or use of a structure or premises which lawfully existed before the enactment of these regulations, but which is not in conformity with these regulations, may be continued subject to the following conditions:

- (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 100-year flood elevation;
- (2) Any modification, alteration, repair, reconstruction or improvement of any kind to a 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 ~~and/or flood proofed to the greatest extent possible~~ *to or above the base flood elevation*; and,

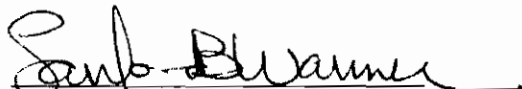
- (3) The ~~modification, alteration, repair, reconstruction or~~ *substantial* improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions 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.*

This ordinance shall become effective September 28, 2007.



John J. McGlennon
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
HARRISON	AYE
BRADSHAW	AYE
GOODSON	AYE
ICENHOUR	AYE
MCLENNON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2007.