

CHAPTER 25. ZONING

DIVISION H. OVERLAY DISTRICTS

Article XLVII. Floodplain Overlay (FPO) Districts

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CHAPTER 25. ZONING.

DIVISION H. OVERLAY DISTRICTS.

Article XLVII. Floodplain Overlay (FPO) Districts.

§ 25-471. Authority, Purposes, applicability, liability, abrogation and greater restrictions, severability, and penalties.

A. Authority and Purposes. This ordinance is adopted pursuant to the authority granted to localities by Va. Code §15.2-2280. The purpose of the Floodplain Overlay District 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, the impairment of the tax base, and to qualify Augusta County properties for the National Flood Insurance Program 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 areas subject to flooding.
3. Requiring all those uses, activities, and developments that do occur in flood-prone areas to be flood proofed against flooding and flood damage.
4. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

B. Applicability. This article shall apply to all lands within the County of Augusta which are identified as being in the Floodplain Overlay Districts as established in § 25-473 of this article.

Ord. 07/15/11; 09/13/11.

C. Compliance and liability.

1. No land shall be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered in the Floodplain Overlay Districts as established in this article except in full compliance with the terms and provisions of this article and any other applicable laws and regulations.
2. The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This does not

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

3. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Zoning Administrator who is hereby appointed the Floodplain Administrator.

4. This article shall not create liability on the part of the County of Augusta or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

D. Abrogation and Greater Restrictions. To the extent that the provisions are more restrictive, this article 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 ordinance, the more restrictive shall govern.

E. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

F. Penalty for violations. Any person who fails to comply with any of the requirements or provisions of this article or directions of the Floodplain Administrator shall be subject to the penalties listed in division J of this chapter.

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 noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the county to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

Ord. 05/27/15

§25-472. Definitions

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this Article. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the word "used" shall include arranged, designed,

constructed, altered, converted, rented, leased or intended to be used; the word "person" shall include person, firm, corporation; the word "shall" is mandatory and not advisory; the word "approve" shall mean disapprove when appropriate.

Base Flood (One Hundred Year Flood). A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent (1%) chance of being equaled or exceeded in any given year).

Base Flood Elevation (BFE). The Federal Emergency Management Agency designated 100 year water surface elevation, (i.e., the elevation of the water surface during the anticipated base flood).

Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

Channelization. The straightening and deepening of channels and/or the surfacing thereof to permit water to move rapidly and/or directly.

Development. For purposes of this article only, the term "development" shall have the following meaning: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, picnic structures, docks, decks or other recreational items, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Dredging. A method for deepening streams, swamps or coastal waters by removing solids from the bottom.

Encroachment. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. (Ord. 9/26/07, eff. 9/28/07)

Fair market value. The price of a building or land that would be agreed upon voluntarily in fair negotiations between a knowledgeable owner willing, but not forced, to sell and a knowledgeable buyer willing, but not forced, to buy. For the purposes of this Article, the price shall be that value assigned to the improvement by the county at the date of the last assessment for tax purposes, or in the case of Manufactured Homes, the value assigned by the county for the purpose of personal property taxation.

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. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud 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 flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition. (Ord. 5/17/90)

Flood, base flood elevation. See “Base flood elevation”

Flood fringe area. That area of the floodplain not included in the floodway. (5/17/90)

Flood insurance rate map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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.

Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any flooding source. (5/17/90)

Floodproofing. A combination of structural provisions and changes or adjustments to properties and structures subject to flooding for the reduction or elimination of flood damage to properties, water and sanitary facilities, and other utilities, structures, and the contents of buildings.

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 foot (1') at any point. (5/17/90)

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 of Historic Places; (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (3) individually listed on a state inventory of historic places in states with historic preservation

programs which have been approved by the Secretary of the Interior; or (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. (Ord. 9/26/07, eff. 9/28/07)

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 the code of Federal Regulations, 44 CFR §60.3.

Manufactured home. A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision. For the purposes of this Article only, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

National flood insurance program. A federal program that provides for flood insurance.

New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after May 17, 1990 and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. (Ord. 9/26/07, eff. 9/28/07)

One hundred year flood. See "Base Flood".

Recreational vehicle. For the purposes of this article only, a vehicle which is:

1. Built on a single chassis;
 2. Four hundred square feet (400 sq. ft.) 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.

Augusta County Code 1969, § 25-115Q; Ord. 9/26/07, eff. 9/28/07

Special flood hazard area. The land in the floodplain subject to the Base Flood as determined in Section 473 of this Chapter.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Ord. 9/26/07, eff. 9/28/07)

Structure. For the purposes of this article only, the term “structure” shall have the following meaning, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial Damage. 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 structures 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.

Ord. 9/26/07, eff. 9/28/07; Ord. 05/27/15.

§ 25-473. Floodplain Overlay Districts.

A. Basis of Floodplain Overlay Districts. Floodplain Overlay Districts shall include areas subject to inundation by waters of a one hundred (100) year flood. The basis for the

delineation of these districts shall be the Augusta County Floodpool Maps and the Flood Insurance Study and associated FIRM for the County of Augusta prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 28, 2007 and with the following revision dates for specific map panels: Panel 51015C0339E dated January 6, 2010, Panel 51015C0539F dated August 3, 2015, Panel 51015C0541F dated August 3, 2015, Panel 51015C0543F dated August 3, 2015, Panel 51015C0645E dated August 3, 2015, Panel 51015C0652F dated August 3, 2015, Panel 51015C0654F dated August 3, 2015, Panel 51015C0655E dated August 3, 2015, Panel 51015C0660E dated August 3, 2015, and Panel 51015C0665E dated August 3, 2015, and any subsequent revisions or amendments thereto. Floodplain Overlay Districts include areas identified as Floodway Districts, Flood-Fringe and Approximated Floodplain Districts. (Ords. 9/26/07, eff. 9/28/07; 07/15/2011)

1. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100) year flood without increasing the water surface elevation of that flood more than one foot (1') at any point. Such areas are shown as Zone AE with Floodway on the FIRMs accompanying the Flood Insurance Study. The areas included in this District are specifically defined in Table 4 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.

2. The Flood-Fringe District shall be that area of the one hundred (100) year floodplain not included in the Floodway District. Such areas are shown as Zone AE on the FIRMs accompanying the Flood Insurance Study. The basis for the outermost boundary of the District shall be the one hundred (100) year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study and as shown on the accompanying Flood Insurance Rate Map.

3. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100) year floodplain boundary has been approximated. Such areas are shown as Zone A on the FIRMs accompanying the Flood Insurance Study. For these areas, the one hundred (100) year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100) year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood- Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the County of Augusta. Where detailed analysis is required in accordance with § 25-475.C.5.d of this article, the applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the one hundred (100) year flood elevation more than one foot (1') at any one (1) point. The engineering principle, equal reduction of conveyance shall be used to make the determination of

increased flood height. Within the floodway area delineated by the applicant, the provisions of § 25-475.C.7 shall apply.

4. The Floodpool District shall be that area upstream of publicly owned or maintained flood control or water supply structures that are at or below the elevation of the top of the dam, i.e., the area that will be inundated when the structure is completely full. For the purposes of this district, the BFE shall be defined as the elevation of the top of the dam.

B. Official map. The boundaries of the Floodplain Overlay Districts are established as shown on the Augusta County Floodpool Maps and the Flood Insurance Rate Map (FIRM) for Augusta County, Virginia, which is declared to be a part of this ordinance and which shall be kept on file in the offices of the Department of Community Development. (Code of Augusta County 1969, § 25-115R)

C. District boundary changes. The boundaries of any of the Floodplain Overlay Districts may be revised by the County Engineer, as agent for the board of supervisors, where natural or man-made changes have occurred, where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. No such change shall take effect until approval is obtained from the Federal Emergency Management Agency.

D. Interpretation of district boundaries. Initial interpretations of the boundaries of the Floodplain Overlay Districts shall be made by the Floodplain Administrator with the advice and assistance of the County Engineer. Should a dispute arise concerning the boundaries of any district, the board of zoning appeals shall make the necessary determination upon appeal as provided by law. The party appealing the decision shall be given a reasonable opportunity to present his case to the board of zoning appeals and to submit his own technical evidence, if any.

E. Submission of technical data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The Floodplain Administrator may submit data via a LOMR.

Ord. 05/27/15

§ 25-474. Development prohibited in Floodplain Overlay Districts.

Development, as defined in § 25-472 of this article, is prohibited in Floodplain Overlay Districts in Augusta County unless one (1) or more of the following exceptions applies:

A. Exception A. The lot or parcel on which the development is to occur meets all of the following criteria:

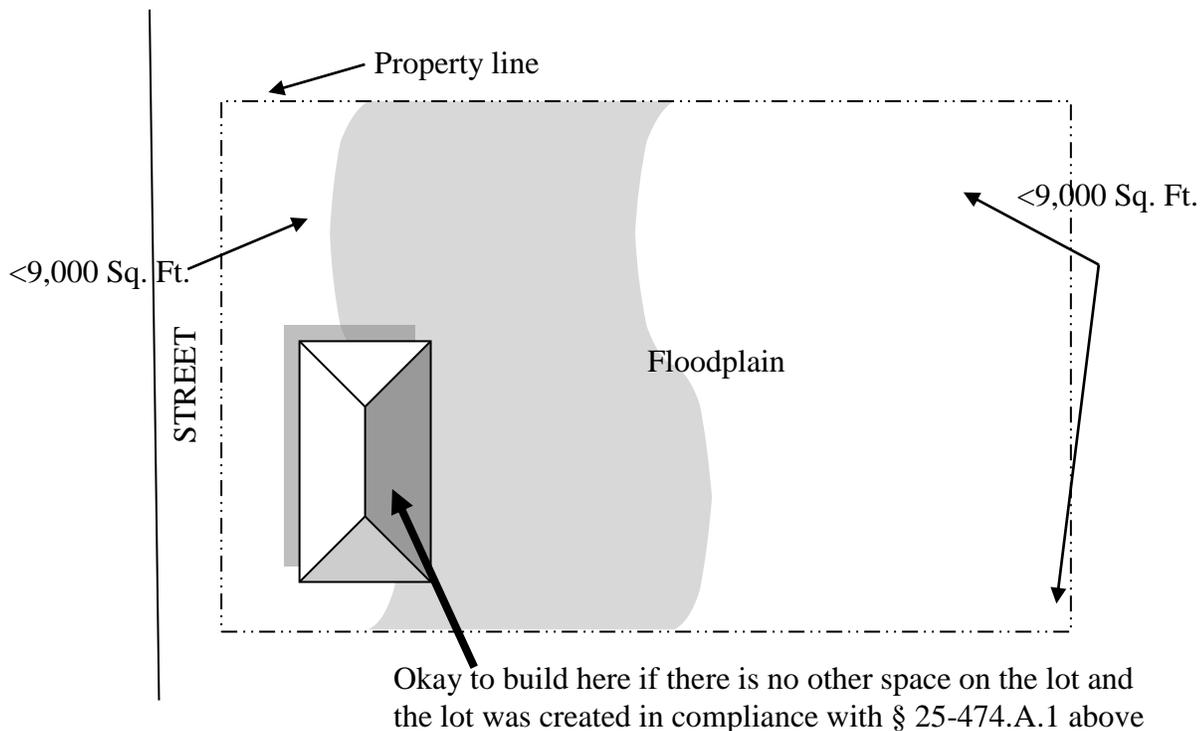
1. The lot or parcel was created prior to January 1, 2010 or was lawfully created after January 1, 2010 and found to be in the floodplain by subsequent amendment to floodplain maps listed in §25-473. For the purposes of this section, when a lot is subdivided, all of the lots, including any residue, are deemed to have been created as of the date of recordation of the plat creating such lots. (Ord. 07/15/11)

2. No portion of the lot or parcel lying outside the Floodplain Overlay District either:

a. contains at least nine thousand square feet (9,000 sq. ft.) or,

b. if less than nine thousand square feet (9,000 sq. ft.), is otherwise appropriate for the proposed development which is permitted by the regulations of the underlying zoning classification, and

3. The requirements of § 25-475 of this article are met.



B. Exception B. The development is one (1) which by its nature is normally and customarily located within a floodplain, including, but not necessarily limited to, sewage treatment plants, flood control structures, stream restoration projects, picnic structures, docks, decks or other recreational items and mills, and the requirements of § 25-475 of this article are met.

C. Exception C. The purpose of the development is to provide or improve either (a) a public street constructed by the Commonwealth of Virginia, or a political subdivision of the Commonwealth, or (b) a public or private street or driveway providing access to property where:

1. No other reasonable access exists, or
2. Connectivity of the street system is being provided in accordance with the county and/or state requirements, and
3. The requirements of §25-475 of this article are met.

Development permitted under this exception shall be undertaken in such a manner to impact as little floodplain as possible when considering any site specific restraints and shall be done in accordance with the requirements set forth in §25-475 below and all other sections of this Article.

§25-474.1. New lots prohibited in Floodplain Overlay Districts.

A. No new lots shall be created in Floodplain Overlay Districts in Augusta County unless a buildable area is clearly identified on the subdivision plat or the provisions of paragraph B have been met.

B. A lot which does not have a buildable area lying outside of the district may be created if the lot is otherwise appropriate for the proposed development which is permitted by the regulations of the underlying zoning classification and this article.

1. The following language shall appear on the plat creating such a lot: “Lot _____, as depicted on this plat, does not contain sufficient land area outside of the floodplain for development.”

2. The following language shall appear on any deed transferring ownership of such lot: “The lot conveyed by this deed has been identified as being in the floodplain. Development on this lot may only be allowed if the requirements of §25-474 B or C of the Augusta County Code are met.”

Ord. 09/13/11

§ 25-475. Development in or near Floodplain Overlay Districts.

If development is permitted under one (1) of the exceptions provided in §25-474 or §25-474.1 above, the following submittal and approval process is required.

A. Step One, determination of whether an application for development shall include certain additional information.

1. All applications for a Land Disturbing Permit or a Building Permit are required to submit a “sketch plan” showing the location of the proposed development, including any access roadways in relation to the floodplain. The sketch plan will be examined by the

Floodplain Administrator to determine if the proposed development may be in a Floodplain Overlay District.

2. If determined that no part of the proposed development will be in any Floodplain Overlay District, the permit for the development may be issued, provided the development otherwise qualifies for the permit under the applicable provisions of the County Code.

3. If determined that all or part of the proposed development may be in a Floodplain Overlay District, the applicant shall be required to supply the information required by “Step Two” in §25-475 subparagraph B below, unless a waiver is obtained as provided by item 4 below.

4. Where permitted in item 3 above, the required additional information under subparagraph B below may be waived by the consent of the Floodplain Administrator, with the advice and assistance of the County Engineer, if he is satisfied that there is no way any portion of the proposed development will be within the Floodplain Overlay District. (Ord. 9/13/11)

B. Step Two, determination of applicability of district regulations.

1. If the property is confirmed to be in the Floodplain Overlay District through “Step One” (§25-475 A) above, the applicant shall file a floodplain development plan prepared and sealed by a professional engineer or land surveyor showing:

- a. The proposed development including any access roadways,
- b. Existing and proposed contours at one foot (1’) intervals,
- c. The elevation of the one hundred (100) year flood, both before and after the proposed development, and
- d. Applicable district setbacks (Ord. 09/13/11)

2. If the floodplain development plan shows that no portion of the proposed development will be in the Floodplain Overlay District, then the permit for the development may be issued, provided the development otherwise qualifies for the permit under the applicable provisions of the County Code.

3. If the floodplain development plan shows that all or part of the proposed development will be in the Floodplain Overlay District, the permit for development may be issued provided the development otherwise qualifies for the permit under the applicable provisions of the County Code, and further provided that the lot or parcel qualifies for exemption under § 25-474 or §25-474.1 of this article, and the requirements of “Step Three” under § 25-475 subparagraph C below are met.

C. Step Three, requirements before development allowed within Floodplain Overlay District.

If the development meets the requirements of § 25-474 or §25-474.1 of this chapter and is determined to be within the Floodplain Overlay District by § 25-475 A & B, a zoning permit may be issued subject to the following requirements

1. Permit and Application Requirement.

a. All uses, activities, and development occurring within any Floodplain Overlay District 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 Article and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Augusta County 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 floodway of any watercourse, drainage ditch, or any other drainage facility or system.

b. Site plans and permit applications. All applications for development in the floodplain overlay district and all building permits issued for the floodplain shall be accompanied by a floodplain development plan and elevation certificate prepared and sealed by a professional engineer or land surveyor showing the following information:

- (1) All existing and proposed structures,
- (2) For structures to be elevated, the elevation of the lowest floor, including basement,
- (3) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed, and documentation demonstrating strict adherence to the flood-proofing requirements of the Virginia Uniform Statewide Building Code,
- (4) The elevation of the one hundred (100) year flood, both before and after development,
- (5) Topographic information showing existing and proposed ground elevations at one foot (1') intervals, and
- (6) The location of the cross-sections shown in the floodplain analysis from the Flood Insurance Study.

2. General Standards. The following provisions shall apply to all permits:

a. New construction and substantial improvements shall be built according to this Article and the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure,

b. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage,

c. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage,

d. 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,

e. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding,

In addition to provisions a-e above, in all special flood hazard areas, the additional provisions shall apply:

f. Prior to any proposed alteration or relocation of any channels or of any watercourse or stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Army 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.

g. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

3. Elevation and Construction Standards. In all identified flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated by a certified professional in accordance with section 6.d. below, the following provisions shall apply:

a. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones AE and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus one (1) foot.

b. Non-Residential Construction

(1) New construction or substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated to or above the base flood level plus one (1) foot.

(2) Non-residential 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 feet are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Floodplain Administrator.

c. Space Below the Lowest Floor. In zones A and AE, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

(1) Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator),

(2) be constructed entirely of flood resistant materials below the regulatory flood protection elevation,

(3) 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:

i. Provide a minimum of two openings on different sides of each enclosed area subject to flooding,

ii. 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,

iii. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit,

iv. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade,

v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions,

vi. 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. Manufactured homes. All manufactured homes placed or substantially improved, on individual lots or parcels, in existing or in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must be designed such that:

(1) The lowest floor of the manufactured home is elevated no lower than one foot (1') above the base flood elevation,

(2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the grade, and

(3) The manufactured home is securely anchored to the adequately anchored foundation system to resist flotation, collapse and 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.

4. Infrastructure and Utilities.

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

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

c. All other utility lines, such as gas lines, electrical and telephone systems, being placed in flood-prone areas shall be located, elevated, or constructed to minimize the chance of impairment during a flooding occurrence.

d. Streets and sidewalks. Streets and sidewalks shall be designed and constructed 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.

e. Stormwater management facilities. Construction of stormwater management facilities within any Floodplain Overlay District shall be avoided to the extent possible. When this is unavoidable, all stormwater management facility construction shall be in compliance with all applicable regulations of this Article and Chapter 9 of the Augusta County Code. These stormwater management facilities shall be designed and located, to the extent practical, to provide an unrestricted release up to at least the 25-year flood elevation of the receiving waterway.

5. Subdivision proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage,

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage,

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

d. Where no base flood information is provided in the Flood Insurance Study, 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.

6. Compensatory Storage required. When development is permitted in any floodplain overlay district and the development involves construction below the base flood elevation, placement of fill or otherwise reduces flood storage, compensatory storage shall be provided at a hydraulically equivalent site, either on the same parcel, or on an immediately adjacent parcel, which may be under the same or different ownership. When provided on an adjacent parcel, either under the same or different ownership, an easement shall be provided.

7. Development in floodways. Within a Floodway, no encroachments, including fill, new construction, substantial improvements, or other development or use shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the base flood elevation, and no buildings are permitted within the limits of the floodway. Hydrologic and hydraulic analysis 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, analysis, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

8. Development in flood fringe (AE Zone) and approximated floodplain (A Zone) areas. Within flood fringe and approximated floodplain areas, development and use of land shall be permitted in accordance with the regulations of the underlying district provided that all such development and use shall be undertaken in strict compliance with the elevation, floodproofing and related provisions contained in the current edition of the Virginia Uniform Statewide Building Code, this Article and all other applicable codes and ordinances.

9. Development in floodpool areas: Within floodpool areas, development and use of land shall be permitted in accordance with the regulations of the underlying district provided that all such development and use shall be undertaken in strict compliance with the elevation, floodproofing and related provisions contained in the current edition of the Virginia Uniform Statewide Building Code, this Article, and all other applicable codes and ordinances. The Base Flood Elevation used in applying these codes and ordinances shall be the Base Flood Elevation established for the floodpool area.

Ord. 09/13/11; Ord. 05/27/15

§ 25-476. Other prohibited structures and uses in Floodplain Overlay Districts.

The following structures and uses are prohibited in Floodplain Overlay Districts:

- A. Landfills, junkyards, outdoor storage of vehicles or materials.
- B. The keeping of recreational vehicles which are not fully licensed and ready for highway use, or the keeping of any recreational vehicle for a period of more than 180 days.
- C. Utility sheds and other similar structures, whether or not requiring a building permit, unless properly anchored as provided in subsection E below.
- D. Damming or relocation of any watercourse that will result in any downstream increase in flood levels during the base flood.
- E. The construction, placement or storage of any object subject to flotation or movement during flooding. Such objects may be constructed, placed or stored if properly anchored in accordance with a plan prepared by a professional engineer and approved by the County Engineer.

§ 25-477. Existing structures in Floodplain Overlay Districts.

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

A. An existing structure, development or other use located in the Floodplain Overlay District shall not be expanded or enlarged unless the adverse effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.

B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a development or use located in any Floodplain Overlay District to an extent or amount of less than fifty percent (50%) of its fair market value shall be elevated or flood proofed to the greatest extent possible.

C. The repair or reconstruction of a structure which suffers substantial damage, or the substantial improvement of any structure, shall require full compliance of the entire structure with the provisions of the Virginia Uniform Statewide Building Code and the National Flood Insurance Program, as applicable.

D. The modification, alteration, repair, reconstruction, or improvement of any kind to a development or use, regardless of its location in a Floodplain Overlay District, to an extent or amount of fifty percent (50%) or more of its fair market value shall be undertaken only if the entire development or use is brought into full compliance with the provisions of § 25-475 of this ordinance, and the Virginia Uniform Statewide Building Code.

E. The modification, alteration, repair, reconstruction, or improvement of any kind to a development or use, regardless of its location in a Floodplain Overlay District, to an extent or amount of seventy-five percent (75%) or more of its fair market value may not be undertaken within the Floodplain Overlay District if there is sufficient area within the lot or parcel to reconstruct or remove the development to an area outside the Floodplain Overlay District. If there is insufficient area to move the development outside the Floodplain Overlay District, then the modification, alteration, repair, reconstruction, or improvement may be undertaken within the Floodplain Overlay District only if the steps specified in § 25-475 above are followed and the requirements of that section are met.

Ord. 05/27/15

§ 25-478. Limitations on variances in Floodplain Overlay Districts.

A. In considering applications for variances affecting property within Floodplain Overlay Districts, the board of zoning appeals shall consider the following:

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 the Floodway District that will cause any increase in the one hundred (100) year flood elevation.

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

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
5. The importance of the services provided by the proposed facility to the 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 flood waters 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. Such other factors which are relevant to the purposes of Article XLVII, "Floodplain Overlay (FPO) Districts," of this chapter.

B. 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. Variances shall be issued only after the board of zoning appeals has determined that there is good and sufficient cause and that the granting of such variance will not result in (i) unacceptable or prohibited increases in flood heights, (ii) additional threats to public safety, or (iii) extraordinary public expense, and will not (i) create nuisances, (ii) cause fraud or victimization of the public, or (iii) conflict with local laws or ordinances.

D. Such variance shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief from any hardship to the applicant.

E. Upon application for such variance, the Floodplain Administrator shall advise the applicant, in writing, that the approval of a variance to construct a structure below the one hundred (100) year flood elevation (a) may increase the risks to life and property and (b) may result in increased premium rates for flood insurance.

F. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of variances. Any such variance which is approved shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Ord. 5/27/15, effective 8/2/15.

Sections 25-479 through 25-480 reserved.