

Chapter 8 FLOOD DAMAGE PREVENTION¹

TITLE

TAZEWELL COUNTY FLOOD DAMAGE PREVENTION ORDINANCE, IN ACCORDANCE WITH SECTION 15.1-431 OF THE CODE OF VIRGINIA, (1950), AS AMENDED. ;FL;

ARTICLE I. GENERAL PROVISIONS

Sec. 8-1. Statutory authorization and purpose.

This chapter is adopted pursuant to the authority granted by Code of Virginia § 15.2-2280. The purpose of these provisions is to prevent: The loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

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

(Ord. of 1-11-11(1), § 1.1)

Sec. 8-2. Applicability.

These provisions shall apply to all privately and publicly-owned lands within jurisdiction of the unincorporated portions of Tazewell County, Virginia, and identified as being floodprone.

(Ord. of 1-11-11(1), § 1.2)

¹Editor's note(s)—Ord. adopted Jan. 11, 2011, repealed the former Ch. 8, Arts. I—IV, §§ 8-1—8-9, 8-36, 8-37, 8-61—8-64, 8-86—8-90, and enacted a new Ch. 8 as set out herein. The former Ch. 8 pertained to similar subject matter and derived from an ordinance adopted Sept. 10, 1990.

Cross reference(s)—Erosion and sediment control, Ch. 6; fire prevention and protection, Ch. 7; housing, Ch. 9; mobile homes, Ch. 11; planning and development, Ch. 15; sewers and drains, Ch. 16; subdivisions, App. A; flood provisions under subdivision ordinance, App. A, § 4-3.

State law reference(s)—Flood Damage Reduction Act, Code of Virginia, § 10.1-600 et seq.; comprehensive flood control program, Code of Virginia, §§ 10.1-658, 10.1-659.

Sec. 8-3. 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 this chapter and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this chapter.
- (b) The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
- (c) Records of actions associated with administering this chapter shall be kept on file and maintained by the Department of Building Safety or such other custodian as may from time to time be selected by the Board of Supervisors by resolution.
- (d) This chapter shall not create liability on the part of Tazewell County or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

(Ord. of 1-11-11(1), § 1.3)

Sec. 8-4. Abrogation and greater restrictions.

This chapter supersedes any ordinance currently in effect in floodprone areas. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

(Ord. of 1-11-11(1), § 1.4)

Sec. 8-5. Severability.

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

(Ord. of 1-11-11(1), § 1.5)

Sec. 8-6. Penalty for violations.

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of Tazewell County shall be guilty of a misdemeanor and subject to the penalties there for.

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

declared to be a public nuisance, and be abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

(Ord. of 1-11-11(1), § 1.6)

Secs. 8-7—8-15. Reserved.

ARTICLE II. DEFINITIONS

Sec. 8-16. Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Base flood. The flood having a one-percent chance of being equaled or exceeded in any given year.

Base flood elevation. The Federal Emergency Management Agency designated 100-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's flood insurance rate map. For the purposes of this chapter, the 100-year flood or one-percent annual chance flood.

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

Board of appeals. The board designated by separate ordinance to review appeals made by individuals with regard to decisions of the ordinance administrator in the interpretation of this chapter until such time as an appeals board is so designated, all appeals shall be presented to the board of supervisors.

Development. Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building. A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

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.

Flood or flooding:

- (1) A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters; or
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudflows which are proximately caused by flooding as defined in paragraph (1)b. 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 subsistence 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 (1)a. of this definition.

Flood insurance rate map (FIRM). An official map of a community, on which the administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has made available digitally is called a digital flood insurance rate map (DFIRM).

Flood insurance study (FIS). An examination, evaluation and determination of 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 floodprone area. Any land area susceptible to being inundated by water from any source.

Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (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.

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 nonelevation design requirements of Federal Code 44CFR § 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 one hundred eighty (180) consecutive days, but does not include a recreational vehicle.

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the enactment of this chapter, or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational vehicle. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Special flood hazard area. The land in the floodplain subject to a one-percent or greater chance of being flooded in any given year as determined in section 8-32 of this chapter.

Start of construction. For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. - 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

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

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

Violation. The failure of a structure or other development to be fully compliant with the county's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in sections 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

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.

Zoning administrator or ordinance administrator or administrator. The public official designated by the Tazewell County Board of Supervisors, by separate ordinance or resolution, to administer, interpret and enforce the ordinance for the county.

(Ord. of 1-11-11(1))

Secs. 8-17—8-30. Reserved.

ARTICLE III. ESTABLISHMENT OF DISTRICTS

Sec. 8-31. Description of districts.

- (a) *Basis of districts.* The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the flood insurance study (FIS) and the flood insurance rate maps (FIRM) for Tazewell County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, and Tazewell County, dated February 18, 2011, and any subsequent revisions or amendments thereto.

The boundaries of the special flood hazard area and floodplain districts are established as shown on the flood insurance rate map which is declared to be a part of this chapter and which shall be kept on file at the Tazewell County Building Safety office.

- (1) The floodway district is delineated, for purposes of this chapter, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in the above-referenced flood insurance study and shown on the accompanying flood insurance rate map.
- (2) The special floodplain district shall be those areas identified as an AE zone on the maps accompanying the flood Insurance Study for which 100-year flood elevations have been provided.
- (3) The approximated floodplain district shall be those areas identified as an A or A99 zone on the maps accompanying the flood insurance study. In these zones, no detailed flood profiles or elevations are provided, but the 100-year floodplain boundary has been approximated. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain 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 governing body.

(b) *Overlay concept.*

- (1) The floodplain districts described above shall be overlays to districts as shown on any future official zoning ordinance map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
- (2) If there is any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
- (3) In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

(Ord. of 1-11-11(1), § 3.1)

Sec. 8-32. District boundary changes.

The delineation of any of the floodplain districts may be revised by the Tazewell County Board of Supervisors where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

(Ord. of 1-11-11(1), § 3.3)

Sec. 8-33. Interpretation of district boundaries.

Initial interpretations of the boundaries of the floodplain districts shall be made by the floodplain ordinance administrator (hereinafter referred to as the ordinance administrator or administrator). Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals, or if there being none, the board of supervisors shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.

(Ord. of 1-11-11(1), § 3.4)

Sec. 8-34. Submitting 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 (6) months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

(Ord. of 1-11-11(1), § 3.5)

Secs. 8-35—8-50. Reserved.

ARTICLE IV. DISTRICT PROVISIONS

Sec. 8-51. Permit and application requirements.

- (a) *Permit requirement.* All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a floodplain building permit. Such development shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Tazewell County Subdivision Ordinance. Prior to the issuance of any such permit, the administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- (b) *Site plans and permit applications.* All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:
 - (1) The elevation of the base flood at the site.
 - (2) The elevation of the lowest floor (including basement).
 - (3) For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.
 - (4) Topographic information showing existing and proposed ground elevations.

(Ord. of 1-11-11(1), § 4.1)

Sec. 8-52. General standards.

The following provisions shall apply to all permits:

- (1) New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (8) 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 (1)—(8) above, in all special flood hazard areas, the additional provisions shall apply:

- (9) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administrator.
- (10) The flood-carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(Ord. of 1-11-11(1), § 4.2)

Sec. 8-53. Specific standards.

In all special flood hazard areas where base flood elevations have been provided in the flood insurance study or generated according section 8-56, the following provisions shall apply:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood level of at least one (1) foot above the base flood level.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential building or manufactured home shall have the lowest floor, including basement, elevated to or above the base flood level of at least one (1) foot above the base flood level. Buildings located in all A1—30, AE, and AH 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 one (1) foot 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 to which such structures are floodproofed, shall be maintained by the ordinance administrator.
- (3) *Elevated buildings.* Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 - a. Not be designed or used for human habitation, but shall only be used for parking 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).
 - b. Be constructed entirely of flood-resistant materials below the regulatory flood protection elevation;
 - c. Include, in zones A, AO, AE, and A1—30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 1. Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.

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2. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 3. If a building has more than one (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 4. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 5. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(4) *Standards for manufactured homes and recreational vehicles.*

- a. All manufactured homes placed, or substantially improved, on individual lots or parcels, 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 meet all the requirements for new construction, including the elevation and anchoring requirements in subsection 8-52(1) and (2), and subsection 8-53(1).
- b. All recreational vehicles placed on sites must either:
 1. Be on the site for fewer than one hundred eighty (180) consecutive days;
 2. Be fully licensed and ready for highway use: A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions; or
 3. Meet all the requirements for manufactured homes in sections 8-52 and 8-53(4).

(Ord. of 1-11-11(1), § 4.3)

Sec. 8-54. Standards for the floodway district.

The following provisions shall apply within the floodway district:

- (1) Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood. 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 ordinance administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies, with the ordinance administrator's endorsement, for a conditional flood insurance rate map and floodway revision, and receives the approval of the Federal Emergency Management Agency.
- (2) If section 8-56 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of article IV.

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- (3) The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

(Ord. of 1-11-11(1), § 4.4)

Sec. 8-55. Standards for the special floodplain district.

The following provisions shall apply within the special floodplain district:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within the areas of special flood hazard, designated as zones A1—30 and AE on the flood insurance rate map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point on property not owned by the applicant.

Development activities in zones A1—30, AE, and AH, on the county's flood insurance rate map which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the applicant first applies, with the ordinance administrator's endorsement, for a conditional flood insurance rate map revision, and receives the approval of the Federal Emergency Management Agency.

(Ord. of 1-11-11(1), § 4.5)

Sec. 8-56. Standards for approximated floodplain.

The following provisions shall apply with the approximate floodplain district:

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 shown as zone A on the maps accompanying the flood insurance study. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 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. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted technical concepts, such as point on boundary, high water marks, or hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the ordinance administrator.

The ordinance administrator reserves the right to require hydrologic and hydraulic analyses for any development.

When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level. During the permitting process, the Ordinance Administrator shall obtain:

- (1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and
- (2) If the structure has been floodproofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been floodproofed.

(Ord. of 1-11-11(1), § 4.6)

Sec. 8-57. Standards for 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) Base flood elevation data shall be provided 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.

(Ord. of 1-11-11(1), § 4.7)

Secs. 8-58—8-70. Reserved.***ARTICLE V. PERMIT PROCESS*****Sec. 8-71. Ordinance administrator review required.**

No development or construction may be built in a flood district without a permit issued by the ordinance administrator or a certificate from the ordinance administrator that such development or construction does not come within the jurisdiction of this chapter. persons proposing development or construction in flood districts shall apply for a determination of applicability or a permit from the ordinance administrator.

(Ord. of 1-11-11(1), § 5.1)

Sec. 8-72. Development or construction permitting.

Applications for permits shall be submitted to the building official's office who shall forward the same to the ordinance administrator. The ordinance administrator shall establish a form for applications. The board of supervisors may by resolution establish a reasonable fee for processing applications.

- (1) Permit approval. The ordinance administrator shall, within ten (10) days of submission of an application, (1) determine whether the proposed Development or Construction is within the jurisdiction of this chapter and (2) whether the proposed development or construction would be permitted by this chapter. The ten-day time limit for approval shall be tolled for any application that is incomplete, while such application is incomplete, or for any application where any particular request for additional information is outstanding, until such information is supplied by the applicant.
 - a. If development or construction as proposed is not within the jurisdiction of this chapter the ordinance administrator shall provide a certificate to the applicant advising that the structure is not within the jurisdiction of this chapter and advising the building inspector that such construction is not regulated by the ordinance.
 - b. If the proposed development or construction is within the jurisdiction of this chapter, the ordinance administrator shall, notify the applicant in writing and advise him that the application is either approved or that it is not approved. If the application is denied the notice shall state the reasons for the denial.

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- (2) Any notice given pursuant to this section shall advise the applicant of their right to request a variance from ordinance requirements or to appeal any decision of the ordinance administrator to the board of supervisors or zoning board and shall include the date, location and approximate time by which the application for variance or for an appeal must be submitted to the county administrator. Such notice to the applicant shall be in writing sent by certified mail to the address shown on the application. Failure to provide the applicant notice or any defect in notice shall be remedied by tolling the time in which the applicant may request a variance or an appeal until proper notice is given. If no notice is sent to the applicant within thirty (30) days of the date of the application, the applicant may consider the application denied and proceed with an appeal, should the applicant chose to do so.
 - (3) The applicant shall have thirty (30) days from the date of the notice of denial to file a written request for an appeal or a variance with the county administrator. Failure to note the appeal within thirty (30) days shall forever bar the request for appeal or variance.

(Ord. of 1-11-11(1), § 5.2)

Sec. 8-73. Appeal and variance process.

- (a) Upon receipt of a notice of appeal or variance from a decision of the ordinance administrator, the county administrator shall schedule a hearing before the board of supervisors or zoning board. Where the applicant requests a variance the administrator shall cause a notice of the application for variance to be mailed to all owners of property adjoining the property upon which applicant proposes development or construction not in conformity with the ordinance. Such notice shall be sufficient if mailed by first class U.S. mail to the address of the owner as shown in the commissioner of revenue or treasurer's office. The board of supervisors by resolution may establish a fee for the costs of issuing such notice to be paid by applicants for variances. Such fee shall be established annually.
- (b) The board of supervisors or zoning board shall hear the appeal or request for variance within a reasonable time. Should the Board not hear the appeal within six (6) months, the applicant may consider the appeal denied. A conditional variance granted to the applicant may be deemed a denial by the applicant. Notice of the board's decision shall be given to the applicant in the same manner as notice of denial was given to the applicant by the ordinance administrator.
- (c) The applicant may appeal the board's decision to the Circuit Court for the County of Tazewell, Virginia by filing a petition with said court within ninety (90) days of the date of the notice of the board's decision.

(Ord. of 1-11-11(1), § 5.3)

Secs. 8-74—8-90. Reserved.

ARTICLE VI. APPEALS AND VARIANCES

Sec. 8-91. Appeals.

Appeals are a claim that the decision of the ordinance administrator was in error. If an appeal is granted by the zoning board the ordinance administrator may appeal the decision of the zoning board to the Circuit Court of Tazewell County, Virginia, by filing a petition with said court within sixty (60) days of the notice of the board's decision.

(Ord. of 1-11-11(1), § 6.1)

Sec. 8-92. Variances.

Variances are a request that the regulations contained in the ordinance not be applied to the applicant's proposed Development or Construction.

(Ord. of 1-11-11(1), § 6.2)

Secs. 8-93—8-100. Reserved.

ARTICLE VII. FACTORS TO BE CONSIDERED

Sec. 8-101. Factors to be considered.

Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the board of zoning appeals or board of supervisors has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the board of zoning appeals or board of supervisors has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half (½) acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half (½) acre, the technical justification required for issuing a variance increases. Variances may be issued by the board of zoning appeals or board of supervisors for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the board of zoning appeals or board of supervisors shall satisfy all relevant factors and procedures specified in other sections of the County's ordinances 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 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.

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- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
 - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
 - (12) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the 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 this chapter.

The board of zoning appeals or board of supervisors 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.

Variances shall be issued only after the board of zoning appeals or board of supervisors has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the board of zoning appeals or board of supervisors has determined that the variance will be the minimum required to provide relief.

The board of zoning appeals or board of supervisors shall notify the applicant for a variance, in writing and signed by title of appropriate public official, that the issuance of a variance to construct a structure below the 100-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

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 that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

(Ord. of 1-11-11(1))

Secs. 8-102—8-110. Reserved.

ARTICLE VIII. EXISTING STRUCTURES IN FLOODPLAIN AREAS

Sec. 8-111. Existing structures in floodplain areas.

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

- (1) Existing structures in the floodway area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard

engineering practices that the proposed expansion would not result in an increase in the base flood elevation of more than one (1) foot.

- (2) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.
- (3) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this chapter and shall require the entire structure to conform to the VA USBC.

(Ord. of 1-11-11(1))

Secs. 8-112—8-120. Reserved.

ARTICLE IX. OTHER PERMITS NOT TO BE ISSUED

Sec. 8-121. Other permits not to be issued.

The office of building safety, or such other agency as may be delegated responsibility for enforcement of the building code, shall not issue a permit for development or construction on property located in flood districts without a letter of authorization from the ordinance administrator. The county engineer's office or such other agency as may be delegated responsibility for enforcement of the county's erosion and sediment control laws, shall not issue a permit for development or construction on property located in flood districts without a letter of authorization from the ordinance administrator.

(Ord. of 1-11-11(1))