

## **FLOODPLAIN ORDINANCE**

Pursuant to the general powers granted to Virginia counties by Section 15.1-510 of the Code of Virginia as amended, the Buckingham County Board of Supervisors does hereby enact and ordain the following:

### **ARTICLE I -- GENERAL PROVISIONS**

#### **SECTION 1 TITLE: Buckingham County Flood Plain Management Ordinance**

##### **SECTION 1.1 PURPOSE**

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:

- A Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and developments, will cause unacceptable increases in flood heights, velocities, and frequencies.
- B Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
- C Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage.
- D Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

##### **SECTION 1.2 APPLICABILITY**

These provisions shall apply to all lands within the jurisdiction of Buckingham County and identified as being in the 100-year floodplain by the Federal Insurance Administration.

##### **SECTION 1.3 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 ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B The degree of flood protection sought by the provisions of this ordinance 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 ordinance 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.

- C This ordinance shall not create liability on the part of Buckingham County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

#### **SECTION 1.4 ABROGATION AND GREATER RESTRICTIONS**

This ordinance supersedes any ordinance currently in effect in flood-prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

#### **SECTION 1.5 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.

#### **SECTION 1.6 PENALTIES**

- A Any person who fails to comply with any of the requirements or this ordinance or directions of the administrator or any other employee of Buckingham County shall be guilty of a misdemeanor class and subject to the penalties therefore.
- B In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this ordinance shall not excuse the violation or noncompliance to 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 ordinance may be declared by the Buckingham County Board of Supervisors to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this ordinance.

#### **SECTION 2 AUTHORITY**

Code of Virginia as amended, 15.1-510, 15.1-510.1, 15.1-510.2.

#### **ARTICLE II -- DEFINITIONS**

- A **Development** - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or storage of equipment or materials.
- B **Historic Structure** - Any structure that is: (a) 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; (b) 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; (c) 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 (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

- C **Manufactured Home** - A structure, transportable in one or more sections, which is built on a permanent chassis, and designed to be used with or without a permanent foundation, when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- D **Manufactured Home Park/Subdivision** - A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.
- E **Recreation Vehicle (RV)** - A vehicle which is: "(a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use."
- F **Substantial Damage** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- G **Substantial Improvements** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: "(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

### **ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS**

#### **SECTION 3.1 DESCRIPTION OF DISTRICTS**

- A **Basis of Districts** - The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study for Buckingham County prepared by the Federal Emergency Management Agency (FEMA), dated June 17, 2008, as amended.
  - 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

100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in Table 3 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map (FIRM).

- 2 The Flood-Fringe District shall be that area of the 100-year floodplain not included in the Floodway District. The basis for the outermost boundary of this district shall be the 100-year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map (FIRM).
- 3 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 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 Buckingham.

#### **B Overlay Concept**

- 1 The floodplain districts described above shall be overlays to existing underlying districts as shown on the Official Zoning Map, and as such, the provisions for the floodplain districts serve as a supplement to the underlying district provisions.
- 2 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 decisions, the basic underlying provisions shall remain applicable.

### **SECTION 3.2 OFFICIAL MAP**

The boundaries of the floodplain districts are established as shown on the (Flood Insurance Rate Map) which is declared to be a part of this ordinance and which shall be kept on file at the County Administrator's Office.

### **SECTION 3.3 DISTRICT BOUNDARY CHANGES**

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

### **SECTION 3.4 INTERPRETATION OF DISTRICT BOUNDARIES**

Initial interpretations of the boundaries of the floodplain districts shall be made by the County Administrator. Should a dispute arise concerning the boundaries of any of the districts, 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.

### **ARTICLE IV - DISTRICT PROVISIONS**

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a building permit. Such development shall be undertaken only in strict compliance with the provisions of this ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Buckingham County Subdivision Ordinance. Prior to the issuance of any such permit, the County Administrator shall require all applications to include compliance with all applicable State and Federal laws. 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.

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this county, approval shall be obtained from the Division of Dam Safety and Floodplain management. A permit from the U.S. Corps of Engineers and the Marine Resources Commission, and certification from the State Water Control Board may be necessary (a joint permit application is available from anyone of these three organizations). Further notification of the proposal shall be given to all affected adjacent counties. Copies of such notifications shall be provided to the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Emergency Management Agency (FEMA).

All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

- A For structures that have been elevated, the elevation of the lowest floor (including basement).
- B For structures that have been flood-proofed (nonresidential only), the elevation to which the structure has been flood-proofed.
- C The elevation of the 100-year flood.

All manufactured homes to be placed or substantially improved within the floodplain district shall be placed on a permanent foundation and elevated and anchored in accordance with the Virginia Uniform Statewide Building Code.

#### **SECTION 4.1 FLOODWAY DISTRICT**

In the Floodway District, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or State authorities, as required above.

**PERMITTED USES** - In the Floodway District, the following uses and activities are permitted provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

- A Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- B Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching, and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
- C Accessory residential uses, such as yard areas, gardens, play areas, and previous loading areas.
- D Accessory industrial and commercial uses, such as yard areas, previous parking and loading areas, airport landing strips, etc.

#### **SECTION 4.2 FLOOD-FRIDGE AND APPROXIMATED FLOODPLAIN DISTRICTS**

In the Flood-Fridge and Approximated Floodplain Districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

#### **SECTION 4.3 RECREATIONAL VEHICLE (RV) REQUIREMENTS**

In addition to meeting the recreational vehicle definition the RV(s) must be:

- A On site for less than 180 days
- B Be fully licensed ready for highway use (an RV 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).
- C Meet all the requirements for manufactured housing, including anchoring and elevation requirements.

- E The importance of the services provided by the proposed facility to the community.
- F The requirements to the facility for a waterfront location.
- G The availability of alternative locations not subject to flooding for the proposed use.
- H The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L Such other factors which are relevant to the purposes of this ordinance.
- M 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.

The 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 Supervisors has determined that the granting of such will not result in (1) unacceptable or prohibited increases in flood heights; (2) additional threats to public safety; (3) extraordinary public expense; (4) will not create nuisances; (5) will not cause fraud or victimization of the public, or (6) will not conflict with local laws or ordinances.

Variances shall be issued only after the Board of Supervisors has determined that variance will be the minimum required to provide relief from extraordinary hardship to the applicant.

The Board of Supervisors shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation: (1) increases the risks to life and property; and (2) 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 which are issued shall be noted in the annual or biennial report submitted to the Federal Emergency Management Agency (FEMA).

#### **ARTICLE VI - EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS**

\ 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:

- A Existing structures and/or uses located in the Floodway District shall not be expanded or enlarged (unless the 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 structure and/or use located in any floodplain district to an extent or amount of less than 50 percent of its market value, shall be elevated and/or flood-proofed to the greatest extent possible and done according to the Virginia Uniform Statewide Building Code (VA USBC).
- C The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of 50 percent or more of a structure's market value is undertaken, the entire structure must be brought into full compliance with the provisions of the VA USBC.
- D Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

#### **ARTICLE VII - ENACTMENT**

This ordinance was adopted on October 7, 1991, revised March 10, 2008.

Board of Supervisors Chairman: Ernest A. Tubert Date: 3-24-08

County Administrator: Deborah S. Carter Date: 3-24-08