

AN ORDINANCE NO. 12-16

To delete certain definitions from Section 286-200 of Chapter 286, Zoning, of the Colonial Heights City Code and to repeal and replace the current provisions of such Chapter relating to the Floodplain Overlay District.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That § 286-200 of Chapter 286, Zoning, of the Colonial Heights City Code be, and is hereby, amended as follows:

~~BASE FLOOD~~

~~A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of being equaled or exceeded in any given year). Areas including the base flood are depicted as Zone A-1 through A-5 on Colonial Heights Flood Insurance Rate Map (FIRM).~~

BASE FLOOD ELEVATION (BFE)

The water surface elevation which occurs in a one hundred year flood as designated by the Federal Emergency Management Agency.

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, or drilling operations. ~~Within the Floodplain Overlay District this definition shall also include the storage of equipment or materials.~~

FLOOD

~~A general and temporary inundation of normally dry land areas from (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; (3) mudslides (i.e. mudflows), which are approximately caused or precipitated by accumulations of water on or under the ground; or (4) the collapse or subsidence of land along a body of water as a result of erosion or undermining caused by water 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 form of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in this section.~~

FLOOD, ONE HUNDRED YEAR

~~A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).~~

FLOOD PROOFING

~~Any combination of structural and nonstructural additions, changes or adjustments to a structure or property which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.~~

FLOODPLAIN

~~(1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; or, (2) an area subject to the unusual and rapid accumulation of runoff or surface waters from any source.~~

FLOODWAY

~~The stream channel and adjacent land area required to carry off the often fast moving floodwaters of the base flood and an area of high hazard potential; more specifically, the floodway is that certain area of the one hundred year floodplain that must be reserved in order to discharge such floodwaters without increasing the water surface elevation of that flood more than one foot at any point. Floodways are defined in the Flood Insurance Study adopted by the City of Colonial Heights and are shown on the Flood Insurance Rate Map (FIRM) accompanying that Study.~~

FLOODWAY FRINGE

~~That area characterized during floods by shallow, slow moving water that is a low hazard potential; more specifically, the floodway fringe is that area of the one hundred year flood elevations contained in the flood profiles of the Flood Insurance Study adopted by the City of Colonial Heights and as shown on the Flood Insurance Rate Map (FIRM) accompanying that Study.~~

RECREATIONAL VEHICLE

A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (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 recreation camping, travel or seasonal use.

2. That §§ 286-320 through 286-320.26 of Chapter 286, Zoning, of the Colonial Heights City Code be, and are hereby, repealed and replaced by new §§ 286-320 through 286-320.16, as follows:

~~§ 286-320. FOD Floodplain Overlay District.~~

~~§ 286-320.02. Purpose.~~

~~A. 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, acting 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 development that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage.~~

~~§ 286-320.04. Applicability.~~

~~A. These provisions shall apply to all lands within the jurisdiction of the City of Colonial Heights and identified as being flood-prone in this section.~~

~~§ 286-320.06. Compliance.~~

~~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 section.~~

~~§ 286-320.08. Districts established.~~

~~A. The various floodplain districts shall include areas subject to inundation by waters of the one-hundred-year flood. These districts shall be designated on the Official Zoning Map. The basis for the delineation of these districts shall be the Flood Insurance Study for the City of Colonial Heights prepared by the United States Department of Housing and Urban Development, Federal Insurance Administration, dated October 18, 1988, as subsequently amended or supplemented.~~

~~(1) The Floodway District is delineated for purposes of this chapter using the criteria that a certain area within the floodplain must be capable of carrying the waters of the one-hundred-year flood without increasing the water surface elevation of that flood more than one foot at any point. These areas included in this district are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map, as amended or supplemented.~~

~~(2) The Flood-Fringe District shall be that area of the one-hundred-year floodplain not included in the Floodway District. The basis for the outermost boundary of this district shall be the one-hundred-year flood elevations contained in the flood profiles of the above-referenced Flood~~

Insurance Study and as shown on the accompanying Flood Boundary and Floodway Map, as amended or supplemented.

~~(3) The Approximated Floodplain District (for Fleet's Branch) shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred year floodplain boundary has been approximated. For these areas, the one hundred year flood elevations and floodway information from federal, state and other acceptable sources shall be used, when available. Such areas are shown on the Flood Boundary and Floodway Map. Where the specific one hundred year flood elevation cannot be determined for this area using other sources of data such as United States Army Corps of Engineers, Floodplain Information Reports, United States Geological Survey Flood Prone Quadrangles, etc., then the applicant for the proposed use, development 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 City Engineer.~~

~~B. The floodplain districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning District Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.~~

~~C. Where there is any conflict between the provisions or requirements of any of the floodplain districts and those of any underlying district, the more restrictive provisions shall apply.~~

~~D. All National Flood Insurance Program floodplain management criteria effective October 1, 1986, which are more restrictive than the provisions of this chapter or more restrictive than criteria for floodplain management as established in the Virginia Uniform Statewide Building Code and all other applicable regulations shall apply to their most restrictive extent.~~

~~E. The Administrator shall require all applications for zoning certificates in floodplain areas to be in compliance with these provisions.~~

~~§ 286-320.10. Flood Boundary and Floodway Map.~~

~~A. The boundaries of the floodplain districts are established as shown on the Flood Boundary and Floodway Map, which is declared to be a part of these provisions and which shall be kept on file in the office of the City Clerk. An official copy shall also be located and maintained in the office of the Administrator.~~

~~§ 286-320.12. District boundary changes.~~

~~A. The delineation of any of the floodplain districts may be revised by the City Council where natural or man-made changes have occurred or more detailed studies conducted or undertaken by the United States Army Corps of Engineers or other qualified agency or individual documents the need or possibility for such change. However, prior to consideration of any such change, approval shall have been obtained from the Federal Insurance Administration. All changes to the Floodplain District shall be accomplished in the same manner as other changes to this chapter and the Zoning Map.~~

~~§ 286-320.14. Interpretation of district boundaries.~~

~~A. Initial interpretations of the boundaries of the floodplain districts shall be made by the Administrator. Should a dispute arise concerning the boundaries of any of the districts, the Board of Zoning Appeals 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 shall submit his own technical evidence.~~

~~§ 286-320.16. General standards.~~

~~A. All uses, activities and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit for floodplain areas. Such development~~

~~shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the provisions of the Code of the City of Colonial Heights. Prior to the issuance of any such permit, the Administrator shall require all applications to include compliance with all applicable state and federal law.~~

~~B. Under no circumstances shall any use, activity or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system.~~

~~C. Prior to any proposed alteration or relocation of any channels or floodways of any watercourse or stream within the City of Colonial Heights, approval shall be obtained from the US Army Corps of Engineers, Division of Soil and Water Conservation (Department of Conservation and Recreation). Further, notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Division of Soil and Water Conservation, and the Federal Insurance Administration.~~

~~D. 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.~~

~~§ 286-320.18. Floodway District.~~

~~A. 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.~~

~~B. 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 chapter, and provided that they do not require structures, fill or storage of materials and equipment:~~

~~(1) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges and hunting and fishing areas.~~

~~(2) Accessory residential uses, such as yard areas, gardens, play areas and pervious loading areas.~~

~~(3) Accessory industrial and commercial uses, if permitted in the underlying zoning district, such as yard areas, pervious parking and loading spaces, airport landing strips, etc.~~

~~(4) Structures accessory to the uses and activities above, provided that no such structure shall be used for habitation and that such structures are appropriately anchored and flood proofed so as to eliminate the chances that materials may be swept to other lands or downstream to the injury of others and that such structures do not cause any rise in the one hundred year flood elevation.~~

~~(5) Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants and other similar or related uses.~~

~~(6) Water related uses and activities, such as marinas, docks, wharves, and piers.~~

~~(7) Extraction of sand, gravel and other materials (where no increase in level of flooding or velocity is caused thereby).~~

~~§ 286-320.20. Flood Fringe and Approximated Floodplain District.~~

~~A. In the Flood Fringe and Approximated Floodplain Districts, the development or use of land shall be permitted in accordance with the regulations of the underlying district, provided that all such uses, activities 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.~~

~~B. No structure shall be located within 10 feet of the boundary of the Flood Fringe and Approximated Floodplain District.~~

~~§ 286-320.22. Design of utilities and facilities.~~

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

~~B. All new or replacement water facilities shall be designed to minimize or eliminate the infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.~~

~~C. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. A primarily underground system may be required to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.~~

~~D. All utilities, such as gas lines and electrical and telephone systems, being placed in flood-prone areas shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flooding occurrence.~~

~~E. Streets and sidewalks shall be designed to minimize their potential for increasing and aggravating the levels of the flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.~~

~~§ 286-320.24. Variances.~~

~~A. In considering applications for variances, the Board of Zoning Appeals shall address all relevant factors and procedures specified in other sections of this chapter and the following 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 the Floodway District that will cause any increase in flood levels during the one-hundred-year flood.~~

~~(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 to the property in time of flood of ordinary and emergency vehicles.~~

~~(11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.~~

~~(12) All other factors which are relevant to the purposes 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 protection and other related matters.~~

~~C. Variances shall only be issued after the Board of Zoning Appeals has determined that such variance will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud or victimization of the public or conflict with local laws or ordinances.~~

~~D. Variances shall only be issued after the Board of Zoning Appeals has determined that the variance will be the legally required minimum relief to any hardship.~~

~~E. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred year flood elevation:~~

~~(1) Increases the risks of life and property; and~~

~~(2) Will result in increased premium rates for flood insurance.~~

~~F. A record of the above notification as well as all variance actions, including justification for their issuance, shall be maintained, and any variances which are issued shall be noted in the annual report submitted to the Federal Flood Insurance Administration.~~

~~§ 286-320.26. Existing structures and uses.~~

~~A. 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 the provisions of this chapter may be continued subject to the following conditions:~~

~~(1) Existing structures 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 and such expansion or enlargement is otherwise permitted.~~

~~(2) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure or use located in any Floodplain District to an extent or amount of less than 50% of its market value, shall be elevated and/or flood proofed to the greatest extent possible.~~

~~(3) The modification, alteration, repair, reconstruction or improvement of any kind to a structure or use, regardless of its location, in a floodplain district to an extent or amount of 50% or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.~~

~~(4) In the event that a nonconforming use of any building, premises or land within areas covered by the provisions of this section is discontinued for a period of two years or more, the use thereof shall thereafter conform to the uses permitted in the Floodplain Overlay District.~~

§ 286-320. FOD Floodplain Overlay District.

§286-320.02. Authority and Purpose.

A. *This floodplain ordinance is adopted pursuant to the authority granted to localities by § 15.2-2280 of the Code of Virginia.*

B. *The purpose of these provisions is to prevent the loss of life and property, 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 flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and*

(4) *protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.*

§ 286-320.04. Applicability.

A. *These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the City of Colonial Heights (the "City") and identified as areas of special flood hazard according to the flood insurance rate map ("FIRM") that is provided to the City by the Federal Emergency Management Agency ("FEMA").*

B. **Compliance and Liability.**

(1) *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 City.*

(2) *This ordinance shall not create liability on the part of any City officer or employee for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.*

C. *Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator.*

D. *If the provisions of this ordinance conflict with those in any other ordinance, the more restrictive provisions shall be applicable.*

E. *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. *Any person who fails to comply with any of the requirements or provisions specified herein, or directions of the Zoning Administrator or his designee, shall be guilty of the appropriate violation and subject to the penalties specified in § 286-616 of this Code.*

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

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

§286-320.06. Administration.

A. The Zoning Administrator shall serve as the Floodplain Administrator. The Floodplain Administrator is hereby designated to administer and implement these regulations.

(1) The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (a) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).**
- (b) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.**
- (c) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.**
- (d) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required.**
- (e) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.**
- (f) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.**
- (g) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.**
- (h) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.**
- (i) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.**
- (j) Maintain and permanently keep records that are necessary for the administration of these regulations, including:**
 - [1] Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and**
 - [2] Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.**

- (k) *Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.*
- (l) *Advise the Board of Zoning Appeals regarding the intent of these regulations, and for each application for a variance, prepare a staff report and recommendation.*
- (m) *Administer the requirements related to proposed work on existing buildings:*
 - [1] *Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.*
 - [2] *Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.*
- (n) *Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.*
- (o) *Notify the Federal Emergency Management Agency when the corporate boundaries of the City have been modified and:*
 - [1] *Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and*
 - [2] *If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption. Such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to the State Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.*
- (p) *Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.*
- (q) *It is the duty of the Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use*

throughout the entire jurisdictional area, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

B. *The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:*

- (1) Where field surveyed topography indicates that adjacent ground elevations:
 - (a) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered a special flood hazard area and subject to the requirements of these regulations;*
 - (b) Are above the base flood elevation, the area shall be regulated as a special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.**
- (2) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.*
- (3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths or lower base flood elevations.*
- (4) Other sources of data shall be reasonably used if such sources show increased base flood elevations or larger floodway areas than are shown on FIRMs and in FISs.*
- (5) If a Preliminary Flood Insurance Rate Map or a Preliminary Flood Insurance Study has been provided by FEMA:
 - (a) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.*
 - (b) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data and used where no base flood elevations or floodway areas are provided on the effective FIRM.*
 - (c) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change or appeal to FEMA.**

C. *The delineation of any of the Floodplain Districts may be revised, where natural or man-made changes have occurred 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 FEMA.*

D. *Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals 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.

E. 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 FEMA 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 flood plain management requirements will be based upon current data.

F. When development in the floodplain causes a change in the base flood elevation, the applicant, including state agencies, shall notify FEMA by applying for a Conditional Letter of Map Revision or a Letter of Map Revision. Such revisions shall include, but not be limited to, the following:

- (1) Any development that causes a rise in the base flood elevations within the floodway;*
- (2) Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; and*
- (3) Alteration or relocation of a stream, including but not limited to installing culverts and bridges.*

§ 286-320.08. Establishment of Zoning District.

A. Basis of District.

(1) The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM prepared by the FEMA, Federal Insurance Administration, dated August 2, 2012, and any subsequent revisions or amendments thereto.

The City may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as defined in Table 3 of the above referenced FIS and as shown on the FIRM, which is declared to be a part of this ordinance, and which shall be kept on file in the office of the Floodplain Administrator.

(2) The Floodway District is in an AE Zone and 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 percent annual chance flood without increasing the water surface elevation of that flood more than one foot at any point.

The following provisions shall apply within the Floodway District of an AE zone:

(a) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. 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 Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 286-320.10.

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

(3) The AE or AH Zones on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE or AH zone:

(a) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development, shall be permitted within the areas of special flood hazard, designated as Zones AI-30 and AE or AH on the FIRM, 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 foot at any point.

(b) Development activities in Zones AI-30 and AE or AH, on the City FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

(4) The A Zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

(a) 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 maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance 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 and U. S. Geological Survey Flood-Prone Quadrangles, then the applicant for the proposed use, development or activity shall determine this base flood elevation. For development proposed in the approximate floodplain, the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated at least one foot above the base floor elevation.

During the permitting process, the Floodplain 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 flood-proofed in accordance with applicable requirements, the elevation, in relation to mean sea level to which the structure has been flood-proofed.*

(5) *The AO Zone on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply:*

(a) *All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.*

(b) *All new construction and substantial improvements of non-residential structures shall:*

[1] *have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or*

[2] *together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.*

[3] *Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.*

B. Overlay Concept.

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map; and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions shall apply.

§ 286-320.10. District Provisions

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 determination of zoning compliance. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances. Prior to any such determination, 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, or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B. Development 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;*

The elevation of the lowest floor;

For non-residential structures to be flood-proofed, the elevation to which the structure will be flood-proofed; and

- (2) *Topographic information showing existing and proposed ground elevations.*

C. General Standards.

- (1) *The following provisions shall apply to all permits:*

(a) *New construction and substantial improvements shall be according to the Virginia USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.*

(b) *Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement as prescribed by the federal Department of Housing and Urban Development. 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.*

(c) *New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.*

(d) *New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.*

(e) *Electrical, heating, ventilation, plumbing, air conditioning equipment, duct work, and other service facilities, shall be designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.*

(f) *New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.*

(g) *New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.*

(h) *On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.*

(2) *In addition to provisions a through h above, in all special flood hazard areas, prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this City, a joint permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, in riverine areas, the applicant shall give notification of the proposal to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required State agencies, and FEMA.*

(3) *The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.*

D. Elevation and Construction Standards.

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with this ordinance, the following provisions shall apply:

(1) Residential Construction – New construction or substantial improvement of any residential structure, including manufactured homes, in Zones A1-30, AE, AH and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to at least one foot above the base flood level.

(2) Non-Residential Construction – New construction or substantial improvement of any commercial, industrial, non-residential building, or manufactured building shall have the lowest floor, including basement, elevated to or above the base flood level. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated, provided that all areas of the building components below the elevation corresponding to the BFE plus one 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 (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Floodplain Administrator .

(3) Space Below the Lowest Floor – In zones A, AE, AH, AO, and A1-A30, 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, limited storage of maintenance equipment, or entry to the living area;

(b) be constructed entirely of flood resistant materials below the regulatory flood protection elevation; and

(c) 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:

[1] Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

[2] The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding.

[3] If a building has more than one 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 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 shall not be considered enclosures for regulatory purposes; therefore, they do not require openings. Masonry or wood underpinning, regardless of structural status, shall be considered an enclosure and requires openings as outlined above.

E. Standards for Manufactured Homes.

All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements specified in this Chapter.

F. Standards for Subdivision Proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;*
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;*
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and*
- (4) 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 lots or five acres, whichever is the lesser.*

§ 286.320.12. Existing Structures In Floodplain Areas.

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

§ 286.320.14. Variances: Factors To Be Considered.

- A.** *(1) Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals (“BZA”) has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the BZA 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, (d) nuisances, (e) fraud or victimization of the public, or (f) conflict with local laws or ordinances.*
- (2) While the granting of variances is generally limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals 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.

B. *In passing upon applications for variances, the BZA shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:*

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the 100 year flood elevation.

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

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters 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 ordinance.

E. *The BZA 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.*

F. *Variances shall be issued only after the BZA has determined that such issuance shall not result in (i) unacceptable or prohibited increases in flood heights, (ii) additional threats to public safety, (iii) extraordinary public expense, (iv) nuisances, (v) fraud or victimization of the public, or (vi) conflict with local laws or ordinances.*

G. *Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.*

H. *The BZA 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 (i) increases the risks to life and property, and (ii) shall result in increased premium rates for flood insurance.*

I. *A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.*

§ 286-320.16 Definitions.

A. *For the purposes of these provisions relating to the Floodplain Overlay District, the following terms shall be defined as follows:*

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

(2) *Base flood elevation - The Federal Emergency Management Agency designated one percent annual chance water surface elevation and the elevation determined per Section 4.6. 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 ordinance, the base flood is one hundred (100) year flood or 1% annual chance flood.*

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

(4) *Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.*

(5) *Development - Any man-made 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.*

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

(7) *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.*

(8) *Existing construction - Structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."*

(9) *Flood or flooding –*

(a) *A general or temporary condition of partial or complete inundation of normally dry land areas from*

[1] *the overflow of inland or tidal waters; or*

[2] *the unusual and rapid accumulation or runoff of surface waters from any source; or*

[3] *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.*

(b) 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.

(10) Flood Insurance Rate Map (FIRM) - An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

(11) 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.

(12) Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.

(13) Flood proofing - Any combination of structural and non-structural 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.

(14) 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.

(15) 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.

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

(17) Historic structure - Any structure that is

(a) listed individually in the National Register of Historic Places 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.

(18) Hydrologic and Hydraulic Engineering Analysis – Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

(19) Letters of Map Change (LOMC) - An official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(a) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that Land, as defined by meets and bounds or structure, is not located in a special flood hazard area.

(b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and

(c) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

(20) 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 44 CFR §60.3.

(21) Manufactured home - A structure, transportable in one 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, but does not include a recreational vehicle.

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

(23) New construction - Construction commenced on or after September 2, 1981, including any subsequent improvements to such structures.

(24) Post-FIRM structure - A structure for which construction or substantial improvement occurred after September 2, 1981.

(25) Pre-FIRM structure - A structure for which construction or substantial improvement occurred on or before September 2, 1981.

(26) Recreational vehicle - 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) *not primarily designed for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.*

(27) *Repetitive Loss Structure – A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a ten year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five percent of the market value of the building at the time of each flood event.*

(28) *Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.*

(29) *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 this ordinance.*

(30) *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 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; the installation of streets or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms; and the installation on the property of accessory buildings. 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.*

(31) *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.*

(32) *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.*

(33) *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:*

(a) *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*

(b) *any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.*

(34) *Violation - The failure of a structure or other development to be fully compliant with the City's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance*

required by this ordinance is presumed to be in violation until such time as that documentation is provided.

(35) 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.

3. That this Ordinance shall be in full force and effect when approved on second reading.

Approved:

Mayor

Attest:

City Clerk

I certify that the above ordinance was:

Adopted on its first reading on _____.

Ayes: _____. Nays: _____. Absent: _____. Abstain: _____.

The Honorable Milton E. Freeland, Jr., Councilman: _____.

The Honorable Kenneth B. Frenier, Councilman: _____.

The Honorable W. Joe Green, Jr., Councilman: _____.

The Honorable Elizabeth G. Luck, Vice Mayor: _____.

The Honorable John T. Wood, Councilman: _____.

The Honorable Diane H. Yates, Councilwoman: _____.

The Honorable C. Scott Davis, Mayor: _____.

Adopted on its second reading on _____.

Ayes: _____. Nays: _____. Absent: _____. Abstain: _____.

The Honorable Milton E. Freeland, Jr., Councilman: _____.

The Honorable Kenneth B. Frenier, Councilman: _____.

The Honorable W. Joe Green, Jr., Councilman: _____.

The Honorable Elizabeth G. Luck, Vice Mayor: _____.

The Honorable John T. Wood, Councilman: _____.

The Honorable Diane H. Yates, Councilwoman: _____.

The Honorable C. Scott Davis, Mayor: _____.

City Clerk

Approved as to form:

City Attorney