

ALBEMARLE COUNTY VIRGINIA

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Sec. 30.3.1 - Purpose and intent.

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Under the authority of Virginia Code § [15.2-2280](#), the purposes and intent of [section 30.3](#) are to:

- A. *Prevention of harm.* 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.
- B. *Means used.* In order to prevent the several harms described in subsection (A), [section 30.3](#) establishes an overlay zoning district to: (i) regulate 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; (ii) restrict or prohibit certain uses, activities, and development from locating within areas subject to flooding; (iii) require all of those uses, activities, and developments that do occur in areas subject to flooding to be protected or flood-proofed, or both, against flooding and flood damage; and (iv) protect individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.
- C. *Flood insurance.* Address a local need for flood insurance and to participate in the National Flood Insurance Program.

(§ 30.3.01, 12-10-80; [Ord. 05-18\(1\)](#), 1-5-05, effective 2-5-05; § 30.3.1, [Ord. 14-18\(1\)](#), 3-5-14)

State Law reference— Va. Code § [15.2-2280](#).

Federal law reference—44 CFR §§ 59.22(a)(1), (a)(2).

Sec. 30.3.2 - Flood insurance rate map and flood insurance study.

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The flood hazard overlay district shall be composed of all areas of the county within the special flood hazard areas delineated on the Flood Insurance Rate Map for Albemarle County, Virginia and Incorporated Areas and the Independent City of Charlottesville, most recently amended effective on and after May 16, 2016 (the "Flood Insurance Rate Map"), and the Flood Insurance Study for Albemarle County and Incorporated Areas and the Independent City of Charlottesville prepared by the Federal Emergency Management Agency, most recently amended effective on and after May 16, 2016 (the "Flood Insurance Study"), and includes all subsequent revisions and amendments to the Flood Insurance Rate Map and Flood Insurance Study.



urance Study are incorporated herein by
ing all of the special flood hazard area zones
ning map of the flood hazard overlay district.

(§ 30.3.02.1 (part), 12-10-80; 6-10-87; Ord. 05-18(1), 1-5-05, effective 2-5-05; § 30.3.2, Ord. 14-18(1), 3-5-14; Ord. 16-18(5), 5-4-16, effective 5-16-16)

State Law reference— Va. Code § 15.2-2280.

Federal law reference—44 CFR § 60.2(h).

Sec. 30.3.3 - Applicability.

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[Section 30.3](#) applies as follows:

- A. *Territory.* [Section 30.3](#) shall apply to all privately and publicly owned lands within the county that are identified as being within a special flood hazard area according to the Flood Insurance Rate Map provided to the county by the Federal Emergency Management Agency.
- B. *Relationship to other regulations.* The regulations in [section 30.3](#) supersede any less restrictive conflicting ordinances and regulations.
- C. *New uses and development.* On and after April 2, 2014, no land shall 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 [section 30.3](#), this chapter, and any other applicable ordinances and regulations which apply to uses within the county.
- D. *Pre-existing uses and development.* Any use or development lawfully existing on April 2, 2014 shall be nonconforming to the extent that it is not in compliance with [section 30.3](#).
- E. *Presumptions.* Any, use, structure or other development lawfully established after April 2, 2014 without a floodplain development permit, elevation certificate, or any other certification or documentation (collectively, the "documentation") required for development within the flood hazard overlay district is presumed to be a violation of this chapter until the documentation is provided to the floodplain administrator and determined to satisfy the requirements of the district.

(§ 30.3.3; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code § 15.2-2280.

Federal law reference—44 CFR § 60.1(b).

Sec. 30.3.4 - Disclaimer.

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visions in [section 30.3](#) is considered

on acceptable engineering methods of study,

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. Therefore:

- A. *Flooding and flood damage may occur outside of flood hazard overlay district.* [Section 30.3](#) does not imply that lands or uses outside of the flood hazard overlay district will be free from flooding or flood damage.
- B. *Disclaimer.* [Section 30.3](#) is not a waiver of sovereign immunity or any statutory immunities and shall not create liability on the part of the county or any of its officers or employees for any flood damage resulting from reliance on this section or any decision or determination lawfully made under this chapter.

(§ 30.3.08, 12-10-80; § 30.3.4; [Ord. 14-18\(1\)](#), 3-5-14)

Sec. 30.3.5 - (Repealed 6-5-19)

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Sec. 30.3.6 - Designation of floodplain administrator; powers and duties.

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The county engineer is hereby designated the floodplain administrator (the "floodplain administrator") and shall have any and all powers and duties authorized by law to administer and to enforce [section 30.3](#), including, but not limited to, the following:

- A. *Administration.* Administer [section 30.3](#) which shall include, but not be limited to, performing all applicable duties and responsibilities of the county as provided in 44 CFR § 60.3(a), (b), (c), and (d) relevant to the administration of [section 30.3](#).
- B. *Delegation to qualified employees and authorized public entities.* Delegate any duties and responsibilities set forth in [section 30.3](#): (i) to qualified technical personnel, plan examiners, inspectors, and other employees; and (ii) with the prior consent of the Virginia Department of Conservation and Recreation, to an authorized public entity by written memorandum of understanding or memorandum of agreement; provided that the floodplain administrator and the county shall remain responsible for complying with the requirements of this section and all applicable state and federal laws.
- C. *Implement commitments.* Implement the commitments required to be made by the county under 44 CFR § 59.22(a).
- D. *Recordkeeping.* Maintain and permanently keep records that are necessary for the administration of [section 30.3](#), including: (i) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and (ii) documentation supporting issuance and denial of permits, elevation

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to the datum on the Flood Insurance Rate Map) required design certifications, variances, and is of these regulations.

E. *Reporting.* Report information as required by law, including the following:

1. *Periodic report regarding County participation in program.* Submit to the Federal Emergency Management Agency, either annually or biennially as he determines, a report concerning the county's participation in the National Flood Insurance Program, including, but not limited to, the county's development and implementation of floodplain regulations, under 44 CFR § 59.22(b).
2. *Report of buildings, development and related permits.* Upon the request of the Federal Emergency Management Agency, complete and submit a report concerning participation in the National Flood Insurance Program, and which may include information regarding the number of buildings in the special flood hazard areas, number of permits issued for development in the special flood hazard areas, and number of variances issued for development in the special flood hazard areas.
3. *Changes to base flood elevation.* As soon as practicable, but not later than six months after the date information regarding an increase or decrease to the county's base flood elevations resulting from physical changes affecting flooding conditions becomes available, the administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data.

F. *Signatory on applications for Letters of Map Change.* Sign as the community official on applications for Letters of Map Change to the Federal Emergency Management Agency.

G. *Enforcement.* In conjunction with the zoning administrator who is authorized by [section 31.1](#) to enforce this chapter, enforce [section 30.3](#), investigate alleged violations, issue notices to comply, notices of violation, or stop work orders, as authorized by law, and require permit holders to take corrective action.

(§ 30.3.6; [Ord. 14-18\(1\)](#), 3-5-14)

State Law reference— Va. Code § [15.2-2286](#).

Federal law reference—44 CFR §§ 59.22(b), 60.2(e), 60.3(b)(5), 65.3.

Sec. 30.3.7 - Administration; interpretation of Flood Insurance Rate Map.

The floodplain administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, including the approximated floodplain, and regulatory floodway boundaries. The following shall apply to the use and interpretation of a Flood Insurance Rate Map and data:

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t adjacent ground elevations above or below

ography indicates that adjacent ground

1. *Above base flood elevation.* 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 special flood hazard area.
 2. *Below base flood elevation.* Below the base flood elevation, even in an area not delineated as a special flood hazard area on a Flood Insurance Rate Map, the area shall be regulated as a special flood hazard area and subject to the requirements of [section 30.3](#).
- B. *Special flood hazard area identified, where base flood elevation and floodway data not identified (approximated floodplain).* In any special flood hazard area where base flood elevation and floodway data have not been identified and the floodplain is approximated, any other flood hazard data available from a federal, state, or other sources shall be reviewed and reasonably used and, for example, the floodplain administrator may use as guidance the Federal Emergency Management Agency publication entitled "Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base (100-Year) Flood Elevations."
- C. *Special flood hazard area not identified.* In any area where a special flood hazard area has not been identified, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
- D. *Elevations and boundaries on Flood Insurance Rate Map and in Flood Insurance Study take precedence.* The base flood elevations and regulatory floodway boundaries on a Flood Insurance Rate Map and in a Flood Insurance Study shall take precedence over base flood elevations and regulatory floodway boundaries by any other sources if those sources show reduced regulatory floodway widths, lower base flood elevations, or both.
- E. *Reasonable use of other data sources.* Other sources of data shall be reasonably used if they show increased base flood elevations, larger floodway areas, or both, than are shown on a Flood Insurance Rate Map and in a Flood Insurance Study.
- F. *Preliminary Flood Insurance Rate Map; preliminary Flood Insurance Study.* If a preliminary Flood Insurance Rate Map, Flood Insurance Study, or both has been provided by the Federal Emergency Management Agency:
1. *Prior to the issuance of a Letter of Final Determination.* Prior to the issuance of a Letter of Final Determination by the Federal Emergency Management Agency, the use of preliminary flood hazard data: (i) is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations, regulatory floodway widths, or both, in existing flood hazard data provided by the Federal Emergency Management Agency; (ii)



no base flood elevations, floodway areas, or preliminary data may be subject to change, appeal

2. *Upon the issuance of a Letter of Final Determination.* Upon the issuance of a Letter of Final Determination by the Federal Emergency Management Agency, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from the Federal Emergency Management Agency for the purposes of administering [section 30.3](#).

(§ 30.3.02.2, 12-10-80; [Ord. 01-18\(6\)](#), 10-3-01; [Ord. 05-18\(1\)](#), 1-5-05, effective 2-5-05; § 30.3.7; [Ord. 14-18\(1\)](#), 3-5-14)

State Law reference— Va. Code § [15.2-2286](#).

Federal law reference—44 CFR § 60.3.

Sec. 30.3.8 - Administration; interpretation of district boundaries.

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The zoning administrator, in consultation with the floodplain administrator, is authorized to interpret the boundaries of the flood hazard overlay district, as provided in [section 31.1\(a\)](#), subject to any aggrieved person's right to appeal any decision, determination or order to the board of zoning appeals as provided in [section 34](#).

(§ 30.3.8; [Ord. 14-18\(1\)](#), 3-5-14)

State Law reference— Va. Code §§ [15.2-2286](#), [15.2-2311](#).

Federal law reference—44 CFR § 59.22(b)(1).

Sec. 30.3.9 - Administration; amendment to district boundaries.

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With the prior approval of the Federal Emergency Management Agency, the board of supervisors may amend the boundaries of the flood hazard overlay district in one or more of the following cases: (i) where natural or man-made changes have occurred; (ii) where more detailed studies have been conducted or undertaken by the United States Army Corps of Engineers or other qualified agency; or (iii) an individual documents the need for such change.

(§ 30.3.07 (part), 12-10-80; [Ord. 05-18\(1\)](#), 1-5-05, effective 2-5-05; § 30.3.9; [Ord. 14-18\(1\)](#), 3-5-14)

State Law reference— Va. Code §§ [15.2-2285](#), [15.2-2286](#)

Federal law reference—44 CFR § 59.22(b)(1).

Sec. 30.3.10 - Administration; Letters of Map Change.

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ollectively, the "owner") shall or may request a Letter of Map Change or a Conditional Letter of Map Change as provided by federal law, and as follows:

1. *Letter of Map Amendment ("LOMA") or Conditional Letter of Map Amendment ("CLOMA").*
If survey data shows that a parcel, site or structure is or will be above the base flood elevation and the owner wants the parcel, site or structure removed from the special flood hazard area designation, he may request a Letter of Map Amendment from the Federal Emergency Management Agency. The owner also shall provide survey data to the floodplain administrator, which shall be in a form and of a substance that is satisfactory to the floodplain administrator. If the survey data is satisfactory to the floodplain administrator, he shall record the data. An owner may request a Conditional Letter of Map Amendment for an undeveloped parcel.
2. *Letter of Map Revision ("LOMR") or Conditional Letter of Map Revision (CLOMR), optional.*
If a new flood study has been conducted showing that the original study was in error or that the new study is based on more accurate or better technical data, an owner may request a Letter of Map Revision or a Conditional Letter of Map Revision from the Federal Emergency Management Agency to change the floodplain or regulatory floodway boundaries or to include new flood data.
3. *Letter of Map Revision ("LOMR") or Conditional Letter of Map Revision (CLOMR), required.*
If development, or proposed development, in the floodplain may result in a change to the base flood elevation in any special flood hazard area, encroaches on the regulatory floodway, or would alter or relocate a stream, the owner shall request a Letter of Map Revision or a Conditional Letter of Map Revision from the Federal Emergency Management Agency. If the requested Letter of Map Revision is based on new fill in the floodway fringe where a regulatory floodway is defined, the owner shall request a Letter of Map Revision-fill ("LOMR-F") or a Conditional Letter of Map Revision - fill ("CLOMR-F").
4. *Minimal submittal requirements to the floodplain administrator; signature.* The owner shall submit to the floodplain administrator two copies of the proposed application, together with supporting documentation and models, and the applicable fee, for review and approval prior to the floodplain administrator signing the application as the community official. If the owner is required to obtain a special use permit for any proposed development in the flood hazard overlay district, the owner shall first obtain approval of the special use permit and satisfy all applicable conditions of the special use permit before the floodplain administrator signs the application.

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Letter of Map Change informs the owner and the owner submits an elevation certificate and a professional engineer to demonstrate that the development was built as approved in the Conditional Letter of Map of Map Change, it will qualify for the particular Letter of Map Change, which must be requested from and issued by the Federal Emergency Management Agency in order for the map to be amended or revised.

C. *Effect of Letter of Map Change on permitting and uses.* A proposed or pending request for a Letter of Map Change affects permitting and uses as follows:

1. *Letter of Map Amendment or Conditional Letter of Map Amendment.* If the owner has or will be requesting a Letter of Map Amendment or a Conditional Letter of Map Amendment as provided in subsection (A)(1), the administrator or any other county official or body may act on any pending application and any authorized use may begin, provided that the owner furnished to the administrator the survey data on which a Letter of Map Amendment or Conditional Letter of Map Amendment is or will be based before the Letter of Map Amendment or Conditional Letter of Map Amendment is issued.
2. *Letter of Map Revision or Conditional Letter of Map Revision, optional.* If the owner has or will be requesting an optional Letter of Map Revision or Conditional Letter of Map Revision as provided in subsection (A)(2), the administrator or any other county official or body may act on any pending application and any authorized use may begin, provided that if the Letter of Map Revision or Conditional Letter of Map Revision, if issued, would reduce any design or construction standard, or change the special flood hazard area designation of the parcel, site or structure from the regulatory floodway to the floodway fringe, any approval may be conditioned on, and no use shall be begin, until the Federal Insurance Administrator issues the Letter of Map Revision or Conditional Letter of Map Revision.
3. *Letter of Map Revision ("LOMR") or Conditional Letter of Map Revision (CLOMR), required.* If the owner has or will be requesting a required Letter of Map Revision or Conditional Letter of Map Revision as provided in subsection (A)(3), the administrator or any other county official or body shall not act on any pending application and no use shall begin until the Federal Emergency Management Agency issues the Letter of Map Revision and all requirements of 44 CFR § 65.12 are satisfied.

(§ 30.3.07 (part), 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05; § 30.3.10; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code § 15.2-2286.

Federal law reference—44 CFR §§ 59.22(b)(1), 65.3, 65.6.

Sec. 30.3.11 - Permitted and prohibited uses and structures.

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by special use permit, and the uses and
flood hazard overlay district are as follows:

[↗ EXPAND](#)

Use or Structure	Regulatory Floodway	Floodway Fringe
Agricultural, Natural Resources, and Recreational Uses and Structures*		
Agricultural uses, limited to field crops, pasture, grazing, livestock, raising poultry, horticulture, viticulture and forestry; provided that no primary or accessory structures are permitted under this classification	BR	BR
Structures accessory to a permitted agricultural use; provided that no accessory structures having habitable space are permitted	N	BR
Recreational uses including, but not limited to, parks, swimming areas, golf courses and driving ranges, picnic areas, wildlife and nature preserves, game farms, fish hatcheries, hunting, fishing and hiking areas, athletic fields, and horse show grounds; provided that no primary or accessory structures are permitted under this classification	BR	BR
Structures accessory to a permitted recreational use; provided that no accessory structures for human habitation are permitted	N	BR
Sod farming	SP	SP
Topsoil, sand, and gravel removal	SP	SP
Flood and Water Related Uses and Structures*		
Flood warning aids and devices, water monitoring devices, and similar uses	BR	BR

ALBEMARLE COUNTY VIRGINIA	Regulatory Floodway	Floodway Fringe
Flood control, stormwater conveyance, or environmental restoration projects which: (i) are designed or directed by the county, a soil and water conservation district, or a public agency authorized to carry out flood control or environmental restoration measures; or (ii) are reviewed and approved by the department of community development in accordance with the Water Protection Ordinance and with no changes to the base floodplain elevation or horizontal limits to the flood plain	BR	BR
Dams, levees and other structures for flood control or for the public drinking water supply	SP	SP
Engineered structures, including, but not limited to, retaining walls and revetments made of non-natural materials such as concrete which are constructed along channels or watercourses for the purpose of water conveyance or flood control	SP	SP
Water related uses such as boat docks and boat liveries	SP	SP
Hydroelectric power generation (reference 5.1.26)	SP	SP
Public Utility and Telecommunications Uses and Structures*		
Electric, gas, oil and communications facilities, including poles, lines, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility, but excluding tower structures	BR	BR
Water distribution and sewage collection lines and appurtenances owned and operated by the Albemarle County Service Authority, but excluding pumping stations and holding ponds; public water and sewer transmission lines, main or trunk lines, and interceptors, but excluding treatment facilities and pumping stations, owned and/or operated by the Rivanna Water and Sewer Authority	BR	BR
Pump stations for water or wastewater, including power supply and control devices, holding ponds and other appurtenances	SP	SP

ALBEMARLE COUNTY VIRGINIA	Regulatory Floodway	Floodway Fringe
Electrical transmission lines and related towers; microwave and radio-wave transmission and relay towers	SP	SP
Tier I and Tier II personal wireless service facilities that are attached to an existing structure	N	BR
Tier III personal wireless service facilities	N	N
Stream Crossings and Grading Activities*		
Stream crossings for a driveway serving only one single-family dwelling and pedestrian trails, including, but not limited to, pedestrian and multi-use paths that are within county-owned or operated parks and greenways, and any footbridges necessary to cross tributary streams, watercourses and swales, that: (i) meet the applicable requirements of sections 17-406 and 17-604 ; (ii) demonstrate, in a floodplain impact plan, to the floodplain administrator's satisfaction, that construction of the crossing will have no impact on the elevations or limits of the floodplain; and (iii) will serve one dwelling unit that could not be accessed by any other means.	BR	BR
Bridges, ferries and culverts not serving single-family dwellings	SP	SP
Grading activities in compliance with the Water Protection Ordinance; provided that it is demonstrated, in a floodplain impact plan that the grading will have no impact on the elevations or limits of the floodplain and further provided that any cut or fill shall be only to level areas for playfields, correct erosion problems, build trails, or other fine grading activities which will have no impact on the floodplain. For purposes of this provision, fine grading is defined as a balanced site (cut/fill) with no changes to the base floodplain elevation or horizontal limits to the floodplain.	N	BR
Grading activities, including cut or fill, in compliance with the Water Protection Ordinance, but for which the floodplain administrator determines will or may cause the base flood elevation to rise or the horizontal limits of the floodplain to expand	N	SP

ALBEMARLE COUNTY	VIRGINIA	Regulatory Floodway	Floodway Fringe
Miscellaneous Structures*			
Aircraft landing strips; provided that structures other than the landing strip, aircraft parking, and aircraft storage are prohibited	SP	SP	
Fences	BR	BR	
Structures accessory to uses permitted by right in the regulatory floodway, excluding structures having habitable space; provided that any such structure permitted shall be flood-proofed and anchored per section 30.3.15 .	N	SP	
Structure having habitable space, including any manufactured home, regardless of the structure's proposed use, whether it qualifies as a dwelling unit, and whether it is a primary or accessory structure	N	N	
Storage as a Primary or Accessory Use*			
Storage of gasoline, kerosene and other petroleum products	N	N	
Storage of flammable liquids, dynamite, blasting caps and other explosives	N	N	
Storage of pesticides and poisons and other similar materials	N	N	
Storage of machinery and motor vehicles except as accessory to a use allowed by right or by special use permit	N	N	
Storage of junk	N	N	

*Heading is for organizational purposes only and is not a use classification.

**Heading denotes that the use classifications are prohibited as either primary or accessory uses.

BR: The use is permitted by right, provided that the use or structure satisfies all applicable requirements of this chapter, including, but not limited to, the permitting requirements of [section 30.3.12](#) and the encroachment and construction standards in [sections 30.3.13](#) through

ALBEMARLE COUNTY VIRGINIA provided that the use or structure satisfies all ing, but not limited to, the permitting requirements of [section 30.3.12](#) and the encroachment and construction standards in [sections 30.3.13](#) through [30.3.15](#).

N: The use is not permitted.

((§ 30.3.04, 12-10-80); (§ 30.3.05, 12-10-80); (§ 30.3.05.1, 12-10-80); (§ 30.3.05.1.1, 12-10-80, 7-1-81, 5-12-93; Ord. 98-18(2); 9-16-98; Ord. 04-18(2), 10-13-04; Ord. 09-18(2), 5-13-09); (§ 30.3.05.1.2, 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05); (§ 30.3.05.2, 12-10-80); (§ 30.3.05.2.1, 12-10-80, 4-28-82, Ord. 98-18(2); 9-16-98; Ord. 04-18(2), 10-13-04); (§ 30.3.05.2.2, 12-10-80); § 30.3.11, Ord. 14-18(1), 3-5-14; Ord. 17-18(4), 8-9-17; Ord. 19-18(3), 6-5-19)

State Law reference— Va. Code § [15.2-2280](#).

Federal law reference—44 CFR § 60.1(d).

Sec. 30.3.12 - Prerequisite to development; required permits and certifications.

In addition to the requirements for any other permits under this chapter, no use, structure, or any other development (collectively, the "development") within the flood hazard overlay district shall commence without the owner first obtaining or providing the following:

- A. *Floodplain development permit.* A floodplain development permit for any development, including those for which other permits or certificates are required under subsections (B) through (E), issued by the floodplain administrator, which shall be deemed to be certification of the following:
 1. *Uses, structures or development subject to permit.* The owner submitted documentation that the proposed development is authorized within the district as it has been proposed and approved under this chapter and that it is in compliance with all applicable state and federal laws.
 2. *Compliance with all applicable laws.* The development is authorized to be undertaken only in strict compliance with the requirements of the flood hazard overlay district, this chapter, and all other applicable laws, including the Virginia Uniform Statewide Building Code, the Subdivision Ordinance, and the Water Protection Ordinance.
 3. *Reasonably safe from flooding.* The site has been reviewed by the floodplain administrator and he is assured that it is reasonably safe from flooding. This assurance shall be based, in part, upon any documentation provided by the owner showing the elevation of the lowest floor, including the basement, of any new and substantially improved structures

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ce with the requirements of the flood hazard
el) to which the structure has been flood-

4. *Adverse effect on capacity of channels and floodways prohibited.* Under no circumstances shall any development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
 5. *Floodway or in a riverine floodplain where the floodway is not mapped.* For any development in the regulatory floodway or in a riverine floodplain where the floodway is not mapped, the owner shall submit to the floodplain administrator a no-rise certificate composed of a professional engineer's certification that the development will not cause an increase in flood levels, based on the technical data required by [section 30.3.13](#). The no-rise certificate shall be on a form provided by the floodplain administrator.
- B. *Grading permit.* No grading permit shall be issued for fill in the floodway fringe unless the floodplain administrator determines that the proposed fill satisfies the requirements of [section 30.3.14](#).
- C. *Permit to relocate or alter a watercourse; required notice.* Prior to any proposed alteration or relocation of any channels or of any watercourse within the flood hazard overlay district, the owner shall obtain all required permits from the United States Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). In riverine areas, notification of the proposed relocation or alteration shall be given by the owner to all affected adjacent jurisdictions, the Virginia Department of Conservation and Recreation's Division of Dam Safety and Floodplain Management, the Federal Emergency Management Agency, and any other public agencies required to be notified by state or federal law. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
- D. *Building permits.* No building permit shall be issued for any structure within the flood hazard overlay district unless:
1. *Elevations.* The building permit includes the existing and proposed ground elevations, the boundaries of the flood hazard overlay district, the base flood elevation on the site, the elevation of the lowest floor, including any basement, and for any structures to be flood-proofed as required by [section 30.3](#), the elevation to which the structure will be flood-proofed.
 2. *Elevation certificate.* The owner submits to the floodplain administrator an elevation certificate, to be retained by the floodplain administrator, certifying that the lowest floor is elevated at or above the freeboard elevation. The elevation certificate shall be either on

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rm or a form provided by the floodplain

3. *Flood-proofing certificate, non-residential buildings.* The owner submits to the floodplain administrator a flood-proofing certificate composed of a professional engineer's certification that a non-residential building was properly flood-proofed as required by [section 30.3.15](#). The flood-proofing certificate shall be either on the Federal Emergency Management Agency Elevation form or a form provided by the floodplain administrator.

((§ 30.3.03.2 (part), 12-10-80, 6-10-87); (§ 30.3.03.3, 12-10-80); § 30.3.12, Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code §§ [15.2-2280](#), [15.2-2286](#).

Federal law reference—44 CFR §§ 60.3(a)(1), (a)(2), (a)(4)(i), (a)(3), (b)(1), (b)(6), (b)(7).

Sec. 30.3.13 - Encroachment standards; determining impact on base flood elevation.

Any use, structure or other development authorized by [section 30.3.11](#) shall be subject to the following:

- A. *Within the floodway in Zone A1-30 or AE.* The following shall apply within the regulatory floodway of any Zone A1-30 or AE:
 1. *Encroachment prohibited unless owner demonstrates no increase in water surface elevation of the base flood.* Any encroachment, including new construction, substantial improvements, fencing crossing a stream channel, or other development, but excluding fill, is prohibited unless the owner demonstrates in a floodplain impact plan that the proposed encroachment will not result in any increase in the water surface elevation of the base flood within the county during the occurrence of the base flood discharge. Fill is prohibited in the regulatory floodway regardless of whether the owner demonstrates that the fill will not result in any increase in the water surface elevation of the base flood.
 2. *Encroachment which would increase the water surface elevation may be allowed with Conditional Letter of Map Revision.* Any encroachment, including fill, new construction, substantial improvements, or other development, which would increase the water surface elevation of the base flood may be allowed provided that the owner first applies, with the floodplain administrator's endorsement, for a Conditional Letter of Map Revision as provided in [section 30.3.10](#), and receives the approval of the Federal Emergency Management Agency.
 3. *Authorized encroachments; applicable design standards.* All new construction and substantial improvements shall comply with the applicable standards in [section 30.3.15](#). A replacement manufactured home may be placed on a lot in an existing manufactured

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tured home, provided the anchoring, elevation, and other requirements are satisfied.

D. *Within Zone A1-30, AE or AH, floodway not designated.* The following shall apply within any Zone A1-30, AE or AH where the floodway is not designated:

1. *Encroachment prohibited unless owner demonstrates cumulative increase in water surface elevation of the base flood will not exceed one foot.* Any encroachment, including fill, new construction, substantial improvements, fencing crossing a stream channel, or other development, is prohibited unless the owner demonstrates in a floodplain impact plan that the cumulative effect of the proposed encroachment, when combined with all other existing and anticipated development, will not result in an increase in water surface elevation of the base flood by more than one foot within the county during the occurrence of the base flood discharge.
2. *Encroachment which would increase the water surface elevation of the base flood by more than one foot may be allowed with Conditional Letter of Map Revision.* Any encroachment, including fill, new construction, substantial improvements, or other development, which would increase the water surface elevation of the base flood by more than one foot may be allowed provided that the owner first applies, with the floodplain administrator's endorsement, for a Conditional Letter of Map Revision as provided in [section 30.3.10](#), and receives the approval of the Federal Emergency Management Agency.

C. *Within Zone A; floodway not designated and floodplain boundary approximated.* The following shall apply within any Zone A where the floodway is not designated and the floodplain boundary is approximated, in order to determine the location of the floodway and the floodplain, and the elevation of the base flood:

1. *Floodway and base flood elevation.* The base flood elevation and floodway shall be determined for the proposed development using information from federal, state, and other acceptable sources shall be used to determine the floodway and base flood elevation, when available. These sources shall include, but are not limited to, the United States Army Corps of Engineers Floodplain Information Reports and the United States Geological Survey Flood-Prone Quadrangles. If the base flood elevation cannot be determined using these sources of data, then the applicant for the proposed encroachment shall determine the base flood elevation, as follows:
 - a. *Other sources.* Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, comparable to those contained in a Flood Insurance Study for subdivisions, site plans, and other proposed development proposals that exceed 50 lots or five acres, whichever is the lesser; or
 - b.

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floodplain administrator may require a

2. *Approximated floodplain.* In the approximated floodplain, the applicant shall use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, detailed methodologies, or hydrologic and hydraulic analyses. Studies, analyses, computations, and other information shall be submitted to the floodplain administrator in sufficient detail to allow him to conduct a complete review of the analyses. In his discretion, the floodplain administrator may require the owner to submit a floodplain impact plan.

- D. *Any zone; additional information.* The floodplain administrator may require a hydrologic and hydraulic analysis for any development. When the base flood elevation data is used, the lowest floor shall be elevated to or above the freeboard elevation.

(§ 30.3.03.2 (part), 12-10-80, 6-10-87; § 30.3.13; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code §§ 15.2-2280, 15.2-2286.

Federal law reference—44 CFR §§ 59.1, 60.3(b), (c), (d).

Sec. 30.3.14 - Encroachment standards; fill in the floodway fringe.

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Any fill in the floodway fringe authorized by special use permit under [section 30.3.11](#) shall, in addition to any condition of approval of the special use permit and any applicable encroachment standard in [section 30.3.13](#), be subject to the following:

- A. *Minimize obstruction.* The fill shall be designed and constructed to minimize obstruction to and effect upon the flow of water such that: (i) the fill will not, in the opinion of the floodplain administrator, result in any increase in the base flood elevation above that authorized in [section 30.3.13](#); and (ii) no fill is placed in the regulatory floodway.
- B. *Protect against erosion.* The fill shall be effectively protected against erosion by vegetative cover, riprap, gabions, bulkhead or another method acceptable to the floodplain administrator. Any structure, equipment or material installed to protect against erosion shall be firmly anchored to prevent dislocation due to flooding.
- C. *Non-polluting.* The fill shall be of a material that will not pollute surface water or groundwater.
- D. *Additional information.* The floodplain administrator may require any owner to submit additional topographic, engineering and other data or studies as the administrator deems necessary to determine the effect of flooding on a proposed structure or fill, the effect of the structure or fill, or both, on the flow of water during a flood.

E.

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shall occur before the owner submits a site plan requirements of subsections (A) through (D), been satisfied.

(§§ 30.3.06, 30.3.06.1, 12-10-80; § 30.3.14; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code §§ 15.2-2280, 15.2-2286.

Federal law reference—44 CFR § 60.1(d).

Sec. 30.3.15 - Construction standards.

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The following standards shall apply to any structure authorized under [section 30.3.11](#) within the flood hazard overlay district, and its special flood hazard area zones:

- A. *Structures and related improvements in any special flood hazard area; general standards.* Any structures and related improvements in any special flood hazard area zone shall satisfy the following:
1. *Compliance with building code and required anchoring.* New construction and substantial improvements shall be according to the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse or lateral movement of the structure.
 2. *Use materials resistant to flood damage.* New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 3. *Use methods to minimize flood damage.* New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 4. *Design to prevent water entering systems.* Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding.
 5. *Design to prevent water entering water supply systems.* New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 6. *Design to prevent water entering sanitary sewage systems.* 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.
 7. *Design to prevent impairment or contamination of on-site waste disposal systems.* On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - 8.

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air or rehabilitation that would constitute a
ents of the flood hazard overlay district that do
historic structure. The owner shall provide

documentation from the Secretary of the Interior or the State Historic Preservation Officer that a specific requirement of the flood hazard overlay district will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places, as applicable. Any relief from any requirement shall be the minimum necessary to preserve the historic character and design of the structure.

B. *Buildings in Zones A, A1-30, AE, and AH; elevation and construction standards.* Any buildings in Zones A, A1-30, AE, and AH, where base flood elevations have been provided in the Flood Insurance Study or generated by a certified professional, shall satisfy the following:

1. *Existing residential building.* Any substantial improvement of any residential building, including any manufactured home, shall have the lowest floor, including the basement, elevated to or above the freeboard elevation.
2. *Non-residential buildings.* Any new construction or substantial improvement of any non-residential building shall: (i) have the lowest floor, including basement, elevated to or above the freeboard elevation; or (ii) in any Zone A1-30, AE, or AH, the building may be flood-proofed in lieu of being elevated to or above the freeboard elevation, provided that all areas of the building components below the freeboard elevation 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. The certification, including the specific elevation, in relation to mean sea level, to which such structures are flood-proofed, shall be maintained by the floodplain administration.
3. *Drainage paths.* Within Zone AH, adequate drainage paths around structures on slopes shall be established and maintained to guide floodwaters around and away from all proposed structures.

C. *Buildings in Zone AO.* Any buildings in Zone AO shall satisfy the following:

1. *Existing residential building.* Any substantial improvements of any residential building shall have the lowest floor, including the basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade at least as high as the flood depth number specified in feet on the Flood Insurance Rate Map. If no flood depth number is specified, the lowest floor, including the basement, shall be elevated no less than two feet above the highest adjacent grade.

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stantial improvements of non-residential
t floor, including the basement, shall be
lood Insurance Rate Map above the highest

adjacent grade at least as high as the depth number specified in feet on the Flood Insurance Rate Map; if no flood depth number is specified, the lowest floor, including the basement, shall be elevated at least two feet above the highest adjacent grade; or (ii) completely flood-proof the building, including any utility and sanitary facilities, to the freeboard elevation 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

3. *Drainage paths.* Adequate drainage paths around structures on slopes shall be established and maintained to guide floodwaters around and away from all proposed structures.

D. *Structures in Zones A, A1-30, AE, AH and AO; design, construction and use standards for space below the freeboard elevation.* Any fully enclosed area below the freeboard elevation (the "enclosed area") in any new construction or substantially improved structure in Zones A, A1-30, AE, AH and AO, where base flood elevations have been provided, shall satisfy the following:

1. *Uses.* The enclosed area shall be used only for parking vehicles, building access, or the limited storage of maintenance equipment not otherwise prohibited by [section 30.3.11](#) that is used in connection with the premises.
2. *Access.* Access to the enclosed area shall be the minimum necessary to allow for parking vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to other areas of the structure (stairway or elevator).
3. *Construction materials.* The enclosed area shall be constructed entirely of flood resistant materials below the freeboard elevation.
4. *Openings.* The enclosed area shall include measures to automatically equalize hydrostatic flood forces on walls by allowing floodwaters to enter and exit. To meet this requirement, openings shall be provided that are either certified by a professional engineer or architect, or meet the following minimum design criteria:
 - a. *Minimum number.* Provide a minimum of two openings on different sides of each enclosed area.
 - b. *Minimum net area.* The total net area of all openings shall be at least one square inch for each square foot of enclosed area subject to flooding.
 - c. *Multiple enclosed areas.* If a structure has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

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required openings shall be no higher than one

- e. *Permitted equipment on openings.* Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- f. *Flexible skirting, masonry and wood foundations; requirement for openings.* Foundation enclosures made of flexible skirting do not create enclosed areas and do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings.
- E. *Recreational vehicles.* Any recreational vehicle in Zone A1-30, AE or AH where base flood elevations have been provided shall either: (i) be stored on the lot for fewer than 180 consecutive days, be fully licensed and ready for highway use; or (ii) satisfy all requirements for new construction in subsections (A) and (B). For the purposes of this subsection, a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- F. *Fences.* Any fence crossing a stream channel that, as determined by the floodplain administrator, may block the passage of floodwaters or may catch debris during a flood, shall be designed and constructed to be a breakaway fence that will give way on one end under a specified amount of pressure in order to swing parallel to the flow and minimize both resistance to floodwaters and catching debris.
- G. *Accessory Structures.* Accessory structures in the floodplain shall comply with the non-residential structure requirements in section 30.3.15 or, if not elevated or dry flood-proofed, shall:
 - 1. Not be used for human habitation;
 - 2. Be limited to no more than 200 square feet in total floor area;
 - 3. Be constructed with flood damage-resistant materials below the base flood elevation;
 - 4. Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
 - 5. Be anchored to prevent flotation;
 - 6. Have electrical service and mechanical equipment elevated to or above the base flood elevation;
 - 7. Shall be provided with flood openings which shall meet the following criteria:
 - a. There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.

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shall be at least one square inch for each (required flood openings), or the flood openings are designed and certified by a licensed

professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.

- c. The bottom of each flood opening shall be one foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
- d. Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

(§ 30.3.03.02 (part), 12-10-80, 6-10-87; § 30.3.15; Ord. 14-18(1), 3-5-14; Ord. 17-18(4), 8-9-17)

State Law reference— Va. Code §§ 15.2-2286, 36-98.

Federal law reference—44 CFR §§ 60.3(a), (b), (c), (d).

Sec. 30.3.16 - Nonconforming uses and structures.

Any pre-FIRM structure or any use which lawfully existed before December 16, 1980, but which is not in conformity with the requirements of the flood hazard overlay district, may continue, subject to the following:

- A. *Expansion or enlargement of existing uses or structures.* Existing uses or structures shall not be expanded or enlarged.
- B. *Modification, alteration, repair, reconstruction or improvement of an existing use or structure; not a substantial improvement.* Existing uses or structures may be modified, altered, repaired, reconstructed or improved (collectively, the "improvements"), but not enlarged or expanded, where the improvements are not a substantial improvement, provided that the improvements: (i) are authorized by [sections 6.2](#) and [6.3](#), as applicable; and (ii) comply with the Virginia Uniform Statewide Building Code.
- C. *Modification, alteration, repair, reconstruction or improvement of an existing use or structure; substantial improvement.* Existing uses or structures may be modified, altered, repaired, reconstructed or improved (the "improvements"), where the improvements qualify as a substantial improvement, provided that: (i) the entire use or structure complies with the requirements of the flood hazard overlay district and all other applicable laws; and (ii) the entire structure complies with the Virginia Uniform Statewide Building Code.
- D. *Repair or rehabilitation of historic structure; substantial improvement.* Any historic structure undergoing repair or rehabilitation that would constitute a substantial improvement shall comply with any requirements of the flood hazard overlay district that do not preclude the

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The owner shall provide documentation from the Planning and Zoning Commission or the Planning and Zoning Commission Officer that a specific requirement of the ordinance is not applicable to the structure from the National Register of Historic

Places or the State Inventory of Historic places, as applicable. Any relief from any requirement shall be the minimum necessary to preserve the historic character and design of the structure.

(§ 30.3.09, 12-10-80; § 30.3.16; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code §§ 15.2-2286, 15.2-2307.

Federal law reference—44 CFR § 60.1(d).

Sec. 30.3.17 - Variances.

The board of zoning appeals is authorized to consider and act on applications for variances, subject to the following:

A. *Eligibility.* Variances may be issued in the following circumstances:

1. *New construction or substantial improvements; nearby structures constructed below the base flood elevation.* 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 elevation, provided that the board of zoning appeals may, upon good cause shown, consider a variance application pertaining to a lot larger than one-half acre.
2. *New construction, substantial improvement, or development; required for water-dependent facilities.* For new construction, substantial improvements, or other development necessary for a water-dependent facility, not otherwise authorized by a special use permit, provided that all applicable requirements of the flood hazard overlay district not varied are satisfied and any structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

B. *What may be varied.* The following may be varied within the flood hazard overlay district: (i) any requirement of this chapter that is eligible to be varied under section 34.2 and Virginia Code § 15.2-2309; (ii) any minimum encroachment standard in [sections 30.3.13](#) and [30.3.14](#); (iii) any minimum construction standard in [section 30.3.15](#); or (iv) any standard applicable to nonconforming uses and structures in [30.3.16](#). Neither any part of [section 30.3.11](#) nor any administrative or procedural requirement of the flood hazard overlay district may be varied.

C. *Procedures.* The procedures and requirements for applying for and acting on a variance application shall be as provided in [section 34](#).

D.

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ation under this section, the board of zoning
those in [section 34.2](#):

1. *Danger to life and property.* 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 regulatory floodway that will cause any increase in the base flood elevation.
2. *Danger of materials being swept away.* The danger that materials may be swept on to other lands or downstream to the injury of others.
3. *Water supply and sewage systems.* The proposed water supply and sanitary sewage systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. *Susceptibility to flood damage.* The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
5. *Importance of services.* The importance of the services provided by the proposed facility to the community.
6. *Need for waterfront location.* The requirements of the facility for a waterfront location.
7. *Availability of alternative locations.* The availability of alternative locations not subject to flooding for the proposed use.
8. *Compatibility.* The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. *Comprehensive plan and flood management program.* The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
10. *Vehicular access.* The safety of access by emergency and non-emergency vehicles to the site in time of flood.
11. *Flood waters.* The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. *Historic nature of structure.* The historic nature of a structure and whether the proposed repair or rehabilitation will preclude the structure's continued designation as a historic structure.
13. *Accessory structures.* Accessory structures within the floodplain that are greater than 200 square feet but not greater than 600 square feet and do not meet all of the requirements for non-residential structures in [section 30.3.15](#) must secure a variance before a permit is issued. The structure must comply with the accessory structure criteria in [section 30.3.15](#). No variance shall be granted for an accessory structure exceeding 600 square feet.

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ng appeals may refer any application and for a variance to the floodplain administrator in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

F. *Findings.* A variance may be issued if the board of zoning appeals finds:

1. *Cause.* The owner has demonstrated good and sufficient cause consistent with the requirements of this section.
2. *Undue hardship.* The failure to issue the variance would result in undue hardship.
3. *Impacts.* The issuance of the variance will not: (i) result in unacceptable or prohibited increases in flood heights; (ii) result in additional threats to public safety; (iii) result in extraordinary public expense; (iv) create a public or private nuisance; (v) cause fraud or victimization of the public; and (vi) conflict with county regulations.
4. *Variance is minimum required.* The variance to be issued will be the minimum required to provide relief.
5. *Additional finding for historic structures.* In addition to findings (1) through (4) above, the proposed repair or rehabilitation of the historic structure 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.

G. *Structure below base flood elevation; notice to owner of effect of issuing a variance.* The board of zoning appeals shall notify the applicant in writing that the issuance of a variance to construct a structure below the base flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance. Providing this information on a variance application form shall satisfy the notice requirements of this subsection.

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

I. *Use variances.* No variance may be issued to authorize a use in the flood hazard overlay district not otherwise expressly authorized.

(§ 30.3.10, 12-10-80; § 30.3.17; Ord. 14-18(1), 3-5-14; Ord. 17-18(4), 8-9-17)

State Law reference— Va. Code § 15.2-2309.

Federal law reference—44 CFR § 60.6.

Sec. 30.4 - Natural resource extraction overlay district - NR.

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