ORDINANCE NO. 949

AT A REGULAR MEETING OF THE VINTON TOWN COUNCIL, HELD ON TUESDAY, APRIL 15, 2014, AT 7:00 P.M., IN THE COUNCIL CHAMBERS OF THE VINTON MUNICIPAL BUILDING, 311 SOUTH POLLARD STREET, VINTON, VIRGINIA.

AN ORDINANCE TO REPEAL DIVISION 11, FO FLOODPLAIN OVERLAY DISTRICT, OF ARTICLE IV, DISTRICT REGULATIONS, OF APPENDIX B, ZONING, OF THE TOWN CODE, AND REPLACE DIVISION 11 IN ITS ENTIRETY BY ADOPTING AND ENACTING DIVISION 13, FO FLOODPLAIN OVERLAY DISTRICT, OF ARTICLE IV, DISTRICT REGULATIONS, OF APPENDIX B, ZONING, OF THE TOWN CODE.

WHEREAS, the Town of Vinton is a participating community in the National Flood Insurance Program, which allows property owners to purchase flood insurance to protect their property against the hazard of flooding; and

WHEREAS, the Town must maintain a floodplain management ordinance that meets the regulations mandated by the Federal Emergency Management Agency; and

WHEREAS, the Town was informed on July 19, 2013, by the Federal Emergency Management Agency that the Town's current floodplain management ordinance does not comply with their regulations; and,

WHEREAS, the Town's Planning and Zoning Department reviewed and prepared an ordinance to update the floodplain regulations contained in the Town's Zoning Ordinance, and briefed the Planning Commission and Town Council during a joint work session on March 4, 2014 concerning same; and,

WHEREAS, the Planning Commission and Town Council held a joint public hearing on April 15, 2014, after giving notice in accordance with §15.2-2204, Code of Virginia, as amended.

NOW, THEREFORE, BE IT ORDAINED that the Vinton Town Council does hereby repeal Division 11, FO Floodplain Overlay District, of Article IV, District Regulations, of Appendix B, Zoning, of the Town Code and replaces Division 11 in its entirety by adopting and enacting Division 13, FO Floodplain Overlay District, of Article IV, District Regulations, of Appendix B, Zoning, of the Town Code, as follows:

APPENDIX B – ZONING

* * *

ARTICLE IV. – DISTRICT REGULATIONS

* * *

~~DIVISION 11. FO FLOODPLAIN OVERLAY DISTRICT~~

~~Sec. 4-56. General provisions.~~

~~(a) *Purpose.* The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:~~

~~(1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;~~

~~(2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;~~

~~(3) Requiring all those uses, activities, and developments that do occur in floodprone districts to be protected and/or floodproofed against flooding and flood damage; and~~

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

~~(b) *Applicability and administration.*~~

~~(1) These provisions shall apply to all lands within the jurisdiction of the town and identified as being within a floodplain by the Federal Insurance Administration, as stipulated in this division.~~

~~(2) These provisions shall supersede any regulations currently in effect in floodplain areas. Where conflict exists between these provisions and those of any underlying zoning districts, the more restrictive provisions shall apply.~~

~~(3) In the event any provision concerning a floodplain area is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying zoning district provisions shall remain applicable.~~

~~(c) *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 division and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this division.~~

~~(2) The degree of flood protection sought by the provisions of this division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris.~~

This division does not imply that areas outside the floodplain areas or that land uses permitted within such areas will be free from flooding or flood damages.

(3) Records of actions associated with administering this division will be kept on file and maintained by the administrator.

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

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

Sec. 4-57. Definitions.

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

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

Base flood elevation (BFE). The 100-year water-surface elevation of the one percent annual chance flood designated by the Federal Emergency Management Agency.

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

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 division.

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

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

Encroachment. The advance or infringement of uses, plant growth, fills, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Flood or *flooding.* A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; or the unusual and rapid accumulation or runoff of surface waters from any source; or the collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by

~~waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.~~

~~*Floodplain* or *floodprone area.* Any land area susceptible to being inundated by water from any source.~~

~~*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 a designated height.~~

~~*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.~~

~~*Historic structure.* Any structure that is:~~

- ~~(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~
- ~~(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;~~
- ~~(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or~~
- ~~(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:~~
  - ~~a. By an approved state program as determined by the Secretary of the Interior; or~~
  - ~~b. Directly by the Secretary of the Interior in states without approved programs.~~

~~*Lowest floor.* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of Federal Code 44CFR §60.3.~~

~~*Recreational vehicle.* A vehicle which is:~~

- ~~(1) Built on a single chassis;~~
- ~~(2) Four hundred square feet or less when measured at the largest horizontal projection;~~

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

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.

Special flood hazard area. The area in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in section 4.58 of this division.

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

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

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

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

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

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

~~Sec. 4-58. Delineation of areas.~~

~~(a) *Basis of areas.* The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the flood insurance study for the town prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 28, 2007. These areas are more specifically defined as follows:~~

~~(1) The floodway area is delineated for purposes of this division, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined and shown on the flood boundary and floodway map accompanying the flood insurance study.~~

~~(2) The flood-fringe area shall be those areas of the 100-year floodplain not included in the floodway; identified as an AE zone on the maps accompanying the flood insurance study that are not included in the floodway area.~~

~~(b) *Creation of overlay concept.*~~

~~(1) The floodplain areas described above shall be an overlay to the existing underlying zoning districts as shown on the official zoning map, and, as such, the provisions for the floodplain areas shall serve as a supplement to the underlying zoning district provision.~~

~~(2) Any conflict between the provisions or requirements of the floodplain areas and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain areas shall apply.~~

~~(3) In the event any provision concerning a floodplain area is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.~~

~~(4) The boundaries of the floodplain areas are established as shown on the flood insurance rate map which is declared to be part of this division and which shall be kept on file in the office of the administrator.~~

~~(c) *Floodplain boundary changes and interpretation.*~~

~~(1) The delineation of any of the floodplain areas may be revised by the town council where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change.~~

~~However, prior to any such change, approval must be obtained from the Federal Insurance Administration.~~

~~(2) Initial interpretations of the boundaries of the floodplain areas shall be made by the administrator. Should a dispute arise concerning the boundaries of any of the areas, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the floodplain area boundary shall be given an opportunity to present his case to the board and to submit his/her own technical evidence. Procedures for such appeals shall be as outlined in article IX, division 2, section 9-11 of the zoning ordinance.~~

~~Sec. 4-59. Area provisions.~~

~~(a) *Floodplain Area General Provisions.*~~

~~(1) *Permit requirement.* All uses, activities, and development occurring within any floodplain area shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this division and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the town subdivision regulations. Prior to the issuance of any such permit, the administrator shall require all applications to include compliance with all federal and state laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways or any watercourse, drainage ditch, or any other drainage facility or system.~~

~~(2) *Alteration or relocation of watercourse.* Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within the town, a permit shall be obtained from the U.S. Corps of Engineers, the Virginia Department of Environmental Quality (DEQ), and the Virginia Marine Resources Commission (a joint permit application is available for any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, Division of Dam Safety and Floodplain Management, and the Federal Emergency Management Agency.~~

~~(3) The lowest floor elevation of any new residential structures constructed within a floodplain area shall be at least two feet above flood elevation. The lowest floor elevation of any new nonresidential structure constructed within a floodplain area shall be at least one foot above base flood elevation, unless such structure is floodproofed. In addition, no existing structure shall be modified, expanded or enlarged unless the new construction complies with this standard.~~

~~(4) *Site plans and permit applications.* All applications for development in the floodplain area and all building permits issued for the floodplain shall incorporate the following information:~~

~~a. For structures to be elevated, the elevation of the lowest floor, including basement.~~

~~b. For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.~~

~~c. The elevation of the 100-year flood.~~

~~d. Topographic information showing existing and proposed ground elevations.~~

~~(5) For all new subdivisions which adjoin or include floodplain areas identified in the flood insurance study, the base flood elevation shall be shown on the final record plat.~~

~~(6) *Recreational vehicles.* All recreational vehicles located in a Federal Emergency Management Agency designated floodplain shall either:~~

~~a. Be on the site for fewer than 180 consecutive days, be fully licensed and inspected, and ready for highway use; or~~

b. Meet the minimum permit requirements for placement and the elevation and anchoring requirements for manufactured homes as contained in the Virginia Uniform Statewide Building Code.

c. 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.

(b) *Floodway area.*

(1) In the floodway, 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 authorities as required above.

(2) The placement of any manufactured home, except in an existing manufactured home park within the floodway is specifically prohibited.

(3) In the floodway, the following uses, types, and activities are permitted, provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by any other ordinance and provided that no specific land use requires any type of structure, fill, or storage of materials and equipment:

a. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

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

c. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.

d. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

e. Mobile homes are permitted only in an existing mobile home park.

(4) The following uses and activities may be permitted by special use pursuant to article VII, division 4 of the town zoning ordinance provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by this or any other ordinance:

a. Structures (except for manufactured homes) accessory to the uses and activities by right, above.

b. Certain utilities and public utilities and improvements such as pipelines, water and sewage treatment plants, and other similar or related uses.

c. Water-related uses and activities such as marinas, docks, wharves, piers, etc.

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

e. Storage of materials and equipment provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent floatation or movement, and/or can be readily removed from the area within the time available after flood warning.

f. Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities, and structural development, shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and ordinances.

(c) *Flood fringe, special floodplain, and approximated floodplain areas.*

(1) In the flood fringe, special floodplain, and approximated floodplain areas, the development and/or use of land shall be permitted in accordance with the regulations of the underlying zoning district, provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

(2) However, in the special floodplain and the approximated floodplain areas, the applicant and/or developer shall evaluate the effects of the proposed development and/or use of land on the floodplain with current hydrologic and hydraulic engineering techniques. The applicant and/or developer shall submit studies, analysis, computations, etc. to show the delineation of a floodway based on the requirement that all existing and future development not increase the 100-year flood elevation more than one foot at any one point. The engineering principle, equal reduction of conveyance, shall be used to make the determination of increased flood heights.

(d) *Procedures for special uses in floodways.*

(1) Any use listed as permitted with special use in a floodway shall be allowed only after application to the town council. All such applications shall be reviewed pursuant to the procedures outlined in article VII, division 4 of the town zoning ordinance. In addition to information required by article VII, division 4, all application shall include the following:

a. Plans in triplicate drawn to scale of not less than one inch to 100 feet horizontally showing the location, dimension, and contours (at five-foot intervals) of the lot, existing and proposed structures, fill, storage areas, water supply, sanitary facilities, and relationship of the floodway to the proposal.

b. A typical valley cross-section as necessary to adequately show the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and 100-year flood elevation.

c. A profile showing the slope of the bottom of the channel or flow line of the stream.

d. A summary report, prepared by professional engineers or others of demonstrated qualifications, evaluating the proposed project in relation to flood heights and velocities; the seriousness of flood damage to the use; and other pertinent technical matters.

e. A list of names and addresses of adjoining property owners.

(2) In acting upon such applications, the planning commission and the town council shall consider all relevant factors specified in other sections of this article and:

a. The danger to life and property due to increased flood heights or velocities caused by encroachments. No special use shall be granted for any proposed use, development, or activity within the floodway that will cause any increase in flood levels during the 100-year flood.

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

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

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

e. The importance of the services provided by the proposed facility to the town.

f. The requirements of the facility for a waterfront location.

g. The availability of alternative locations not subject to flooding for the proposed use.

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the town.

j. The safety of access to the property in times of flood for ordinary and emergency vehicles.

k. Such other factors which are relevant to the purpose of this division.

(e) *Design criteria for utilities and facilities.*

(1) *Sanitary sewer facilities.* 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 infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

(2) *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.

(3) *Drainage facilities.* 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. The town may require a primarily underground system 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.

(4) *Utilities.* All utilities, such as gas lines, electrical and telephone systems being placed in floodprone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

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

Sec. 4-60. Variances.

(a) The board of zoning appeals may consider variances to the requirements of this section, under the following guidelines and conditions and shall satisfy relevant factors and procedures specified in other sections of this appendix:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. Variances may not be considered within any floodway area if any increase in flood levels during the 100-year flood would result.

(2) Variance requests may be granted for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places without regard to the procedures set forth in this section.

(3) Variances may be considered for new construction and substantial improvements to be erected on a lot contiguous and surrounded by lots with existing structures constructed below the 100-year flood level using the guidelines set forth in subsection 4-59(d)(2)b. above.

(b) The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters. Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in:

(1) Unacceptable or prohibited increases in flood heights;

(2) Additional threats to public safety;

(3) Extraordinary public expense;

(4) Creation of nuisances;

(5) Fraud on or victimization of the public; or

(6) Conflict with local laws or ordinances.

(c) Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief from any hardship to the applicant. 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 100-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance. A record shall be maintained of the above notification as well as all

~~variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administration.~~

~~Sec. 4-61. Existing structures in floodplain areas.~~

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

~~(a) Existing structures and/or uses located 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 practice that the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.~~

~~(b) Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than 50 percent of its market value shall be elevated and/or floodproofed to the greatest extent possible.~~

~~(c) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of this division and the Virginia Uniform Statewide Building Code.~~

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DIVISION 13. FO FLOODPLAIN OVERLAY DISTRICT

Section 4-65. General provisions

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

(1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;

(2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;

(3) Requiring all those uses, activities, and developments that do occur in 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 unsuitable for their intended purpose because of flood hazards.

(b) *Applicability.* These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the Town of Vinton (hereafter referred to as "town") and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the town by the Federal Emergency Management Agency (FEMA).

(c) *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 jurisdiction of this ordinance.

(2) The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district areas or land uses permitted within such district will be free from flooding or flood damages.

(3) The provisions herein shall not create liability on the part of the town or any officer or employee thereof for any flood damage that may result from reliance on these regulations or any administrative decision lawfully made thereunder.

(d) *Records.* Records of actions associated with administering this ordinance shall be kept on file and maintained by the floodplain administrator.

(e) *Abrogation and Greater Restrictions.*

(1) These floodway overlay district ordinance supersedes any ordinance currently in effect in flood-prone areas. Any underlying zoning district regulations, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

(2) In the event any provision concerning a floodplain area is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying zoning district provisions shall remain applicable.

(f) *Severability.* If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force

and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

(g) *Penalty for Violations.* Any person who fails to comply with any of the requirements or provisions of this article or directions of the floodplain administrator or any authorized employee of the town shall be guilty of the appropriate violation and subject to the penalties therefore.

The Virginia Uniform Statewide Building Code (VA USBC) addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the zoning ordinance of the town are addressed in Division 5, Sections 7-38 through 7-41 of the zoning ordinance.

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

Section 4-66. Definitions

(1) *Appurtenant or accessory structure* - Accessory structures not to exceed two hundred (200) square feet.

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

(3) *Base flood elevation* - The FEMA designated one percent (1%) annual chance water surface elevation and the elevation determined per Section 4-69. The water surface elevation of the base flood in relation to the datum specified on the community's FIRM. For the purposes of this ordinance, the base flood is a one hundred (100)-year flood or one percent (1%) annual chance flood.

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

(5) *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.

(6) *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.

(7) *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."

(8) *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.

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)(2) of this definition.

(9) *Flood Insurance Rate Map (FIRM)* - An official map of a community, on which the Federal Emergency Management Agency FEMA 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).

(10) *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.

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

(12) *Floodproofing* - 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.

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

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

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

(16) *Historic structure* - Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

(c) 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.

(17) *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.

(18) *Letters of Map Change (LOMC)* - A Letter of Map Change is 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 a land as defined by meets and bounds or structure is not located in a SFHA.

(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 planimetric features. A Letter of Map Revision Based on Fill (LOMR-F) is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(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 FIRM or FIS.

(19) *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 Federal Code 44CFR §60.3.

(20) *Manufactured home* - A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred and eighty (180) consecutive days, but does not include a recreational vehicle.

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

(22) *New construction* - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after March 15, 1978, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

(23) *Post-FIRM structures* - A structure for which construction or substantial improvement occurred on or after March 15, 1978.

(24) *Pre-FIRM structures* - A structure for which construction or substantial improvement occurred before March 15, 1978.

(25) *Recreational vehicle* - A vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and,

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

(26) *Repetitive Loss Structure* – A building covered by a contract for flood insurance that has incurred flood-related damages on two (2) occasions during a ten (10)-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 (25%) of the market value of the building at the time of each flood event.

(27) *Shallow flooding area* – A special flood hazard area with base flood depths from one (1) to three (3) 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.

(28) *Special flood hazard area (SFHA)* - The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year as determined in Section 4-63(b) of this ordinance.

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

(30) *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.

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

(50%) of the market value of the structure before the damage occurred.

(32) *Substantial improvement* - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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 notification from the Register of Historic Places or the State Inventory of Historic places determines that the alteration will not preclude the structure's continued designation as a historic structure.

(c) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

(33) *Violation* - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 4-70 is presumed to be in violation until such time as that documentation is provided.

(34) *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.

Section 4-67. Administration

(a) *Designation of the Floodplain Administrator.* The Town Manager, or his/her designee, is hereby appointed to administer and implement these regulations and is referred to herein as the floodplain administrator. The floodplain administrator may:

(1) Do the work themselves. In the absence of a designated floodplain administrator, the duties are conducted by the planning and zoning director, or his/her designee.

(2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

(3) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (NFIP).

(b) *Duties and Responsibilities of the Floodplain Administrator*

(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; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the one hundred (100)-year frequency floodplain of free-flowing non-tidal waters of the State.

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 (Virginia Department of Environmental Quality, U.S. Army Corps of Engineers) 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 prepared by or for the town, 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 (FIS), Flood Insurance Rate Maps (FIRMs, 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:

1. Issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures;

2. Coordinating with other federal, state, and local agencies to assist with substantial damage determinations;

3. Providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and

4. 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 FEMA when the corporate boundaries of the town 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 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 of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

(c) *Use and Interpretation of FIRMs.* The floodplain administrator shall make interpretations, where needed, as to the exact location of SFHAs, 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 SFHA on a FIRM, the area shall be considered as SFHA and subject to the requirements of these regulations;

b. Are above the base flood elevation, the area shall be regulated as SFHA unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

(2) In FEMA-identified special flood hazard areas SFHAs 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 and/or lower base flood elevations.

(4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.

(5) If a Preliminary FIRM and/or a Preliminary FIS 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 and used where no base flood elevations and/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 and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 4-68. Boundary and Floodplain Overlay District Changes

(a) *Jurisdictional Boundary Changes.* The town floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the NFIP. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance

standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes SFHAs 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 Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a)(9)(v), all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all FIRMs accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

(b) *District Boundary Changes.* The delineation of any of the Floodplain Overlay Districts may be revised by town council where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from FEMA.

(c) *Interpretation of District Boundaries.* Initial interpretations of the boundaries of the floodplain districts shall be made by the floodplain administrator, or his or her designee. 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/her case to the Board and to submit his/her own technical evidence if he/she so desires. Procedures for such appeals shall be as outlined in Article IX, Division 2, Section 9-11 of the zoning ordinance.

(d) *Submitting Technical Data.* A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community 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 floodplain management requirements will be based upon current data.

(e) *Letters of Map Revision.* When development in the floodplain causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) or a Letter of Map Revision (LOMR).

Examples:

(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.

(3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges).

Section 4-69. ESTABLISHMENT OF FLOODPLAIN OVERLAY DISTRICTS

(a) *Basis of Districts*

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 for the town prepared by FEMA, Federal Insurance Administration, dated September 28, 2007, and any subsequent revisions or amendments thereto.

The town 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 shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the town offices.

(1) The Floodway Overlay 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 (1) foot at any point.

The following provisions shall apply within the Floodway Overlay 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 – with the town's endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of FEMA.

If Section 4-69(a)(1)(a) this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 4-70.

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

(2) The Flood-fringe Overlay District shall be those areas of the one hundred (100)-year floodplain not included in the floodway; identified as AE Zone on the maps accompanying the FIS that are not included in the floodway area.

(3) The AE or AH Zone on the FIRM accompanying the FIS shall be those areas for which one percent (1%) 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:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as zones 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 within the town.

Development activities in zones AE or AH on the town FIRM which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the applicant first applies – with the town endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of FEMA.

(b) *Overlay Concept.* The floodplain districts described above shall be overlays to the existing underlying zoning 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 zoning 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 and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Section 4-70. District Provisions

(a) *Permit and Application Requirements*

(1) *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 zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this ordinance and with all other applicable codes and ordinances, as amended, such as the VA USBC and the town's subdivision regulations. Prior to the issuance of any such permit, the floodplain administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

(2) *Site Plans and Permit Applications.* All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

(a) The elevation of the base flood (100-year flood) at the site.

(b) The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.

(c) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

(d) Topographic information showing existing and proposed ground elevations.

(b) *General Standards.* The following provisions shall apply to all permits:

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

(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.

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

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

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

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system, and be located and constructed to minimize or eliminate flood damages.

(7) New and replacement sanitary sewage facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

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

(9) 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. The town may require a primarily underground system 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.

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

In addition to provisions (1) – (10) above, in all special flood hazard areas, the additional provisions shall apply:

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

Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and FEMA.

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

(c) *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 Section 4-69(a)(3), the following provisions shall apply:

(1) *Residential Construction.* New construction or substantial improvement of any residential structure (including manufactured homes) in zones AE and AH with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above two (2) feet above the base flood level.

(2) *Non-Residential Construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood level. Buildings located in 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 base flood elevation plus one (1) foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (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 AE and AH, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

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

b. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

c. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

1. Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.

2. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.

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

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

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

6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(4) *Standards for Manufactured Homes and Recreational Vehicles*

(a) All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Section 4-70 (b) and Section 4-70 (c).

(b) All recreational vehicles placed on sites must either:

1. Be on the site for fewer than one-hundred and eighty (180) consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or

2. Meet all the requirements for manufactured homes in Section 4-70 (b) and Section 4-70 (c).

(5) *Standards for Subdivision Proposals*

(a) All subdivision proposals shall be consistent with the need to minimize flood

damage;

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

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

(d) Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.

Section 4-71. Permitted Uses by Right and by Special Use

(a) *Floodplain area.*

(1) The development and/or use of land shall be permitted in accordance with the regulations of the underlying zoning district, provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the VA USBC and all other applicable codes and ordinances.

a. In the floodplain area, the applicant and/or developer shall evaluate the effects of the proposed development and/or use of land on the floodplain with current hydrologic and hydraulic engineering technologies. The applicant and/or developer shall submit studies, analysis, computations, etc. to show the delineation of a floodway based on the requirement that all existing and future development not increase the one hundred (100)-year flood elevation more than one (1) foot at any point. The engineering principle, equal reduction of conveyance, shall be used to make the determination of increased flood heights.

(b) *Floodway area.*

(1) The following uses, types, and activities are permitted, provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by any other ordinance and provided that no specific land use requires any type of structure, fill, or storage of materials and equipment:

a. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

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

c. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.

d. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

e. Manufactured homes are permitted only in an existing manufactured home park, and must meet all the requirements for manufactured homes in Section 4-70 (b) and Section 4-70 (c).

(2) The following uses and activities may be permitted by special use pursuant to Article VII, Division 4 of the town zoning ordinance, provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by this or any other ordinance:

a. Structures (except for manufactured homes) accessory to the uses and activities by right, above.

b. Certain utilities and public utilities and improvements, such as pipelines, water and sewage treatment plants, and other similar or related uses.

c. Water-related uses and activities, such as marinas, docks, wharves, piers, etc.

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

e. Storage of materials and equipment provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent floatation or movement, and/or can be readily removed from the area within the time available after flood warning.

f. Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities, and structural development, shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable code and ordinances.

(c) Procedures for Special Uses in Floodways

(1) Any use listed as permitted with special use in a floodway shall be allowed only after application to the town council. All such applications shall be reviewed pursuant to

the procedures outlined in Article VII, Division 4 of the town zoning ordinance. In addition to information required by Article VII, Division 4, all applications shall include the following:

a. Plans in triplicate drawn to scale of not less than one (1) inch to one hundred (100) feet horizontally showing the location, dimension, and contours (at five-foot intervals) of the lot, existing and proposed structures, fill, storage areas, water supply, sanitary facilities, and relationship of the floodway to the proposal.

b. A typical valley cross-section as necessary to adequately show the channel of the stream, elevation of land and areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development and one hundred (100)-year flood elevation.

c. A profile showing the slope of the bottom of the channel or flow line of the stream.

d. A summary report, prepared by professional engineers or others of demonstrated qualifications, evaluating the proposed project in relation to flood heights and velocities; the seriousness of flood damage to the use; and other pertinent technical matters.

e. A list of names and addresses of adjoining property owners.

(2) In acting upon such applications, the planning commission and the town council shall consider all relevant factors specified in other sections of this article and:

a. The danger to life and property due to increased flood heights or velocities caused by encroachments. No special use shall be granted for any proposed use, development, or activity within the floodway that will cause any increase in flood levels during the one hundred (100)-year flood.

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

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

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

e. The importance of the services provided by the proposed facility to the town.

f. The requirements of the facility for a waterfront location.

g. The availability of alternative locations not subject to flooding for the proposed

use.

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the town.

j. The safety of access to the property in times of flood for ordinary and emergency vehicles.

k. Such other factors which are relevant to the purpose of this division.

Section 4-72. Existing Structures in Floodplain Areas.

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

(a) 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.

(b) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty percent (50%) of its market value shall conform to the VA USBC.

(c) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty percent (50%) 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 VA USBC.

Section 4-73. Variances: Factors To Be Considered.

Applications for a variance of the requirements of Floodplain Overlay District shall be accepted and reviewed pursuant to the procedures outlined in Article IX, Division 3 of the town zoning ordinance.

Variances shall be issued only upon:

(a) A showing of good and sufficient cause,

(b) After the Board of Zoning Appeals (BZA) has determined that failure to grant the variance would result in exceptional hardship to the applicant, and

(c) After the BZA has determined that the granting of such variance will not result in:

(1) Unacceptable or prohibited increases in flood heights,

(2) Additional threats to public safety,

(3) Extraordinary public expense; and will not:

a. Create nuisances,

b. Cause fraud or victimization of the public, or

c. Conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half (0.50) acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half (0.50) acre, the technical justification required for issuing a variance increases. Variances may be issued by the BZA for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

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

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

(a) 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 area that will cause any increase in the one hundred (100)-year flood elevation;

(b) The danger that materials may be swept on to other lands or downstream to the injury of others;

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

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

(e) The importance of the services provided by the proposed facility to the community;

(f) The requirements of the facility for a waterfront location;

(g) The availability of alternative locations not subject to flooding for the proposed use;

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

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

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

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;

(l) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination and notification from the Register of Historic Places or the State Inventory of Historic places 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;

(m) Such other factors which are relevant to the purposes of this ordinance.

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.

Variances shall be issued only after the BZA has determined that the granting of such will not result in:

(a) Unacceptable or prohibited increases in flood heights;

(b) Additional threats to public safety;

(c) Extraordinary public expense; and will not

(d) Create nuisances;

(e) Cause fraud or victimization of the public; or

(f) Conflict with local laws or ordinances.

Variances shall be issued only after the BZA has determined that the variance will be the minimum required to provide relief.

The BZA shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation:

(a) Increases the risks to life and property, and

(b) Will result in increased premium rates for flood insurance,

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

BE IT FURTHER ORDAINED, that this Ordinance shall become effective upon its adoption.

This Ordinance adopted on motion made by Vice Mayor Nance, seconded by Council Member Hare, with the following votes recorded:

AYES: Adams, Altice, Hare, Nance, Grose

NAYS: None

APPROVED:

Bradley E. Grose

Bradley E. Grose, Mayor

ATTEST:

Susan N. Johnson

Susan N. Johnson, Town Clerk

ORDINANCE NO. 950

AT A REGULAR MEETING OF THE VINTON TOWN COUNCIL, HELD ON TUESDAY, APRIL 15, 2014, AT 7:00 P.M., IN THE COUNCIL CHAMBERS OF THE VINTON MUNICIPAL BUILDING, 311 SOUTH POLLARD STREET, VINTON, VIRGINIA.

AN ORDINANCE TO REPEAL IN ITS ENTIRETY CHAPTER 42, FLOODS, VINTON TOWN CODE.

BE IT ORDAINED that the Vinton Town Council does hereby repeal in its entirety Chapter 42, Floods, of the Vinton Town Code.

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VINTON TOWN CODE

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CHAPTER 42. ~~FLOODS*~~REPEALED

~~**ARTICLE I.**~~

~~**IN GENERAL**~~

~~**Secs. 42-1--42-20. Reserved.**~~

~~**ARTICLE II.**~~

~~**FLOODPLAIN MANAGEMENT**~~

~~**Sec. 42-21. Definitions.**~~

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

~~*Development* means any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.~~

~~*Floodproofed* means 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.~~

Mobile home means a structure, transportable in one or more sections, which is eight body feet or more in width and is 32 body feet or more in length, and which is built on a permanent chassis and designed to be used, with or without permanent foundation, when connected to the required utilities. The term includes the plumbing, heating, air conditioning and electrical systems contained therein.

Substantial improvements means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred.

(Code 1982, § 8-1)

Cross References: Definitions generally, § 1-2.

Sec. 42-22. Application of article; conflicts with zoning ordinance and subdivision regulations.

(a) The National Flood Insurance Program provides that the floodplain management measures prescribed in this article shall be applicable in those floodplain areas identified as being inundated by the 100-year flood, as shown in the flood insurance study, as prepared by the Federal Emergency Management Agency for the town. The floodplain area shall be considered an overlay and supplement to the existing zoning map.

(b) In case of conflict between the provisions of this article and those contained in the zoning ordinance or the subdivision regulations, or any other chapter of this Code, the more restrictive provisions applicable to the floodplain shall apply. Any change in the delineation in the floodplain will be subject to the review of the Federal Emergency Management Agency.

(Code 1982, § 8-2)

Sec. 42-23. General requirements.

(a) Permits shall be required for all proposed construction and other development, including placement of prefabricated buildings and mobile homes, on properties in any special flood hazard area (i.e., zones A1-30 on the town's flood insurance rate map.) Such permits shall be obtained from those governmental agencies whose approval is required under federal or state law.

(b) New construction and substantial improvements, including prefabricated buildings and mobile homes, shall be anchored to prevent flotation and lateral movement and flood-resistant materials and methods shall be utilized in their construction. Each mobile home shall be constructed and anchored in accordance with the provisions of the "Virginia Industrialized Building Unit and Mobile Home Safety Regulations--Part One."

(c) Subdivision proposals and proposals for other developments, including their proposed utilities and drainage facilities, shall specify locations and designs consistent with the need to minimize flood damage.

(d) All subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is less, shall include base flood elevation data.

(e) New and replaced water and sewer systems, including on-site systems, shall be located and designed to avoid impairment.

(f) Records of elevations and floodproofing levels for all new or substantially improved structures shall be maintained. Such records shall indicate whether or not such structures contain a basement.

(g) In riverine situations, adjacent communities and the state coordinating office shall be notified prior to any alterations or relocation of a watercourse. Copies of such notifications shall be submitted to Federal Emergency Management Agency.

(h) The flood-carrying capacity within the altered or relocated portion of any watercourse shall be maintained.
(Code 1982, § 8-3)

Sec. 42-24. Requirements in specific areas.

The following requirements apply only in those areas specified as follows:

(1) For new residential structures and substantial improvements of existing structures in zones A1-30, the lowest floor (including the basement) shall be elevated to or above the base flood level, unless an exception for the allowance of basements or storm cellars is granted by the Federal Emergency Management Agency.

(2) For new nonresidential structures and substantial improvements of existing structures in zones A1-30, the lowest floor (including the basement) shall be elevated to or above the base flood level or be floodproofed to or above the base flood level.

(3) In zones A1-30, where floodproofing is used in lieu of elevation, a registered professional engineer or architect shall record and certify that the floodproofing methods used are adequate to withstand the forces associated with the base flood or, in lieu thereof, local regulations containing detailed floodproofing specifications which meet the watertight performance standards shall be submitted to the Federal Emergency Management Agency for approval.

(4) In zones A1-30, for new or substantially improved mobile home parks or subdivisions and for mobile home placement not in existing mobile home parks and subdivisions, stands or lots shall be elevated to or above the base flood level, adequate access and drainage shall be provided and, if applicable, construction standards for elevation on pilings shall be met in accordance with section

~~1910.3(c)(5), part II of the Federal Register, Department of Housing and Urban Development, National Flood Insurance Program, October 26,1976.~~

~~(5) Any development or encroachment (including fill) which would result in any increase in flood levels during the base flood discharge shall be prohibited within the regulatory floodway.~~

~~(6) The placement of mobile homes, except in existing mobile home parks or mobile home subdivisions, shall be prohibited within the regulatory floodway.~~

~~(7) No variance or special exception shall be allowed, if it would cause any rise in flood elevation of the 100-year flood.~~

~~(Code 1982, § 8-4)~~

BE IT FURTHER ORDAINED, that this Ordinance shall become effective upon its adoption.

This Ordinance adopted on motion made by Council Member Adams, seconded by Council Member Altice, with the following votes recorded:

AYES: Adams, Altice, Hare, Nance, Grose

NAYS: None

APPROVED:

Bradley E. Grose

Bradley E. Grose, Mayor

ATTEST:

Susan N. Johnson

Susan N. Johnson, Town Clerk