

3-E SCHEDULE OF OVERLAY DISTRICT REGULATIONS

(7/17/07)

3-E-1

Flood Plain District (FP)

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

- a. regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- b. restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- c. 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,
- d. protecting individuals from buying land and structures that are unsuited for intended purposes because of flood hazards.

3-E-1-a

(5/19/87)

Boundary

The floodplain district shall include areas subject to inundation by waters of the one hundred (100) year floods. The basis for the delineation of these zones shall be the Flood Insurance Study (FIS) for Clarke County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 28, 2007, as amended. The following zones further describe the district:

1. The Floodway Zone 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 hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this Zone are specifically defined in Table 2 of the above referenced Flood Insurance Study.
2. The Special Floodplain Zone shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided but for which no floodway has been delineated.
3. The approximated Floodplain Zone shall be those areas identified as an A Zone on the map accompanying the Flood Insurance Study. In this zone, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated.
4. The Floodplain District Maps are maintained for public use, inspection, and information in the Clarke County Administrative Offices in Berryville, Virginia, and are hereby incorporated into and made a part of this Ordinance as if fully set out herein.
 - a. The Flood Plain District shall also include those other areas in Clarke County which can be reasonably determined from local history, topographical conditions, drainage patterns, or by reference to soil surveys of Clarke County to be subject to periodic inundation by water.
 - b. In determining the 10 year and the 100 year flood elevations for the purposes of this Ordinance, additional sources of data may be used such as:
 1. U.S. Geological Survey - Flood Prone Quadrangles;
 2. U.S.D.A., Soil Conservation Service - Flood Hazard Analysis;
 3. Geology of the Berryville, Stephenson and Boyce Quadrangles, Report of Investigations 34 (1973) Virginia Division of Mineral Resources;
 4. Known high-water marks from past floods;
 5. Other sources.

- c. The delineation of areas designated as within the Flood Plain District shall be reconsidered by the Board of Supervisors and appropriate adjustments made only after the Planning Commission has had an opportunity to present their recommendations and public hearings have been held in accordance with *Section 15.2-2204* of the Code of Virginia. Citizens may initiate such action by petition to the Planning Commission indicating that due to a flood control project, either public or private, more recent data compilation, or through new interpretation of present data the hazard from, and/or area subject to, flooding is significantly contrary to that controlled by the Ordinance. However, prior to any such change, approval must be obtained from the Federal Insurance Administrator.

3-E-1-b

(5/19/87)
(4/20/93)
(10/18/94)
(6/20/00)

Permit an Application Requirements

1. All uses, activities, and development occurring within any Flood Plain District shall be undertaken only upon the issuance of property zoning and building permits. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance and with all other applicable codes and ordinances, as amended and the Clarke County Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws.
2. All zoning and building permit application for development within the Flood Plain District shall incorporate the following information:
 - a. For structures to be elevated, the elevation of the lowest floor (including basement).
 - b. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
 - c. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) that exceed five acres or fifty lots, whichever is the lesser.
3. Any encroachments, including fill, new construction, substantial improvements and other developments is prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.
4. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

3-E-1-c

(5/19/87)

Permitted Uses (Exceptions) in the Floodway District

The following uses and activities are permitted provided that they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

1. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. 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.
3. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
4. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

3-E-1-d Use Regulations in the Flood Plain District

(5/19/87) In the flood plain district the following provisions shall apply:

(4/20/93)

(10/18/94)

(6/20/00)

1. Under no circumstances shall any proposed 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. In riverine situations, adjacent communities and the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) shall be notified prior to any alteration or relocation of a watercourse, and copies of such notifications shall be submitted to FEMA, stream, etc., within a political subdivision, approval shall be obtained from the State Water Control Board. Further notification of the proposal shall be given to all affected adjacent jurisdictions. Copies of such notifications shall be forwarded to the State Water Control Board, the State Department of Intergovernmental Affairs, and the Federal Insurance Administrator.
3. Uses and Structures Prohibited in the Flood Plain District
 - a. Structures used for residential or non-residential use, either temporary or permanent, shall not be permitted in the Flood Plain District.
 - b. Recreational vehicles shall not be located, within 100 feet of the Shenandoah River, from January 1 through March 31 of any year. A truck camper or cap shall not be removed from its transporting vehicle nor shall wheels be removed from a trailer, within 100 feet of the Shenandoah River, at any time of the year.
 - c. There shall be no disturbance of any kind within 100 feet of the Shenandoah River except as provided in Section 3-E-5, Stream Protection Overlay District.
4. The following uses may be permitted, with issuance of a Zoning and/or Building Permit, in the Flood Plain District limited by the regulations imposed by this section, the underlying zoning district, and the Uniform Statewide Building Code:
 - a. Recreational Vehicles located in the Flood Plain District between shall meet the following minimum requirements:
 1. 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 this ordinance and the Uniform Statewide Building Code
 - b. Agricultural uses which do not include utilization of structures with an aggregate floor area of more than 500 square feet. However, no structure for such uses shall be allowed within 100 feet of the Shenandoah River.
 - c. Recreational uses limited to parks, playgrounds, golf courses, driving ranges, boat landings, docks, picnic grounds, and transient amusement enterprises, provided such facilities are not usable for human habitation.
 1. Structures with walls related to such uses shall not exceed an aggregate floor area of five hundred (500) square feet per parcel or have less than one hundred and fifty (150) square feet. Such structures shall be set back at least 100 feet from the Shenandoah River.
 2. Structures without walls related to such uses shall not exceed an aggregated floor area of 1500 square feet per parcel or have less than 150 square feet. Such structures' roof framing shall be at least one foot above the 100-year flood elevation; however, the structures' height shall not be more than 15 feet above grade. Such structures shall be set back at least 500 feet from the Shenandoah River.

- d. Accessory structures not more than 500 square feet or less than 150 square feet in floor area to include roadside and park stands for the sale of food, fruit and vegetables, fishing bait, and boat rental, provided such facilities are not usable for human habitation. However, no structure for such uses shall be allowed within 100 feet of the Shenandoah River.

3-E-1-e

Design Criteria for Utilities and Facilities in Flood Plain Districts

1. Any replacement sewer facilities, and private package treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into the flood waters. In addition, they shall be located and constructed to minimize or eliminate flood damage impairment.
2. Any replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system, and be located and constructed to minimize or eliminate flood damage.
3. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The proposed system shall insure drainage away from buildings and on-site waste disposal sites. The County 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. All utilities such as gas lines, electrical and telephone systems being located in flood prone areas shall be located, elevated (where practicable) or buried and constructed to minimize the chance of impairment during a flood occurrence.
5. Streets and sidewalks shall 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.
6. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
7. The substantial damage or improvement of any structure and/or use shall require the entire structure to be in full compliance with the provisions of this ordinance.
8. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
 - a. the lowest floor of the manufactured home is elevated no lower than one (1) foot above the base flood elevation; or,
 - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the grade;
 - c. the manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.

3-E-1-f

Variances: Factors to be considered

1. In considering a variance application, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:
 - a. The showing of good and sufficient cause.
 - b. 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 Zone that will cause any increase in the one hundred

- (100)-year flood elevation.
- c. The danger that materials may be swept on to other lands or downstream to the injury of others.
 - d. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - e. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - f. The importance of the services provided by the proposed facility to the community.
 - g. The requirements of the facility for a waterfront location.
 - h. The availability of alternative locations not subject to flooding for the proposed use.
 - i. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - j. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - k. The safety of access by ordinary and emergency vehicles to the property in time of flood.
 - l. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - m. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - n. Such other factors which are relevant to the purposes of this ordinance.
2. 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.
 3. Variances shall be issued only after the Board of Zoning Appeals 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.
 4. 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 exceptional hardship to the applicant.
 5. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.
 6. 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.