

**WARRENTON ZONING ORDINANCE
FLOODPLAIN ORDINANCE AMENDMENTS**

Adopted by Town Council: March 11, 2008

Section 3-5.1 FPD - FLOODPLAIN DISTRICT

3-5.1.1 Legislative Intent

The Floodplain District is created to prevent:

- 1) The loss of property and life,
- 2) The creation of health and safety hazards,
- 3) The disruption of commerce and governmental services,
- 4) The extraordinary and unnecessary expenditure of public funds for flood protection and relief, and
- 5) The impairment of the tax base.

These special regulations are designed to achieve the pertinent purposes of zoning as set forth in the Code of Virginia, Title 15.2-2283, and to implement the Comprehensive Plan, and ensure good planning practices that:

- 1) regulate uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies;
- 2) restrict or prohibit certain uses, activities, and development from locating within districts subject to flooding;
- 3) require all 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) Protect individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

3-5.1.2 Applicability

The provisions of this Ordinance shall apply to all lands within the Town and identified as being within the One Hundred-Year Floodplain by the Federal Insurance Administration.

3-5.1.3 Establishment of Floodplain Districts

3-5.1.3.1 Description of Flood Districts

1. The Town of Warrenton contains four (4) floodplain districts which shall include areas subject to inundation by waters of the one hundred (100) year flood. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Map (FIRM)

for the Town of Warrenton prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Administration (FIM), dated February 6, 2008 as amended.

2. The Floodway District is delineated for purposes of this Ordinance using the criteria that a certain area 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.
3. The Flood-Fringe District shall be that area of the one hundred (100) year floodplain not included in the Floodway District. The basis for the outermost boundary of this District shall be the one hundred (100) year flood elevations contained in the flood profiles of the above referenced Flood Insurance Study and as shown on the accompanying Flood Insurance Rate Map (FIRM).
4. The Special Floodplain District shall be those areas identified as an AE (Zone A with Elevations) 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.
5. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100) year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study.
 - 5.1 For these areas, the one hundred (100) year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Acceptable Sources include but are not limited to: US Army Corps of Engineers Floodplain Reports and US Geological Survey Flood-Prone Quadrangles
 - 5.2 Where the specific one hundred (100) year flood elevation cannot be determined for this area then the applicant for the proposed use, development, and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts.
 - 5.3 Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Town Council for submission and approval by FEMA.
 - 5.3 The Town shall require that all new subdivision proposals and other proposed developments greater than 50 lots or 5 acres,

whichever is the lesser, include within such proposals base flood elevation data [Code of Federal Regulations 44CFR 60.3(b) section (3)].

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

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

3-5.1.3.2 District Boundaries

The boundaries of the Floodplain Districts are established as shown on Flood Insurance Rate Maps which is declared to be a part of this ordinance.

3-5.1.3.3 District Boundary Changes

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

3-5.1.3.4 Interpretation of District Boundaries

Initial interpretation of the boundaries of the Floodplain Districts shall be made by the Planning Director. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination.

3-5.1.4 District Provisions and Procedures

3-5.1.4.1 District Provisions

No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in 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.

Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, stream, etc., within the town, a regulatory floodway shall be designated. Applicable permits shall be obtained from the US Corps of Engineer, the Virginia Department of Environmental Quality, and the Virginia

Marine Resources Commission. For the applicant's convenience, a joint permit application is available from any of these organizations.

Further notification of the proposal shall be given, by the applicant, to all affected adjacent jurisdictions, the Town Zoning Administrator, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administration.

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.

3-5.1.4.2 Permit Requirements

All uses, activities, and development occurring within any floodplain area shall be undertaken only upon the issuance of a Floodplain permit from the Zoning Administrator. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws.

3-5.1.4.3 Floodway District

In the Floodway District no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate federal, local, and/or state authorities as required. The placement of any manufactured home, except in an existing manufactured home park or subdivision, within the Floodway District is specifically prohibited.

3-5.1.4.4 Permitted Uses in the Floodway district

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

1. Public and private recreational uses and activities such as parks, day camps, picnic grounds, and golf courses.
2. Accessory residential uses such as yard areas, gardens, play areas, and pervious loading areas.

3. Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips, etc.
4. Public utilities including poles, wires, transformers, underground pipelines or conduits but not those facilities listed as requiring a special use permit. Site Plan Review is required.

3-5.1.4.5 Permissible Uses in the Floodway District

The following uses and activities may be permitted by the Town Council by special use permit, subject to the provisions of Article 11, provided that they are in compliance with the provisions of the underlying district and are not prohibited by this or any other Ordinance and that all uses, activities, and structural developments shall be undertaken in strict compliance with the flood-proofing provisions contained in all other applicable codes and ordinances:

1. Active and passive recreation and recreational facilities
2. Inside/Outside 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 flotation or movement, and/or can be readily removed from the area within the time available after flood warning.
3. Structures, except for manufactured homes, accessory to the uses and activities in Section 3-5.1.4.4 above.
4. Temporary uses such as circuses, carnivals, and similar activities
5. Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipe lines, water and sewage treatment plants, and other similar or related uses.
6. Other similar uses and activities provided they cause no increase in the one hundred (100) year flood heights and/or velocities.

3-5.1.4.6 Flood-Fringe District

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

3-5.1.4.7 Standards for the Special Floodplain District:

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated (See Section 3-5.1.4.1), by the developer no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Special Floodplain Districts on the Flood Rate Insurance Map, 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 community.

Development activities in Zone AE on the community's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed provided that the developer or applicant first applies – with the community's endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

3-5.1.4.8 Standards for Approximated Floodplain

When base flood elevation data or floodway data have not been provided, the applicant shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the provisions of Article 4.

When such base flood elevation data is utilized, the permit shall contain:

- A. the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and,
- B. If the structure has been flood-proofed in accordance with the requirements of Article 4, Section 4.3 (B) of this ordinance, the elevation in relation to the mean sea level to which the structure has been flood-proofed.

When the data is not available from any source as in 3-5.1.3.1.4, the lowest floor of the structure shall be elevated to no lower than three above the highest adjacent grade.

3-5.1.4.9 Site Plans and Permit Applications

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

1. For structures to be elevated, the elevation of the lowest floor, including basement or cellar.
2. For structures to be flood-proofed (nonresidential only), the elevation to which the structure will be flood-proofed.
3. The elevation of the one hundred (100) year flood.
4. Topographic information showing existing and proposed ground elevations.

3-5.1.4.10 **Manufactured Homes**

All manufactured homes that are placed or substantially improved must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base floor elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement. Foundations shall meet the building code standards required of conventional stick-built single family dwellings.

3-5.1.4.11 **Recreational Vehicles**

Recreational vehicles placed on sites shall either

1. Be on the site for fewer than one hundred (180) consecutive days, and
2. Be fully licensed and ready for highway use, or
3. Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes as contained in the Virginia Uniform Statewide Building Code. 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.

3-5.1.4.12 **Existing Structures in Floodplain Districts**

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

1. Existing structures and/or uses located in the Floodway District shall not be expanded or enlarged
2. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood-proofed.
3. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use regardless of its location in a floodplain district to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.
4. Uses of adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

3-5.1.5 Design Criteria for Utilities and Facilities

3-5.1.5.1 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 the infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

3-5.1.5.2 Water Facilities

All new or replacement water facilities shall be designed to minimize or eliminate infiltration or flood waters into the system and be located and constructed to minimize or eliminate flood damages

3-5.1.5.3 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 Council 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.

3-5.1.5.4 Utilities

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

3-5.1.5.5 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.

3-5.1.6 Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the Floodplain District or

that land uses permitted within such districts will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Town of Warrenton or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

3-5.1.7 Validity and Severability

Where there happens to be any conflict between the provisions or requirements of any of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

As Federal and State guidelines are amended the more restrictive provisions shall apply

3-5.1.8 Variances

Applications for Variances require a Special Use Permits in accordance with Section 11-3.10 of the Zoning Ordinance and shall be submitted to the Zoning Administrator for consideration by the Planning Commission and Town Council. In the review process, Planning Commission and Town Council shall consider at least the following in their decision making process:

1. That the applicant has considered all relevant requirements and procedures specified in the Zoning Ordinance prior to requesting a variance.
2. The danger to life and property due to increased flood heights or velocities caused by encroachments; the danger that materials may be swept on to other lands or downstream to the injury of others.
3. The availability of alternative locations not subject to flooding for the proposed use.
4. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
5. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
6. The importance of the services provided by the proposed facility to the community.
7. The requirements of the facility for a waterfront location.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
10. The safety of access by ordinary and emergency vehicles to the

property in time of flood.

11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. The 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.
13. Such other factors which are relevant to the purposes of this ordinance.

The Town Council 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.

1. Variances shall be issued only after the Town Council 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. .
2. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100) year flood elevation.

Variances shall be issued only after the Town Council has determined that variance will be the minimum required to provide relief from hardship to the applicant.

The Zoning Administrator shall notify the applicant 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.