

AN ORDINANCE No. 23-184

To amend County Code Chapter 23 – Zoning, Article 7 – Overlay District, Division 2 – Floodplain Overlay District, by establishing floodplain districts and regulations, by requiring the issuance of permits for development, and by providing factors and conditions for variances to the terms of the ordinances.

BOARD OF SUPERVISORS PUBLIC HEARING: April 25, 2023

WHEREAS, staff has reviewed the code amendments and recommends approval as stated in the executive summary dated April 25, 2023; and

WHEREAS, the Spotsylvania County Planning Commission held a public hearing on April 19, 2023, duly advertised in a local newspaper for a period of two weeks, on April 6, 2023, and April 13, 2023, and interested citizens were offered an opportunity to be heard; and

WHEREAS, at its April 19, 2023, meeting the Spotsylvania County Planning Commission recommended approval of the ordinance amendments with a vote of 3-2; and

WHEREAS, on April 25, 2023, the Spotsylvania County Board of Supervisors held a public hearing, duly advertised in a local newspaper for a period of two weeks, on April 6, 2023, and April 13, 2023, and interested citizens were offered an opportunity to be heard; and

WHEREAS, the general welfare is served by approval of the code amendments.

NOW, THEREFORE, THE BOARD OF SUPERVISORS FOR THE COUNTY OF SPOTSYLVANIA HEREBY ORDAINS:

§ 1. That Chapter 23 – Zoning, Article 7 – Overlay District, Division 2 – Floodplain Overlay District, be and is hereby **amended and re-ordained** as follows:

ARTICLE 7. OVERLAY DISTRICT

DIVISION 2. FLOODPLAIN OVERLAY DISTRICT¹

Sec. 23-7.2.1. Purpose and statutory authorization.

¹Editor's note(s)—Ord. No. 23-96, adopted October 23, 2001, amended div. 2, §§ 23-7.2.1—23-7.2.17, in its entirety to read as herein set out. Formerly, div. 2 pertained to similar subject matter and derived from Ord. No. 23-66, adopted October 24, 1995; Ord. No. 23-76, adopted February 24, 1998.

This Division is adopted pursuant to the authority granted to localities by Code of Virginia §15.2-2200, § 15.2-2283, and § 15.2-2280.

The purpose of these provisions is to prevent the loss of property and life, 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 and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies;
- (2) Restricting or prohibiting certain uses and development from locating within areas subject to flooding;
- (3) Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage;
- (4) Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.2. Applicability and establishment of floodplain overlay district.

These provisions shall apply to all privately-owned and publicly-owned lands within the jurisdiction of the County of Spotsylvania and identified as areas of special flood hazard as shown on the flood insurance rate map (FIRM) or included in the flood insurance study (FIS) that are provided to the County by FEMA. The Board of Supervisors may designate areas as special flood hazard regardless of whether or not they are shown on the FIS or FIRMs.

The floodplain overlay district shall include all areas subject to inundation by waters of the base flood. The basis for the delineation of the district shall be the Flood Insurance Study (FIS) and the accompanying flood insurance rate maps for the County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated May 9, 2023, and any subsequent revisions thereto.

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.3. Compliance; liability; records; enforcement.

- (a) No land shall hereafter be developed and no structure shall be located, relocated, 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 ordinance.
- (b) 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, but does not imply total protection from flooding or flood events. 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 Division does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.

- (c) This Division shall not create liability on the part of Spotsylvania County, or any officer or employee thereof for any flood damages that result from reliance on this Division or any administrative decision lawfully made thereunder.
- (d) Records of actions associated with administering these regulations shall be kept on file and maintained in perpetuity by or under the direction of the Zoning Administrator.
- (e) Any person who fails to comply with any requirement or provision of this Division or direction of the Zoning Administrator or any authorized employee of the County shall be guilty of the appropriate violation and subject to the penalties thereof.

The Virginia Uniform Statewide Building Code addresses building code violations and the associated penalties in Section 104, 105, and 115. Violations and associated penalties of the County's Zoning Ordinance are addressed in Article 9 of the Zoning Ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the enforcement of this Division. The imposition of a fine or a penalty for any violation of, or noncompliance with, this Division 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 Division may be declared by the County to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this Division.

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.4. Abrogation and severability.

To the extent that the provisions are more restrictive, this Division supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict, it shall remain in full force or effect.

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other regulation, ordinance, or code, the more restrictive shall govern.

If any section, subsection, paragraph, sentence, clause, or phrase of this Division shall be declared invalid for any reason whatever, such decisions 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.

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.5. Definitions.

For the purposes of this Division the words and terms below shall have the meanings ascribed to them in this section. Terms not otherwise defined herein shall have the meanings set forth in Article 2 of this Chapter.

Appurtenant or accessory structure means a non-residential structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures are not to exceed 600 square feet.

Base flood means a flood that has a statistical one percent (1%) chance of being equaled or exceeded in a given year. This term shall be synonymous with “100-year flood” and “1%-annual-chance flood”.

Base flood elevation (BFE) means the water surface elevation(s) of the base flood is shown on or otherwise determined pursuant to the most current FIRM.

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

Board of zoning appeals means a board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this division.

Chapter means Chapter 23, Zoning, of the Spotsylvania County Code of Ordinances.

Development means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures (temporary and permanent), the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or other land-disturbing activities, or storage of equipment or materials (temporary or permanent). It shall not include exempt activities as set forth herein.

Division means Chapter 23 – Zoning, Article 7- Overlay District, Division 2 - Floodplain Overlay District, of the Spotsylvania County Code of Ordinances.

Elevated building means any building without a basement built to have the lowest floor elevated above the ground by means of solid perimeter walls, pilings, or columns (posts and piers).

Encroachment means the advance or infringement of development into a floodplain.

Existing construction means, for the purposes of the insurance program, structures for which the “start of construction” commenced before the effective date of the FIRM or before December 1, 1987 for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures” and “pre-FIRM”.

Existing development means any lawful development which existed on or before the effective date of the most-current FIRM, and/or development which has been properly-permitted and for which construction has commenced on or before the effective date of the most-current FIRM.

FEMA means the Federal Emergency Management Agency.

Flood or flooding means

1. A general or temporary inundation of normally dry land area from:
 - a. The overflow of inland or tidal waters; and/or
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.

- c. Mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a liquid river of 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.
2. 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 any of the above events.

Flood insurance rate map (FIRM) means the most recent official map prepared by the Federal Emergency Management Agency (FEMA) upon which has been delineated both the special hazard areas and risk premium zones applicable for the County of Spotsylvania. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood insurance study (FIS) means 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.

Floodplain or flood-prone area means any land susceptible to being inundated by water from any source.

Floodproofing means 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.

Floodway means 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.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

Functionally-dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure

Historic structure means any structure in any of the following categories:

1. Listed individually in the National Register of Historic Places (NRHP) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the NRHP;
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. Listed individually on the Virginia Landmarks Register (VLR); and/or
4. Included in and subject to any Historic Overlay District established pursuant to Article 7, Division 3 (Historic Overlay Districts) of this Chapter.

Hydrologic/Hydraulic engineering analysis means an analysis 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.

Letter of Map Change (LOMC) means an official written FEMA determination that amends or revises an effective FIRM or FIS. This term shall include:

1. *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, and which amends the current effective FIRM and establishes that a land as defined by meets and bounds or structure is not located in a special flood hazard area.
2. *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.
3. *Letter of Map Revision Based on Fill (LOMR-F)*: A determination that a structure or parcel of land has been elevated by fill, permitted and placed in accordance with applicable regulations of the County, above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood.
4. *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, but does not revise the effective FIRM or FIS.

Lowest adjacent grade means the lowest natural elevation of the ground surface next to the walls of a structure.

Lowest floor means 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 44 CFR §60.3.

Manufactured home means a structure subject to federal regulation, which is transportable in one (1) or more sections; is eight (8) body feet or more in width and forty (40) or more body feet in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected onsite; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure, as also set forth in Article 2 of this Chapter under *dwelling, manufactured home*.

Manufactured home park means any area fifteen (15) acres or more, however designated, that is occupied or designed for occupancy by one (1) or more manufactured homes, as also set forth in Article 2 of this Chapter, under *manufactured home park*.

Mean sea level means, for purposes of the National Flood Insurance Program, the datum to which base flood elevations shown on the County's FIRM are referenced.

New construction means, for the purposes of the National Flood Insurance Program, structures for which the start of construction commenced on or after December 1, 1987, including any subsequent improvements to said structures.

Post-FIRM structure means a structure for which construction or substantial improvement occurred on or after December 1, 1987.

Pre-FIRM structure means a structure for which construction or substantial improvement occurred before December 1, 1987.

Recreational vehicle means any vehicle which is built on a chassis; four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; such use within the County for not more than 14 days in a 60 day period, see *Camping* in Chapter 14, Article 1, Section 14-10.

Repetitive Loss Structure means a building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a ten (10) year period, in which the cost of the repair, on the average, equaled or exceeded twenty-five percent (25%) of the market value of the structure at the time of each flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

Severe Repetitive Loss Structure means a structure that (a) is covered under a contract for flood insurance made available under the NFIP; and (b) has incurred flood-related damage – (i) for which four (4) or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) for which at least two (2) separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

Shall means “must” or “will” and is mandatory as opposed to permissive.

Shallow flooding area means 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.

Special flood hazard area (SFHA) means land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, and as regulated herein.

Start of construction means, for other than new construction and substantial improvement, 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 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.

Structure means, 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.

Substantial damage means 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. Included in this term are flood-related damages sustained by a structure on two occasions in a ten (10)-year period, in which the cost of the repair, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure at the time of each such flood event.

Substantial improvement means any reconstruction, rehabilitation, addition, modification, alteration, repair 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 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 building 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 structures continued designation as a “historic structure”.
3. 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 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.

Violation means the failure of a structure or other development to be fully compliant with the County’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.6. Designation of the Floodplain Administrator.

- A. The Zoning Administrator serves as the Floodplain Administrator unless the Board of Supervisors appoints a different person or position. The Floodplain Administrator may
 - 1. Delegate duties and responsibilities set forth herein to qualified technical personnel, plan examiners, inspectors, and other employees; and
 - 2. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of this Division. Administration of any part of this Division by another entity shall not relieve the County of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 CFR Section 59.22.
- B. The duties of the Floodplain Administrator shall include, but are not limited to:
 - 1. Reviewing applications for permits to determine whether proposed activities will be located in the SFHAs.
 - 2. Interpreting floodplain boundaries and providing available base flood elevation and flood hazard information.
 - 3. Reviewing applications to determine whether proposed activities will be reasonably safe from flooding and requiring new construction and substantial improvements to meet the requirements of these regulations.
 - 4. Reviewing 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 100-year frequency floodplain of free-flowing non-tidal waters of the State.
 - 5. Verifying 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.
 - 6. Advising applicants for new construction or substantial improvement of structures that are located within an area of Coastal Barrier Resources System established by the Coastal Barriers Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Restricted Areas (OPA).

7. Approving applications and issuing permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapproving applications if the provisions of these regulations have not been met.
8. Inspecting or causing 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.
9. Reviewing elevation certificates prepared in accordance with FEMA standards and requiring incomplete or deficient certificates to be corrected.
10. Submitting to FEMA, or requiring applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Spotsylvania County within six (6) months after such data and information becomes available if the analyses indicate changes in base flood elevations.
11. Maintaining and permanently keeping records that are necessary for the administration of these regulations, including:
 - i. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps), and Letters of Map Change; and
 - ii. Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
12. Enforcing the provisions of these regulations, investigating violations, issuing notices of violations or stop work orders, and requiring permit holders to take corrective action.
13. Advising the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, preparing a staff report and recommendation.
14. Administering the requirements related to proposed work on existing buildings, including: making 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; making reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct; and prohibiting 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.
15. Undertaking, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in SFHAs; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

16. Notifying FEMA when the corporate boundaries of Spotsylvania County have been modified, to include: providing 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 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, preparing amendments to these regulations to adopt the FIRM and appropriate requirements, and submitting the amendments to the governing body for adoption such that 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.
17. Upon the request of FEMA, completing and submitting 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.
18. Taking 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 Spotsylvania County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.7. Overlay concept.

The floodplain overlay district described in this Division is an overlay to the existing underlying zoning districts and shall be shown on or noted on the affected pages of the official zoning map by the Zoning Administrator and, as such, the provisions of the floodplain overlay district shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements for the floodplain overlay district and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain district apply.

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

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.8. Official floodplain map, submitting model-backed technical data, and letters of map revision.

The floodplain overlay district shall include all areas subject to inundation by waters of the base flood. The basis for the delineation of the district shall be the Flood Insurance Study (FIS) and the accompanying flood insurance rate maps for the County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated May 9, 2023, and any subsequent revisions thereto. The most recent flood insurance rate map, effective May 9, 2023,

and any subsequent revisions thereto is declared to be part of this division and shall be kept on file in the office of the Zoning Administrator of the County.

The County's base flood elevations may increase or decrease resulting from physical changes affecting flood conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, the County shall notify FEMA of the changes by submitting technical or scientific data. The County may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flood conditions, risk premium rates and floodplain management requirements will be based upon current data.

When development in the floodplain will cause or causes a change in the basic flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) and then a Letter of Map Revision (LOMR).

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.9. District boundary changes and interpretation.

The delineation of the general boundaries of the floodplain overlay district official map may be revised by the County when deemed appropriate 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 an individual documents the need for such change. However, prior to any such changes approval must be obtained from the Federal Insurance Administration. A completed LOMR is a record of this approval.

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of the District or zones, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District or zone boundary shall be given a reasonable opportunity to present his case to the Board of Zoning Appeals and to submit his own evidence if he so desires.

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.10. Use and interpretation of FIRMs.

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

- A. Where field-surveyed topography indicates that adjacent ground elevations are below the base flood elevation in the riverine SFHAs, or below the one percent (1%) storm surge elevation in coastal SHFAs, even in areas not delineated on a FIRM, the area shall be considered as a SFHA and subject to the requirements of this Division.
- B. Where field-surveyed topography indicates that adjacent ground elevations are above the base flood elevation, and the area is labeled as a SFHA on the FIRM, the area shall be regulated as a special flood hazard area unless the owner obtains a Letter of Map Change that removes the area from the SFHA.

- C. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- D. 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.
- E. 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.
- F. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
 - 1. 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.
 - 2. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data, and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - 3. 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.

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.11. Description and basis of Special Flood Hazard districts; general requirements.

The various special flood hazard districts shall include the SFHAs. The basis for delineation of these districts shall be the FIS and the FIRM for the County prepared by the FEMA Federal Insurance Administration, dated May 9, 2023, and any subsequent revisions or amendments thereto.

The County 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 Division and which shall be kept on file at the County offices.

- A. *The AE, AH, or A1-30 Zones* 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, AH, or A1-30 zone where FEMA has provided base flood elevations:

1. 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 A1-30, AE, or AH on the FIRM, unless it is demonstrated by professional engineers or others of demonstrated qualifications, 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 County.
2. Development activities in Zones A1-30, AE, or AH on the County's 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 County's endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives FEMA approval.

B. *The Floodway District.* These are watercourse channels and adjacent lands within an AE Zone which must be capable of carrying the waters of the one percent (1%) annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point.

1. 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 County 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.
2. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the County's endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives FEMA approval.

If this subsection is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 23-7.2.12 and 23-7.2.13 of the Spotsylvania County Code of Ordinances.

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

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

1. *Residential.* All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two (2) feet above the highest adjacent grade.
2. *Nonresidential.* All new construction and substantial improvements of nonresidential structures shall:
 - i. Have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade; or,
 - ii. Together with attendant utility and sanitary facilities, be completely floodproofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

D. *The A Zone* on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent (1%) annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

The base flood elevations and floodway information from Federal, State, and other acceptable sources shall be used, when available. Where the specific one percent (1%) annual chance flood elevation cannot be determined for using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain, the applicant must use technical methods that correctly reflect currently accepted practices, such as point on boundary, high water marks, or detailed methodologies (hydrologic and hydraulic analyses) which shall be undertaken only by professional engineers or others of demonstrated qualifications. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development in the A Zone. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level plus eighteen (18) inches.

The following must be provided by the applicant with the building permit application(s):

- i. The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,
- ii. If the structure has been floodproofed in accordance with the requirements of this division, the elevation (in relation to mean sea level) to which the structure has been floodproofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a 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.

E. *The VE or V Zone* on FIRMs accompanying the FIS shall be those areas known as Coastal High Hazard Areas, extending from offshore to the inland limit of a primary frontal dune along an open coast or other areas subject to high velocity waves. The standards in this section also apply to all manufactured homes and recreational vehicles in zones A, AE, AH, and AO placed, or substantially improved, on individual lots or parcels. These standards are as follows:

1. All new construction an substantial improvements in Zones V and VE, shall be elevated on pilings or columns so that:
 - i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level plus eighteen (18) inches if the lowest horizontal structural member is parallel to the direction of wave approach or elevated at least two (2) feet above the base flood level if the lowest horizontal structural member is perpendicular to the direction of wave approach; and
 - ii. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent (1%) chance of being equaled or exceeded in any given year (once percent (1%) annual chance).
2. A certified professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section, and comply with the applicable requirements of the Virginia Uniform Statewide Building Code.
3. The Floodplain Administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) of all new and substantially improved structures in Zones V and VE. The Floodplain Management Administrator shall maintain a record of all such information.

F. *The X Zone*. If shaded on the FIRM, these are areas of the County where the annual flood risk is considered moderate at between 1 percent and 0.2 percent. If unshaded, these are areas where the annual flood risk is considered low at below 0.2 percent. There are no specific development requirements in the X Zone pursuant to this Division.

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.12. Permits and site plans; Development standards.

- A. *Permit Requirement.* All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of this division and with all other applicable ordinances and 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.
- B. *Site Plans and Permit Applications.* All applications for development within any floodplain district and all permits issued for the floodplain shall incorporate the following information, to be provided by a licensed professional:
1. The elevation of the base flood at the site.
 2. For structures to be elevated, the elevation of the lowest floor (including any basement).
 3. For nonresidential structures to be floodproofed, the elevation to which the structure will be floodproofed.
 4. Topographic information showing existing and proposed ground elevations.
 5. Certification of base flood impacts, as set forth above in Sec. 23-7.2.11.
 6. Certification of compliance with the building standards set forth below.
 7. Certification of compliance with the elevation and construction standards set forth below.
- C. *Building Standards.* The following shall apply to all permits issued pursuant to this Division:
1. New construction and substantial improvements shall be built according to this Division and the Virginia Uniform Statewide Building Code, 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. The method of anchoring must comply with applicable provisions of the Virginia Uniform Statewide Building Code. 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, and must comply with applicable provisions of the Virginia Uniform Statewide Building Code.

6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Septic drainfields shall be prohibited within the floodplain.
9. In all special hazard flood areas, prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within the County 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 area jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and FEMA. A completed CLOMR shall be required from FEMA prior to commencement of work, and a completed LOMR shall be required pursuant to Sec. 23-7.2.9 upon completion of work.
10. In all special hazard flood areas, the flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

D. Elevation and Construction Standards. The following shall apply to all structures permitted to be located within any floodplain:

1. *Residential.* New construction or substantial improvement of any principal residential structure (including manufactured homes) in Zones A1-30, AE, AH, and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus eighteen (18) inches.
2. *Nonresidential.* New construction or substantial improvement of any commercial, industrial, or nonresidential structure shall have the lowest floor, including basement, elevated to or above the base flood level plus eighteen (18) inches.
3. *Nonresidential – alternative.* Nonresidential structures located in all A1-30, AE, and AH zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus two (2) feet 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 certified 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 Zoning Administrator.
4. *Accessory structures.* Accessory structures of any size shall be prohibited within the floodplain, except as set forth below, and shall not be subject to variance provisions set forth in this division.

- i. *Water-dependent accessory structures.* Docks, boat houses (provided they are not designed or used for human habitation), and other similar water-dependent accessory structures which are constructed on pilings and intended to float on top or above the water surface may be permitted within the floodplain pursuant to the provisions of this division. Permit plans must demonstrate the top of all installed pilings will be at least eighteen (18) inches above the base flood elevation.
- 5. *Space below the Lowest Floor.* In zones A, AE, AH, AO, and A1-A30, fully enclosed areas of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 - i. Not be designed or used for human habitation, but shall be used solely 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 (e.g. garage door) or limited storage of maintenance equipment (e.g. standard exterior door), or entry to the living area (e.g. stairway or elevator).
 - ii. Be constructed entirely of flood-resistant materials below the regulatory flood protection elevation.
 - iii. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, in addition to complying with applicable provisions of the Virginia Uniform Statewide Building Code, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - 1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - 2. The total net area of all openings must be at least one (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.
- E. *Standards for Manufactured Homes and Recreational Vehicles.*
 - 1. In Zones A, AE, AH, and AO, 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 Sections 23-7.2.11(E), 23-7.2.12(C), and 23-7.2.12(D).
 - 2. All recreational vehicles placed on sites must either:

- i. Be on site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it on 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
 - ii. Meet all the requirements for manufactured homes in County Code Section 23-7.2.12(E)(1).
3. All manufactured homes and recreational vehicles must meet applicable requirements of the Virginia Uniform Statewide Building Code.

F. Standards for subdivision proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
3. All subdivision proposals shall have adequate drainage to reduce exposure to flood hazards.
4. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a 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 less.

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.13. Existing structures in floodplain areas.

Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved unless one of the following exceptions is established before the change is made:

- A. The Floodplain Administrator has determined that:
 1. Change is not a substantial repair or substantial improvement; AND
 2. No new square footage is being built in the floodplain that is not compliant; AND
 3. No new square footage is being built in the floodway; AND
 4. The change complies with these regulations and the Virginia Uniform Statewide Building Code; AND
 5. The change, when added to all the changes made during a rolling 5-year period does not constitute 50% or more of the structure's value.
- B. The changes are required to comply with a citation for a health or safety violation.
- C. The structure is a registered historic structure and the change required would impair the historic nature of the structure.

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Sec. 23-7.2.14. Variances.

- A. The Board of Zoning Appeals shall have the authority to grant variances to the provisions of the Floodplain Overlay District only in strict compliance with this section. Variances shall be issued only upon
 - 1. A showing that the standards set forth in Sec. 23-4.8.3 and Sec. 23-4.8.4 of the Code of Ordinances of Spotsylvania County have been met;
 - 2. The Board of Zoning Appeals' determination that the granting of such variance will not result in
 - i. Unacceptable or prohibited increases in flood heights,
 - ii. Additional threats to public safety,
 - iii. Extraordinary public expense; and
 - 3. The Board of Zoning Appeals' determination that the granting of such variance will not
 - i. Create nuisances,
 - ii. Cause fraud or victimization of the public, or
 - iii. Conflict with local laws or ordinances.
- B. Variances generally are limited to a lot size less than one-half acre. Variances may be granted by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this Section.
- C. 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.
- D. The Board of Zoning Appeals also shall give due consideration and weight to the following factors before granting a variance:
 - 1. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one percent (1%) chance flood elevation.
 - 2. The danger of materials being swept on to other lands or downstream to the injury of others.
 - 3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - 4. The susceptibility of the proposed facility and its contents to flood damage, and the effect of the damage on the individual owners.
 - 5. The importance of the services provided by the proposed facility to the community.
 - 6. The requirements of the facility for a waterfront location.
 - 7. The availability of alternative locations for the proposed use which are not subject to flooding.
 - 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 flood waters expected at the site.
 12. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 13. Such other factors which are relevant to the purposes of this division.
- E. *Additional review.* The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to a professional engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.
- F. *Factors for approval.* A variance may be approved only if the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.
- G. *Notice and records.* The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of the variance to construct a structure below the one percent (1%) annual chance flood elevation (a) increases the risks to life and property, and (b) will result in increased premium rates for flood insurance.
- H. A record shall be maintained of the notification required in Section 23-7.2.14(G), as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in any report submitted to the Federal Insurance Administrator.

(Ord. No. 23-96, 10-23-01; Ord. No. 23-184, 4-25-23)

Cross reference(s)—Erosion and sediment control generally, Ch. 8.

§ 2. This ordinance shall be in force and effect upon adoption.