

SST  
12/6/16

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE amending and reordaining Section 36.2-205, Dimensional regulations, Table 205-1, Permitted Yard Encroachments; Section 36.2-311, Use table for residential districts; Section 36.2-312, Dimensional regulations for residential districts; Section 36.2-313, Front yard dimensions for infill development; Section 36.2-315, Use table for multiple purpose districts; Section 36.2-316, Dimensional regulations for multiple purpose districts; Section 36.2-318, Pedestrian access; Section 36.2-319, Building placement and façade transparency standards for multiple purpose districts; Section 36.2-322, Use table for industrial districts; Section 36.2-327, Use table for planned unit development districts; repealing Section 36.2-333, Floodplain Overlay District (F) and replacing with a new Section 36.2-333, Floodplain Overlay District (F); amending and reordaining Section 36.2-335, River and Creek Corridors Overlay District (RCC); Section 36.2-336, Comprehensive Sign Overlay District; Section 36.2-406, Car wash; Section 36.2-408, Day care centers, child; Section 36.2-411, Gasoline stations; repealing Section 36.2-415, Mini-warehouses; amending and reordaining Section 36.2-429, Temporary uses, Table 429-1, Temporary Uses; Section 36.2-540, Zoning amendments; Section 36.2-622, Exempt lighting; Section 36.2-647, Buffering and screening; Section 36.2-647, Buffering and screening, Table 647-1, Buffering and Screening of Certain Uses and Activities; Section 36.2-648, Parking area landscaping; Section 36.2-649, Standards for buffering and screening, and parking area landscaping materials, Table 649-1, Buffering, Screening and Landscaping Materials; Section 36.2-651, Applicability; Section 36.2-652, Minimum parking, Table 652-2, Required Parking Spaces; Section 36.2-653, Maximum parking; Section 36.2-654, Parking and loading area standards; Section 36.2-705, Nonconforming uses; Section 36.2-709, Certain uses deemed not

nonconforming; Section 36.2-841, Powers and duties; Appendix A, Definitions; Appendix B, Submittal Requirements, B-1, Basic Development Plan; B-2, Comprehensive Development Plan; of Chapter 36.2, Zoning, of the Code of the City of Roanoke (1979), as amended; for the purposes of updating, clarifying, and making consistent with state law, the City’s zoning ordinance; providing for an effective date; and dispensing with the second reading of this ordinance by title.

BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. Chapter 36.2, Zoning, of the Code of the City of Roanoke (1979), as amended, is hereby amended and reordained, to read and provide as follows:

\* \* \*

**Sec. 36.2-205. Dimensional regulations.**

\* \* \*

**Table 205-1. Permitted Yard Encroachments**

Feature	Front	Side	Rear
* * *			
Handicap ramps associated with a residential use	Yes 7 feet, <u>as measured from the front of the building or the front line of an existing porch, if one is present.</u>	Yes 4 feet	Yes 10 feet

\* \* \*

(f) *Front yards.*

(1) The depth of a front yard shall be measured at a right angle to the street line to the front building line of the building, excluding the front porch or any other encroachment into the front yard. In the case of a curved street line, the depth shall be measured on the radial line.

\* \* \*

**Sec. 36.2-311. Use table for residential districts**

District	RA	R-12	R-7	R-5	R-3	RM-1	RM-2	RMF	Supplemental Regulation Section
* * *									
<i>Commercial Uses:</i>									
<u>Day care home, adult</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	

\* \* \*

**Sec. 36.2-312. Dimensional regulations for residential districts.**

Section 36.2-313 Front yard requirements for infill development apply	No	No	Yes	Yes	Yes	Yes	Yes	Yes	<del>Yes</del> <u>No</u>
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**Sec. 36.2-313. Front yard dimensions for infill development.**

To determine the established front yard in the table below, the ~~zoning~~ Zoning administrator ~~Administrator~~ shall consider only the following lot or lots: (1) a lot or lots on which there is a principal structure on the same block face, and (2) up to one (1) lot on each side of a subject property which is closest to the subject property. However, no lot being used to determine the established front yard shall be an outlier. An outlier shall be any yard depth that deviates by more than twenty (20) percent from the average yard depth on the block face, not including the outlier or outliers. In such instances, the zoning ~~Zoning administrator~~ Administrator shall determine the most shallow established front yard to be equal to such average depth.

Where the most shallow established front yard is between the minimum and maximum front yards of the district	Minimum yard: depth of the most shallow established front yard Maximum yard: depth of the most shallow established front yard, plus 5 feet
Where the most shallow established front yard is deeper than the district's maximum front yard	Minimum yard: <del>same as district</del> <u>depth of most shallow established front yard.</u> Maximum yard: <u>average between the</u> depth of most shallow established front yard <u>and deepest established front yard, excluding outliers as defined above.</u>
* * *	

**Sec. 36.2-315. Use table for multiple purpose districts**

District	MX	CN	CG	CLS	D	IN	ROS	UF	Supplemental Regulation Section
* * *									
<i>Accommodations and Group Living:</i>									
* * *									
<u>Short-term rental</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>P</u>	
* * *									
<i>Commercial Uses: Miscellaneous</i>									
* * *									
<u>Animal hospital or veterinary clinic, outdoor pens or runs</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>			<u>S</u>	
* * *									
<u>Kennel, outdoor pens or runs</u>			<u>S</u>	<u>S</u>				<u>S</u>	
* * *									
<i>Warehousing and Distribution Uses:</i>									
* * *									
<u>Self-storage building</u>			<u>S</u>	<u>S</u>				<u>P</u>	
* * *									
* * *									
<i>Assembly and Entertainment Uses:</i>									
* * *									
Eating establishment	<u>S</u>	P	P	P	P			P	
Eating and drinking establishment, not abutting a residential district	<u>S</u>	P	P	P	P			P	
Eating and drinking establishment, abutting a residential district	<u>S</u>	S	S	S	S			S	
* * *									
<u>Meeting hall, abutting a residential district</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>	<u>S</u>	
<u>Meeting hall, not abutting a residential district</u>		P	P	P	P	P	P	P	
* * *									

<i>Public, Institutional, and Community Facilities:</i>									
<u>Day care home, adult</u>	<u>S</u>	<u>S</u>			<u>S</u>			<u>S</u>	
* * *									
Supply pantry		<u>P</u>	P	<u>P</u>	<u>P</u>	P		<u>P</u>	

**Sec. 36.2-316. Dimensional regulations for multiple purpose districts**

	MX	CN	CG	CLS	D	IN	ROS	UF
* * *								
Section 36.2-318 Pedestrian access requirement applies	<del>No</del> <u>Yes</u>	Yes	Yes	Yes	<del>No</del> <u>Yes</u>	Yes	No	Yes

\* \* \*

**Sec. 36.2-318. Pedestrian access.**

In districts where indicated as applicable in Section 36.2-316, designated pedestrian pathways of a minimum unobstructed width of five (5) feet shall be provided and clearly defined from the public sidewalk, or the public right-of-way where there is no public sidewalk, to the public entrance of any principal building. Such pedestrian pathways shall be handicapped accessible, surfaced with concrete, asphalt, bituminous pavement, brick or stone pavers, or a permeable ~~paver~~ pavement system, and shall be distinguished and separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic. Where any such walkway crosses a motor vehicle travel lane, raised crosswalks shall be provided.

**Sec. 36.2-319. Building placement and façade transparency standards for multiple purpose districts.**

\* \* \*

~~(d) The façade facing a primary street frontage shall contain a primary entrance with the threshold located at the grade of the adjacent sidewalk or at the adjacent grade when not abutting a sidewalk, except as follows. The primary entrance in the MX or IN District may be above the finished grade of the adjacent sidewalk or adjacent grade of the site. The entrance shall be accessible during normal business hours to employees and customers/patrons of the building occupant.~~

(d) A primary entrance shall be located within the required minimum and maximum front yards, with the threshold located at the grade of the adjacent sidewalk or at the adjacent grade when not abutting a sidewalk. Such primary entrance shall be accessible during normal business hours to employees and customers/patrons of the building occupant.

Exceptions:

- (1) Where building placement is established according to the civic space yard option, a primary entrance shall abut the civic space yard with the entrance threshold located at the grade of the abutting civic space yard.
- (2) The primary entrance in the MX or IN District may be above the finished grade of the adjacent sidewalk or adjacent grade of the site.

\* \* \*

**Sec. 36.2-322. Use table for industrial districts**

District	I-1	I-2	AD	Supplemental Regulation Section
* * *				
<i>Commercial Uses: Miscellaneous</i>				
<u>Kennel, outdoor pens or runs</u>	<u>S</u>			
* * *				
<i>Warehousing and Distribution Uses:</i>				
Distribution center, not otherwise listed	P	P	P	
<u>Mini-warehouse</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>36.2-415</u>
<u>Self-storage building</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Self-storage facility</u>	<u>P</u>	<u>P</u>	<u>P</u>	
* * *				
<i>Accessory Uses:</i>				
Accessory uses, not otherwise listed in this Table	P	P	P	36.2-403
Outdoor recreation facility lighting or sports stadium lighting	<u>PS</u>	<u>PS</u>	<u>PS</u>	36.2-403
* * *				

\* \* \*

**Sec. 36.2-327. Use table for planned unit development districts**

	MXPUD	INPUD	IPUD	Supplemental Regulation Section
* * *				
<i>Commercial Uses: Miscellaneous</i>				
<u>Animal hospital or veterinary clinic, outdoor pens or runs</u>			<u>P</u>	

<i>Warehousing and Distribution Uses:</i>				
* * *				
<u>Self-storage building</u>	<u>P</u>			
* * *				

~~Sec. 36.2-333. Floodplain Overlay District (F).~~

~~This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2-2280.~~

~~(a) — Purpose. The purpose of the Floodplain Overlay District (F) is to provide mandatory floodplain restrictions for FEMA compliance. The intent of the regulations in this section 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, activities, and development which, alone or in combination with other existing or future uses, activities, and development, if unregulated, will cause unacceptable increases in flood heights, velocities, and frequencies;~~
- ~~(2) — Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding;~~
- ~~(3) — Requiring all those uses, activities, and developments that do occur in floodprone areas to be protected or floodproofed against flooding and flood damage; and~~
- ~~(4) — Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.~~

~~(b) — Establishment of floodplain areas. For the purpose of the regulations prescribed in this section, there are hereby created various floodplain areas subject to inundation by waters of the 100 year flood. The basis for the delineation of the floodway, the flood fringe, and the approximated floodplain, shall be the flood insurance study for the City of Roanoke prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 28, 2007. A copy of the flood insurance study, and the flood insurance rate map shall be filed in the offices of the City Clerk and the city engineer and are hereby declared to be a part of these regulations. The floodplain areas shall consist of the following:~~

- ~~(1) — The floodway is delineated, for purposes of these regulations, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100 year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. These floodways are specifically defined in Table 4 of the flood insurance study and as generally shown on the accompanying flood insurance rate map.~~

- ~~(2) — The flood fringe shall be that area of the 100-year floodplain not included in the floodway. The basis for the outermost boundary of the flood fringe shall specifically be the 100-year flood elevations contained in the flood profiles of Table 4 of the flood insurance study and as generally shown on the accompanying flood insurance rate map.~~
- ~~(3) — The approximated floodplain shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a 100-year floodplain boundary has been approximated. Such areas are shown as Zone A and AO on the flood insurance rate map. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports or the U.S. Geological Survey Flood-Prone Quadrangles, then the applicant for the proposed use, development, or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. When a Zone A or Zone AO area is located between two (2) numbered zones, 100-year flood elevations shall be linearly interpolated between known elevations, along the centerline of the channel. Hydrologic and hydraulic analyses shall be undertaken only by the applicant's professional engineers who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, and computations shall be submitted in sufficient detail to allow a thorough review by the City Engineer.~~

~~(c) — *Applicability.*~~

- ~~(1) — The floodplain areas described above shall be overlays to the existing underlying base zoning districts as shown on the Official Zoning Map. As such, the provisions of the Floodplain Overlay District (F) shall serve as a supplement to the underlying base zoning district provisions. With any conflict between the provisions or requirements of the Floodplain Overlay District (F) and those of the underlying base zoning district, the more restrictive provisions shall apply.~~
- ~~(2) — The boundaries of the floodplain areas previously described in subsection (b), above, shall be established as shown on the flood insurance rate map and flood study.~~
- ~~(3) — The delineation of any of the floodplain areas described in subsection (b), above, may be revised by the City Council where natural or manmade changes have occurred or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents to the satisfaction of the Zoning Administrator and City Engineer the need for such change. However, prior to any such change, approval shall be obtained from the Federal Emergency Management Administration, Region 3.~~
- ~~(4) — Interpretations of the boundaries of the floodplain areas described in subsection (b), above, shall be made by the Zoning Administrator in consultation with the City's Floodplain Manager.~~



- ~~(5) — No land or use shall be developed within the established floodplain areas, and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered, except in full compliance with the terms and provisions of the regulations of this section and any other applicable ordinances and regulations which apply to uses within the City.~~
- ~~(d) — *Compliance.* No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.~~
- ~~(e) — *Abrogation and greater restrictions.*~~
- ~~(1) — These regulations supersede any regulations in effect in floodplain areas. However, any underlying regulations or restrictions shall remain in full force and effect to the extent that their provisions are more restrictive than the regulations as set forth in this section.~~
- ~~(2) — Wherever any regulation in this section imposes higher or more restrictive standards than are required in any other statute, ordinance, or regulation, the provisions of this section shall govern. Whenever the provisions of any other statute, ordinance, or regulation impose higher or more restrictive standards than are required in this section, the provisions of such other statute, ordinance, or regulation shall govern.~~
- ~~(f) — *Severability.* If any section, subsection, paragraph, sentence, clause, or phrase of this section shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this section or chapter. The remaining portions shall remain in full force and effect, and for this purpose, the provisions of this section and chapter are hereby declared to be severable.~~
- ~~(g) — *Submitting technical data.* A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.~~
- ~~(h) — *Definitions.* Certain terms and words used in this section shall be defined as set forth below. Where any conflict exists between the definitions below and those set forth in Appendix A, the definitions of this subsection shall govern for the purposes of the regulations of this section.~~
- ~~*Base flood/100 year flood:* A flood that, on the average, is likely to occur once every one hundred (100) years (that has a one (1) percent chance of occurring each year, although the flood may occur in any year).~~
- ~~*Base flood elevation:* The Federal Emergency Management Agency designated 100-year water surface elevation.~~

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

~~*Channel:* A perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.~~

~~*Conditional letter of map revision (CLOMR):* A letter from FEMA commenting on whether a proposed project, if built as proposed, would justify a National Flood Insurance Program (NFIP) map revision to modify the existing regulatory floodway or effective base flood elevation.~~

~~*Development:* Any manmade change to improved or unimproved real estate including, but not limited to, structures, the placement of manufactured homes, paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or the storage of equipment or materials.~~

~~*FEMA:* Federal Emergency Management Agency.~~

~~*Flood:* A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland waters, or (2) the unusual and rapid accumulation of run-off of surface waters from any source.~~

~~*Flood elevation:* A determination by the Federal Insurance Administration of the water surface elevations of the base flood, that is the flood level that has a one (1) percent or greater chance of occurrence in any given year.~~

~~*Flood insurance rate map:* An official map of the City of Roanoke, on which the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the City of Roanoke.~~

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

~~*Floodproofing:* Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.~~

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

~~*Freeboard:* A factor of safety usually expressed in feet above a flood level for purposes of floodplain management.~~

~~*Historic structure:* For the purpose of this section only, any structure that is:~~

- ~~(1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~
- ~~(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;~~

- ~~(3) Individually listed on the Virginia Landmarks Register or determined eligible by the Virginia Department of Historic Resources for such register; or~~
- ~~(4) Individually listed on the City inventory of historic places or as determined eligible for such inventory by the Roanoke City Architectural Review Board.~~

~~*Letter of map revision (LOMR):* A letter from FEMA officially revising the current National Flood Insurance Program (NFIP) map to show changes to floodplains, floodways, or flood elevations.~~

~~*Lowest floor:* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the 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 this section.~~

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

~~*Recreational vehicle:* A vehicle which is built on a single 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.~~

~~*Repetitive loss:* Flood-related damage sustained by a structure on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty five (25) percent of the market value of the structure before the damage occurred.~~

~~*Start of construction:* For a "substantial improvement," start of 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:* For purposes of this section only, 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:* 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 (50) percent of the market value of the structure before the damage occurred.~~

~~*Substantial improvement:* Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a period of five (5) years, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This~~

~~term includes structures which have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:~~

- ~~(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or~~
- ~~(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."~~

~~*Watercourse:* A natural or artificial channel for passage of running water fed from natural sources in a definite channel and discharging into some stream or body of water.~~

~~(i) *Floodplain development regulations:*~~

~~(1) *Permit requirement:* All uses, activities, and development occurring within any floodplain areas shall be undertaken only upon the issuance of a zoning permit by the Zoning Administrator. Such development shall be undertaken only in strict compliance with these regulations and with all other applicable codes and ordinances. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include documentation certifying compliance with all applicable state and federal laws and shall review all sites to ensure they are reasonably safe from flooding. Under no circumstances shall any use, activity, or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system. Permit review shall ensure reasonable construction safety from flooding, proper anchoring, use of flood resistant materials, and construction practices that minimize flood damage. Review shall ensure certification that the engineer has met the requirements of the most recent applicable FEMA technical bulletins in effect at the time of application for such permit.~~

~~(2) *Alteration or relocation of watercourse:* Prior to any proposed alteration or relocation of any channel with a regulatory floodplain, within the City, a permit shall be obtained from the U.S. Army Corp of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions and the Dam Safety and Floodplain Management Division of the Virginia Department of Conservation and Recreation. If the channel to be altered or relocated contains a regulatory floodplain, a conditional letter of map revision shall be secured from FEMA, prior to construction.~~

~~(3) *Zoning permits:* All applications for zoning permits for structures in the floodplain as defined for purposes of this section shall include a standard FEMA elevation certificate completed by a licensed surveyor or engineer. Such certificate shall be based on the most recent flood insurance rate map and flood study in effect at the time of application for such permit. For all~~

~~such permits, the Zoning Administrator shall obtain and maintain a record of the following information:~~

- ~~(A) — The elevation of the 100-year flood;~~
- ~~(B) — Topographic information showing existing and proposed ground elevation;~~
- ~~(C) — For structures to be elevated, the elevation (in relation to mean sea level) of the lowest floor (including basement) of any proposed new or substantially improved structures;~~
- ~~(D) — For nonresidential structures to be floodproofed, the elevation (in relation to mean sea level) to which the structure will be floodproofed, and any FEMA floodproofing certificate, when applicable;~~
- ~~(E) — Where a nonresidential structure is intended to be made watertight below the base flood level, a registered professional engineer or architect shall develop and review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of the Virginia Uniform Statewide Building Code; and~~
- ~~(F) — Prior to the issuance of a certificate of occupancy, the applicant shall provide a final elevation certificate of the as-built construction.~~

~~(4) — *Manufactured or mobile homes:* All manufactured homes or mobile homes to be placed or substantially improved within the flood fringe shall be placed on a permanent foundation and anchored in accordance with the Virginia Uniform Statewide Building Code. In the floodway, the placement of manufactured homes or mobile homes is prohibited.~~

~~(5) — *Floodway:* In the floodway, no encroachments, including fill, new construction, substantial improvements, rehabilitation of substantially damaged structures, and other development, shall be permitted except as listed in subsections (j), (k) and (m), below. Encroachments associated with the expansion of an existing use or establishment of a new permitted use shall allow an encroachment only if the applicant's professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in the 100-year flood elevation, or a conditional letter of map revision is approved. The requirements of subsection (i)(4) and (6) shall apply to encroachments permitted by this section.~~

~~(6) — *Flood fringe and approximated floodplain:* In the flood fringe and approximated floodplain, the development or use of land shall be permitted in accordance with the regulations of the underlying base zoning district, provided that all such uses, activities, or development shall be undertaken in strict compliance with the floodproofing and related~~

~~provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances; and provided further that the lowest floor of any structure shall be elevated to a minimum of two (2) feet above the base flood elevation, or, when allowed in the Virginia Uniform Statewide Building Code, shall be floodproofed to two (2) feet above the base flood elevation. In addition, all electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including ductwork, for new construction or substantial improvement shall be elevated or floodproofed to two (2) feet above the base flood elevation.~~

- ~~(7) — *Approximated floodplain:* Within the approximated floodplain, all proposed developments shall include within such proposals base flood elevation data. The applicant's professional engineer shall also delineate a floodway area based on the requirement that all existing and future development not increase the 100-year flood elevation more than one (1) foot at any one (1) point. The engineering principle identified as equal reduction of conveyance shall be used to make the determination of increased flood heights. Within the floodway area delineated by the applicant's professional engineer, the provisions of subsection (i)(5), above, and subsections (j) and (k), below, shall apply.~~
- ~~(8) — The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access or storage. Such space shall not be partitioned into multiple rooms, temperature controlled, or used for human habitation.~~
- ~~(9) — In the floodway, the placement or storage of recreational vehicles is prohibited, unless approved by special exception as provided for in subsection (k), below.~~
- ~~(j) — *Permitted uses in floodway.* The following uses shall be permitted as of right in the floodway to the extent that they are otherwise permitted in the underlying base zoning district and are not prohibited by any other ordinance, and provided they do not employ structures, fill, or storage of materials and equipment within the floodway which may cause any increase in 100-year flood height and velocity:
  - ~~(1) — Agricultural operations, such as farming, pasture, grazing, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting;~~
  - ~~(2) — Public and private recreational uses such as parks, picnic grounds, golf courses, boat launching or swimming areas, hiking or horseback riding trails, wildlife and nature preserves, fishing areas, and trap and skeet game ranges;~~
  - ~~(3) — Botanical gardens; and~~
  - ~~(4) — Accessory residential uses such as yard areas, gardens, and play areas.~~~~
- ~~(k) — *Special exception uses in floodway.* The following uses shall be permitted in the floodway by special exception granted by the Board of Zoning Appeals provided such uses are permitted in the underlying base zoning district:~~

- ~~(1) Structures accessory to the uses set forth in subsections (j)(1) through (j)(3), above.~~
- ~~(2) Utilities distribution: gas/electric compressor station or substation, or water pump/lift station.~~
- ~~(3) Sewage treatment facility or water treatment facility.~~
- ~~(4) Quarry and mining operations, including excavation of sand, gravel, or clay, provided no increase in the level of flooding or velocity is caused.~~
- ~~(5) Storage of materials and equipment provided that they are not buoyant, flammable, toxic, hazardous, 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, or can be readily removed from the area within the time available after flood warning.~~
- ~~(6) Placement or storage of a recreational vehicle, provided such recreational vehicle is on the site for fewer than one hundred eighty (180) consecutive days, is fully licensed and ready for highway use. For purposes of this section, 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 if it has no permanently attached additions.~~

~~(1) *Design criteria for public utilities and facilities:*~~

- ~~(1) All new or replacement sanitary sewer facilities and private sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they must be located and constructed to minimize flood damage and impairment.~~
- ~~(2) All new or replacement potable water facilities shall be designed to eliminate infiltration of flood waters into the system and shall be located and constructed to minimize flood damages.~~
- ~~(3) All storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner, without damage to persons or property. The systems shall ensure proper drainage along streets, and provide positive drainage away from buildings and on-site waste disposal sites. The City 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 other utilities, such as gas lines and electrical, telephone, and cable television systems, being placed in flood-prone areas shall be located, elevated (where possible), and constructed to minimize the chance of impairment during a flood occurrence.~~

- ~~(5) Streets, drainage improvements, and sidewalks shall be designed to prevent increasing flood levels by more than one (1) foot. Any new structure encroaching in a floodway shall receive a conditional letter of map revision (CLOMR) prior to construction and a letter of map revision (LOMR) following completion.~~
- ~~(m) *Existing structures in the floodplain.* 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 or uses located in the floodway shall not be expanded or enlarged, unless the effect of the proposed expansion or enlargement on 100-year flood heights is fully offset by accompanying stream or channel improvements.~~
- ~~(2) Any modification, alteration, repair, reconstruction, or improvement of any kind, or any combination thereof, to a structure or use located in a floodplain, that does not constitute a substantial improvement shall be elevated or floodproofed in accordance with Chapter 36.2, Zoning, the Virginia Uniform Statewide Building Code, and the most recent FEMA regulations in effect at the time of application. This subsection (m)(2) applies only to such modification, alteration, repair, reconstruction, improvement or combination thereof.~~
- ~~(3) Any modification, alteration, repair, reconstruction, improvement of any kind, or any combination thereof, to a structure or use located in a floodplain that constitutes a substantial improvement shall be undertaken only in full compliance with the provisions of Chapter 36.2, Zoning, the Virginia Uniform Statewide Building Code, and the most recent FEMA regulations in effect at the time of application. This subsection (m)(3) applies to the entire structure which has been modified, altered, repaired, reconstructed or improved.~~
- ~~(4) Any modification, alteration, repair, reconstruction, or improvement, or any combination thereof, of any kind to a historic structure located in a floodplain that is seeking an exemption from the definition of substantial improvement as defined in subsection (h) of this section shall be flood proofed to the extent practical in accordance with the Virginia Uniform Statewide Building Code and FEMA Floodplain Management Bulletin Historic Structures, FEMA P-467-2.~~
- ~~(n) *Variances.*~~
- ~~(1) When an application for a variance from the regulations of this section has been made, the procedure for processing the variance request shall be as set forth in Section 36.2-561.~~
- ~~(2) In considering an application for a variance from the terms of this section, the Board of Zoning Appeals shall satisfy all standards and findings set forth in Section 36.2-561(e) and (d) and shall consider the following additional factors:~~



- ~~(A) — The danger to life and property due to increased flood heights or velocities caused by encroachment. No variance shall be granted for any proposed use, development, or activity within any floodway that will cause any increase in the 100 year flood elevation without approval of a conditional letter of map revision (CLOMR);~~
  - ~~(B) — The danger that materials may be swept onto other lands or downstream to the injury of others;~~
  - ~~(C) — The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;~~
  - ~~(D) — The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;~~
  - ~~(E) — The importance of the services provided by the proposed facility to the community;~~
  - ~~(F) — The requirements of the facility for a waterfront location;~~
  - ~~(G) — The availability of alternative locations not subject to flooding for the proposed use;~~
  - ~~(H) — The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;~~
  - ~~(I) — The relationship of the proposed use to the City's Comprehensive Plan and floodplain management program for the City;~~
  - ~~(J) — The safety of access by ordinary and emergency vehicles to the property in time of flood;~~
  - ~~(K) — The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site;~~
  - ~~(L) — 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; and~~
  - ~~(M) — Such other factors which are relevant to the purposes of Section 36.2 333.~~
- ~~(3) — The Board of Zoning Appeals may forward any application and accompanying documentation pertaining to any request for a variance to the City Engineer or other qualified person or state or federal 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.~~
  - ~~(4) — Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such variance will not result in prohibited~~

~~increases in flood heights, additional threats to public safety, or extraordinary public expense, and will not create nuisances, cause victimization of the public, or conflict with City laws or ordinances.~~

~~(5) The Board of Zoning Appeals shall notify the applicant for a variance, in writing, within ten (10) business days of the public hearing, that the issuance of a variance to construct a structure below the 100-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.~~

~~(6) A record of the above notification as well as all variance actions, including justification for their issuance, shall be maintained by the Zoning Administrator. Any variances which are issued shall be noted in the annual or biennial report of the City submitted to the Federal Insurance Administrator.~~

~~(e) Application requirements for variances and special exception uses in floodways. All applications for a variance or a special exception use in any floodway, as defined herein, shall include the following:~~

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

~~(2) A typical valley cross-section as necessary to adequately show the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, floodway limits, and 100-year flood elevation;~~

~~(3) A profile showing the slope of the bottom of the channel or flow line of the stream;~~

~~(4) A summary report, prepared by professional engineers or others of demonstrated qualifications, evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, and other pertinent technical matters;~~

~~(5) A list of names, addresses, and official tax numbers of adjoining property owners and owners of property within three hundred (300) feet of the subject property; and~~

~~(6) A conditional letter of map revision (CLOMR) prior to the issuance of any such variance or special exception in the floodway.~~

### **Sec. 36.2-333. Floodplain Overlay District (F).**

#### **(a) General Provisions**

**(1) Statutory Authorization and Purpose.** This section is adopted pursuant to the authority granted to localities by Section 15.2 – 2280 of the Virginia Code (1950), as amended. 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 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; restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding; 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 protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(2) **Applicability.** These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the City and identified as areas of special flood hazard determined by the City or shown on the flood insurance rate map (FIRM) or included in the flood insurance study (FIS) that are provided to the City by Federal Emergency Management Agency (FEMA).

(3) **Compliance and Liability.** No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this section and any other applicable sections and regulations which apply to uses within the jurisdiction of this section.

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

This section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

(4) **Records.** Records of actions associated with administering this section shall be kept on file and maintained by or under the direction of the Zoning Administrator in perpetuity.

(5) **Abrogation and Greater Restrictions.** To the extent that the provisions are more restrictive, this section supersedes any section currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict with this section, it shall remain in full force and effect.

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

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

(7) **Penalty for Violations.** Section 36.2-571 of the City Code contains the provisions for enforcement of this section and penalties that apply for violations.

(b) **Definitions.** Certain terms and words used in this section shall be defined as set forth below. Where any conflict exists between the definitions below and those set forth in Appendix A, the definitions of this subsection shall govern for the purposes of the regulations of this section.

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

*Areas of shallow flooding:* A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

*Base flood elevation:* The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this section, the base flood is the one percent (1%) annual chance flood.

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

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

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

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

FEMA: Federal Emergency Management Agency.

Flood or flooding:

1. A general or temporary condition of partial or complete inundation of normally dry land areas from
  - a. the overflow of inland or tidal waters;
  - b. the unusual and rapid accumulation or runoff of surface waters from any source; or
  - c. mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
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 flooding as defined in paragraph 1 of this definition.

Flood Insurance Rate Map (FIRM): An official map of a community, on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map.

Flood Insurance Study (FIS): A report by FEMA that examines,

evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

*Floodplain:* Any land area susceptible to being inundated by water from any source.

*Flood proof:* 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:* 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 foot at any point within the community.

*Freeboard:* A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. The City requires Base Flood Elevation plus twenty-four (24) inches freeboard.

*Functionally dependent use:* 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:* The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure:* Any structure that is

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. individually listed on a state inventory of historic places in states with historic preservation programs

- which have been approved by the Secretary of the Interior; or
4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior; or, directly by the Secretary of the Interior in states without approved programs.

*Hydrologic and Hydraulic Analysis:* Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

*Letter of Map Amendment (LOMA):* An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by metes and bounds or structure is not located in a special flood hazard area.

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

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

*Manufactured home:* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

Mean Sea Level: Is an elevation point that represents the average height of the ocean's surface (such as the halfway point between the mean high tide and the mean low tide) which is used as a standard in determining land elevation.

New construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after November 4, 1981, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. Such structure is also referred to as "post-FIRM."

Recreational vehicle: A vehicle which is

1. built on a single chassis;
2. four hundred (400) square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Special flood hazard area: The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in subsection (d)(1) of this Section.

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



Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all section requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific section requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from section requirements will be the minimum necessary to preserve the historic character and design of the structure.

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

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

(c) Administration

(1) Designation of the Zoning Administrator. The Zoning Administrator is hereby appointed to administer and implement these regulations. The Zoning Administrator may delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

(2) Duties and Responsibilities of the Zoning Administrator. The duties and responsibilities of the Zoning Administrator shall include but are not limited to:

(A) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

(B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

(C) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

(D) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

(E) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (Virginia Department of Environmental Quality, United States Army Corps of Engineers) and have submitted copies of such notifications to FEMA.

(F) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been

met, or disapprove applications if the provisions of these regulations have not been met.

(G) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.

(H) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(I) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the City, within six (6) months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(J) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

(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.

(K) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(L) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

(M) Administer the requirements related to proposed work on existing buildings:

(i) Make determinations as to whether buildings and structures that are located in flood hazard areas and

that are damaged by any cause have been substantially damaged.

(ii) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(N) Notify FEMA when the corporate boundaries of the City have been modified and:

(i) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

(ii) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(3) Use and Interpretation of Flood Insurance Rate Maps. The Zoning 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:

(i) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations; or

- (ii) Are above the base flood elevation and the area is labelled as a SFHA on the FIRM, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
- (B) 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.
- (C) 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.
- (D) 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.
- (E) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
  - (i) 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.
  - (ii) 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 pursuant to Section (d)(2)(C)(i) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
  - (iii) 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.

(4) **Jurisdictional Boundary Changes.** The floodplain ordinance in effect in any adjoining locality on the date of annexation of any area previously within the adjoining locality shall remain in effect and shall be enforced by the City for all annexed areas until the City adopts and enforces a section which meets the requirements for participation in the National Flood Insurance Program.

The City will notify FEMA when the corporate boundaries of the City have been modified and provide a map that clearly delineates the new corporate boundaries of the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation. If the FIRM for any annexed area includes special flood hazard areas which have flood zones that have regulatory requirements not set forth in these regulations, the City shall adopt amendments to these regulations to amend the FIRM and appropriate requirements. Such adoption shall take place at the same time as, or prior to, the date of annexation, and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(5) **District Boundary Changes**

The delineation of any of the Floodplain Districts may be revised by the City where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from FEMA. A completed LOMR is a record of this approval.

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

(7) **Submitting Model Backed Technical Data.** A City's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data. The community may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk

premium rates and flood plain management requirements will be based upon current data.

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

(d) **Establishment of Floodplain Overlay District and flood zones.**

- (1) **Description of Special Flood Hazard Districts (SFHA).** The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for the City prepared by FEMA, Federal Insurance Administration, dated September 28, 2007, and any subsequent revisions or amendments thereto.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this section and which shall be kept on file in the Department of Planning, Building, and Development.

All development within the Floodplain Overlay District is subject to the development provisions found in subsection (e) of this section.

(2) **Additional requirements in specific Special Flood Hazard Areas.**

- (A) **Floodway.** The floodway is the portion of an AE Zone that is delineated, for purposes of this section, using the criterion that certain areas within the floodplain 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. The areas included in this District are specifically defined in Table 5 of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the floodway of an AE zone:

- (i) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during

the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies for a (CLOMR), and receives the approval of FEMA. Such application shall be accompanied by a resolution adopted by the City Council for the City, endorsing such application.

If the above items in this part are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of part d of this section.

(ii) Permitted uses in floodway. The following uses shall be permitted as of right in the floodway to the extent that they are otherwise permitted in the underlying base zoning district and are not prohibited by any other section, and provided they do not employ structures, fill, or storage of materials and equipment within the floodway which may cause any increase in 100-year flood height and velocity:

(1) Agricultural operations, such as farming, pasture, grazing, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting;

(2) Public and private recreational uses such as parks, picnic grounds, golf courses, boat launching or swimming areas, hiking or horseback riding trails, wildlife and nature preserves, fishing areas, and trap and skeet game ranges;

(3) Botanical gardens; and

(4) Accessory residential uses such as yard areas, gardens, and play areas.



(iii) Special exception uses in floodway. The following uses shall be permitted in the floodway by special exception granted by the Board of Zoning Appeals provided such uses are permitted in the underlying base zoning district:

(A) Accessory structures related to the uses set forth in subsections (ii)(A) through (ii)(D), above.

(B) Utilities distribution: gas/electric compressor station or substation, or water pump/lift station.

(C) Sewage treatment facility or water treatment facility.

(D) Quarry and mining operations, including excavation of sand, gravel, or clay, provided no increase in the level of flooding or velocity is caused.

(E) Storage of materials and equipment provided that they are not buoyant, flammable, toxic, hazardous, 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, or can be readily removed from the area within the time available after flood warning.

(F) Placement or storage of a recreational vehicle, provided such recreational vehicle is on the site for fewer than one hundred eighty (180) consecutive days, is fully licensed and ready for highway use. For purposes of this section, 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 if it has no permanently attached additions.

(B) AE zones with no floodway delineated. AE zones on the FIRM are those areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated.

The following provisions shall apply within an AE Zone where FEMA has provided base flood elevations but has not delineated a floodway:

(i) 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 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 City.

(ii) Development activities in Zones A1-30, AE, or AH on the City's FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies for a CLOMR, and receives the approval of FEMA. Such application shall be accompanied by a resolution adopted by the City Council for the City, endorsing such application.

(C) A Zones: A Zones are 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:

(i) The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one percent annual chance floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area 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. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

The Zoning Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. 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.

During the permitting process, the Zoning Administrator shall obtain:

- (1) The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,
- (2) If the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

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.

(D) AO Zones. AO Zones are those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply:

- (i) 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. Such elevation shall be established by identifying the highest adjacent grad and adding the flood 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 feet above the highest adjacent grade.

(ii) All new construction and substantial improvements of non-residential structures shall:

(1) Have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM. Such elevation shall be the highest adjacent grade and adding the flood 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 feet above the highest adjacent grade; or,

(2) Together with attendant utility and sanitary facilities, be completely flood-proofed 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.

(iii) Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

(2) Overlay Concept. 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. If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions shall apply. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, all remaining provisions shall remain applicable and in effect.

(e) District Provisions

(1) Permit and Application Requirements

(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 zoning permit. Such development shall be

undertaken only in strict compliance with the provisions of this section and with all other applicable codes and ordinances or sections, as amended, such as the Virginia Uniform Statewide Building Code and the City's subdivision regulations set forth in Chapter 31.1, Subdivisions, of the City 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 and shall review all sites to ensure that 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 building permits issued for the floodplain shall incorporate the following information:

- (i) The elevation of the Base Flood at the site.
- (ii) The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
- (iii) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
- (iv) Topographic information showing existing and proposed ground elevations.

(C) Elevation certificates and floodproofing certificates.

- (i) All applications for zoning permits for structures shall include a standard FEMA elevation certificate completed by a licensed surveyor or engineer.
- (ii) All applications for nonresidential structures to be floodproofed shall include a FEMA floodproofing certificate, when applicable.
- (iii) Prior to issuance of a Certificate of Occupancy, the applicant shall provide a final FEMA elevation certificate of the as-built construction.

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

- (A) New construction and substantial improvements shall be built according to this section and the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse or lateral movement of the structure.
- (B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- (C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (D) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (E) New 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.
- (F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (G) 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.
- (H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (I) In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:
- (J) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riparian areas, notification of the proposal

shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and FEMA.

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

(3) Elevation and Construction Standards. In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with subsection (d)(2)C of this section, the following provisions shall apply:

(A) Residential Construction. New construction or substantial improvement of any residential structure 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 twenty-four (24) inches of freeboard. In addition, all electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including ductwork, for new construction or substantial improvement shall be elevated or floodproofed to two (2) feet above the base flood elevation, also known as two (2) feet of freeboard.

(B) Non-Residential Construction.

(i) New construction or substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated to or above the base flood level plus twenty-four (24) inches of freeboard. In addition, all electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including ductwork, for new construction or substantial improvement shall be elevated or floodproofed to two (2) feet above the base flood elevation, also known as two (2) feet of freeboard.

(ii) Non-residential buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus twenty-four (24) inches of freeboard are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A

registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Zoning Administrator.

(C) 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 (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (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, 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.

(D) Standards for Manufactured Homes and Recreational Vehicles

(i) In all designated special flood hazard areas, all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for the zone in which they are located for new construction, including the elevation and anchoring requirements in this section.

(ii) All recreational vehicles placed on sites must either

- (1) be on the 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 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 subsection (e)(3)(D)(i)

(f) 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:

(1) The Zoning Administrator has determined that

(A) A proposed change is not a substantial repair or substantial improvement,

(B) No new square footage is being built in the floodplain that is not compliant,

(C) No new square footage is being built in the floodway, and

(D) The change complies with this section and the Virginia Uniform Statewide Building Code.

(2) The changes are required to comply with a citation for a health or safety violation.

(3) The structure is a historic structure and the change required would impair the historic nature of the structure. The historic structure shall be flood proofed to the extent practical in accordance with the Virginia Uniform Statewide Building Code and FEMA Floodplain Management Bulletin Historic Structures, FEMA P-467-2, as the same may be amended or updated from time to time.

(g) Variances. Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense; and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.

In passing upon applications for variances, 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:

(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 that materials may be 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 such 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 not subject to flooding for the proposed use.

(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 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 section.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense; and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

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 percent (1%) chance 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.

**Sec. 36.2-335. River and Creek Corridors Overlay District (RCC).**

\* \* \*

(f) *Permitted buffer impacts.* The following development activities shall be permitted within the required riparian buffer area of the RCC Overlay District, provided no more land is disturbed than is necessary to provide for the desired installation or construction, all required permits have been issued, and any land disturbance activity complies with all erosion and sediment control requirements of Chapter 11.1 of this Code for the stabilization of disturbed areas to minimize negative effects on the quality of surface waters:

\* \* \*

(3) Linear utility lines, railroad tracks, ~~and~~ public streets, or other public infrastructure improvements, and private streets;

\* \* \*

**Sec. 36.2-336. Comprehensive Sign Overlay District.**

\* \* \*

(c) Standards. All applications for review and approval of a Comprehensive Sign Overlay District shall comply with the following standards:

(1) A Comprehensive Sign Overlay District shall be applied as an overlay only to lots located within a residential multifamily district, multiple purpose district, industrial district, or planned unit development district;

\* \* \*

~~(4) The overall sign area in the Comprehensive Sign Overlay District shall not exceed the combined total of freestanding and building-mounted sign allocation of the otherwise applicable zoning district sign regulations; and~~

(4) The maximum sign area and dimensions, sign types, and permitted sign characteristics shall be as established by adoption of a Comprehensive Sign Overlay District.

~~(5) The height limits of the applicable zoning district sign regulations shall not be exceeded.~~

\* \* \*

**Sec. 36.2-406. Car wash.**

\* \* \*

(b) *Standards.*

\* \* \*

(3) A landscaping strip consisting of evergreen shrubs and deciduous trees as defined further in Section 36.2-649 shall be placed along any street frontage of the lot or portion of the lot housing the car wash. The trees and shrubs shall meet the minimum planting size as listed in Section 36.2-642.

\* \* \*

**Sec. 36.2-408. Day care centers, child.**

\* \* \*

(b) *Standards.* The following standards shall apply to any day care not licensed by the Virginia Department of Social Services:

(2) Outdoor play area: When an outdoor play area is provided, such ~~areas shall comply with the following standards:~~

~~(A) The outdoor play area shall be located on the same lot as the day care center and shall be located no closer to any street than the main building occupied by the day care center; and~~

~~(B) The outdoor play area shall be fenced to provide a safe enclosure, and pedestrian access to such outdoor play area shall not require the crossing of any vehicular right-of-way.~~

\* \* \*

**Sec. 36.2-411. Gasoline stations.**

\* \* \*

(d) *Standards in the CN and D Districts.* Any gasoline station located in the Commercial-Neighborhood District (CN) or Downtown District (D), shall be subject to the following standards:

\* \* \*

(4) A landscaping strip consisting of evergreen shrubs and deciduous trees as defined further in Section 36.2-649 shall be placed along the street frontage of the lot or portion of the lot housing the gasoline station. The trees and shrubs shall

meet the minimum planting size as listed in Section 36.2-642.

\* \* \*

~~Sec. 36.2-415. Mini-warehouses.~~

~~(a) — Purpose. The purpose of this section is to establish screening, landscaping, layout, height, and bulk standards for mini-warehouses.~~

~~(b) — Standards. Where permitted by this chapter, mini-warehouses shall comply with the following standards:~~

~~(1) — A development plan shall be submitted to the Zoning Administrator indicating the location, orientation, and size of buildings, lot area, number and size of storage units, type and size of signs, height of buildings, parking layout with points of ingress and egress, and location and type of visual screening and landscaping.~~

~~(2) — The floor area of any storage unit or cubicle shall not exceed four hundred (400) square feet.~~

~~(3) — The maximum length of any single building housing such individual storage units or cubicles shall be two hundred (200) feet.~~

~~(4) — All storage shall be within a completely enclosed building. The outdoor storage of inventory, materials, vehicles, or merchandise shall be prohibited.~~

~~(5) — The distance between mini-warehouse structures shall be a minimum of twenty (20) feet. Where vehicular circulation lanes and parking and loading spaces are to be provided between structures, the minimum separation distance shall be increased accordingly in order to ensure vehicular and pedestrian safety and adequate emergency access.~~

~~(6) — No activities such as the sale, repair, fabrication, or servicing of goods, motor vehicles, appliances, equipment, or materials shall be conducted from mini-warehouse units.~~

~~(7) — The storage of explosive, flammable, or hazardous materials shall be prohibited.~~

**Sec. 36.2-429. Temporary uses.**

(a) *Applicability.* Authorized temporary uses, including permitted locations, duration, and maximum number per calendar year, and whether or not a zoning permit is required, shall be as set forth in Table 429-1:

**Table 429-1. Temporary Uses**

Activity	Zoning Districts Where Permitted	Maximum Duration	Maximum Number per Calendar Year for Lot	Zoning Permit Required?
* * *				
Public events, subject to subsection (e), below	CN, CG, CLS, D, IN, ROS, I-1, I-2, IPUD, INPUD, UF	14 calendar days	Not applicable	Yes
<u>Public events, exempt from subsection (e) below</u>	<u>Any district</u>	<u>Two calendar days</u>	<u>Two, with an interval of at least three months between events</u>	<u>No</u>
* * *				

\* \* \*

**Sec. 36.2-540. Zoning amendments.**

\* \* \*

(c) *Procedures; filing of application.*

\* \* \*

(2) An application for a zoning amendment to rezone property shall be in writing on forms provided by the City, and filed with the Secretary to the Commission, accompanied by payment of all fees as set forth in the City of Roanoke's Fee Compendium as adopted by City Council in accordance with Section 15.2-107 of the Code of Virginia (1950), as amended. and charges established by the City Council.

\* \* \*

**Sec. 36.2-622. Exempt lighting.**

The following outdoor lighting shall be exempt from the requirements of this division:

\* \* \*

(e) Outdoor recreation facility or sports stadium lighting subject to Sections 36.2-340 and 36.2-403(g); 36.2-315, 36.2-322, 36.2-327, and 36.2-403(f);

\* \* \*

**Sec. 36.2-647. Buffering and screening.**

\* \* \*

- ~~(b) Except where specified otherwise, buffering and screening shall be installed in side and rear yards behind the building line of the lot being developed such that it reduces the visual impact of the structures, activities, or uses on abutting properties and public rights of way, as applicable, considering sight lines from those abutting properties and public rights of way, as applicable.~~
- ~~(c) For purposes of this section, abutting lots shall not include lots separated by a right of way containing a street, river or creek, or railroad line. Lots that would abut if not for their separation by an alley shall be considered abutting lots for purposes of this section and shall be subject to these buffering and screening requirements.~~
- (b) Buffering and screening shall be located in such a manner that it reduces or eliminates visual impact of the activity or use to adjacent properties and streets.
- (c) Where Table 647-1 below specifies the location of buffering or screening between an activity or use and an abutting zoning district, the specified zoning district shall mean any abutting lot or any lot directly across a street which lies within the specified zoning district, regardless of the zoning of the property on which the activity or use is to be conducted.

**Table 647-1. Buffering and Screening of Certain Uses and Activities**

Activity or Use	Location	Buffering or Screening Materials	Minimum Height
Wall of a principal building that contains less than 15% transparency	Between the wall and an abutting residential district or <del>multiple purpose district, or PUD district</del> <u>MXPUD district.</u>	Buffer: Deciduous trees and evergreen shrubs	None
* * *			
Any commercial or industrial process or activity occurring outside of a wholly enclosed building	Between the location of the activity and any abutting residential district, multiple purpose district, or PUD district, <u>located within 15 feet of property line of the abutting lot or lots.</u>	Screen: Solid fence or wall	<u>6</u> feet
<u>Ground-mounted</u> <del>m</del> Mechanical equipment <del>on ground,</del>	Perimeter of the mechanical equipment that would otherwise be visible from any street frontage or adjacent	Screen: Fence or wall with 60% or greater opacity	6” above the height of the tallest unit



<u>more than 36 inches in height</u>	property Exception: Not required where the use is a single-family detached dwelling		
<u>Ground-mounted mechanical equipment up to 36 inches in height</u>	<u>Perimeter of the mechanical equipment that would otherwise be visible from any street frontage or adjacent property</u>	<u>Option 1</u> <u>Fence or wall with 60% or greater opacity</u> <u>Option 2</u> <u>Evergreen shrubs</u>	<u>Option 1</u> <u>6" above the height of the tallest unit or</u> <u>Option 2</u> <u>18 inches at planting</u>
* * *			
<u>Mini-warehouse</u>	<u>Between the facility and any abutting residential or multiple purpose district</u>	<u>Screen: Solid fence, solid wall, or evergreen tree screen</u>	<u>6 feet</u>
* * *			
<u>Outdoor sports facility</u>	<u>Between the facility and any abutting residential district.</u>	<u>Buffer:</u> <u>Deciduous trees</u>	<u>None</u>
<u>Outdoor storage or self-storage facility</u>	Between the storage area and any abutting residential district, multiple purpose district, or PUD district. Between the storage area and any residential district, multiple purpose district, or PUD district across a street	Screen: Solid fence, solid wall, or evergreen tree screen	6 feet

\* \* \*

**Sec. 36.2-648. Parking area landscaping.**

- (a) Parking areas shall be subject to the following buffering and screening standards:

\* \* \*

- (2) Interior planting areas shall be at least eight (8) feet by eighteen (18) feet, with a minimum soil depth of two (2) feet, and shall include surface landscaping, mulch, grass or other vegetative ground cover, or river rock. Interior planting areas shall be located in one or more of the following locations:

- (A) Within an otherwise continuous row of parking spaces so as to provide separation between groups of parking spaces within a row;

(B) At the end of a row of parking spaces so as to provide separation between parking spaces and an access aisle, driveway, street, alley or other paved area;

(C) At the end of a row of parking spaces so as to provide a corner between rows of parking spaces that are arranged at an angle to one another; or

(D) Between opposing rows of parking spaces or between a row of parking spaces and an access aisle, driveway, street, alley or other paved area.

\* \* \*

**Sec. 36.2-649. Standards for buffering, screening, and parking area landscaping materials.**

Materials used to meet requirements of Sections 36.2-647 and 36.2-648 shall meet the standards of Table 649-1.

**Table 649-1. Buffering, Screening and Landscaping Materials**

Materials	Standards
* * *	
<u>Evergreen trees</u>	<u>Maximum spacing 8 feet on center</u>

\* \* \*

**Sec. 36.2-651. Applicability.**

The off-street parking and loading requirements of this division shall apply to any new structure or use, any increase in intensity of use, including an addition to or enlargement of an existing structure, or a change of existing use. No Certificate of Occupancy shall be issued until required off-street parking and loading spaces have been established in accordance with the requirements of this division. The repetitive parking of a vehicle or vehicles in a turf grass area or landscaped area that results in denuded or partially denuded soil shall constitute the establishment of a parking area that does not meet the construction standards of this section.

\* \* \*

**Sec. 36.2-652. Minimum parking.**

\* \* \*

**Table 652-2. Required Parking Spaces**

Use	Minimum Number of Parking Spaces Required Calculated as 1 Space for Each Specified Unit	Maximum Parking
* * *		
<i>Commercial Uses: Retail Sales and Service</i>		
* * *		
Car wash	1.5 <u>self-service bay</u> <u>0.25 automated service bay</u>	Y

\* \* \*

**Sec. 36.2-653. Maximum parking.**

\* \* \*

- (c) The maximum number of off-street parking spaces permitted, as established in Section 36.2-653(a), shall not apply to parking areas utilizing permeable ~~paver-pavement~~ systems or to parking structures.

\* \* \*

**Sec. 36.2-654. Parking and loading area standards.**

\* \* \*

- (b) *Construction and location standards.* Parking and loading areas shall comply with the construction standards listed below and as shown in Table 654.1:
  - (1) All parking areas and loading areas shall be graded for drainage and have an improved surface, except where an alternative surface is permitted in Table 654-1. Improved surface shall mean concrete, asphalt, bituminous pavement, brick or stone pavers, or a permeable ~~paver-pavement~~ system.
  - (2) Where gravel or a similar surface is permitted in Table 654-1, the Zoning Administrator may require a development plan including satisfactory specifications for a sub-base and the size, tamping, and containment of gravel and documentation that dust will not be generated in an amount in excess of that which would be generated by a paved surface or permeable ~~paver-pavement~~ system prior to approval.

\* \* \*

- (c) *Pedestrian access.* In the CG and CLS Districts, designated, clearly identified pedestrian access shall be provided between off-street

parking areas and public entrances of a building or use which is required to provide fifty (50) or more parking spaces, as set forth in Table 652-2, or which provides fifty (50) or more parking spaces. Such pedestrian access shall consist of sidewalks or other walkways of a minimum unobstructed width of five (5) feet which are surfaced with concrete, asphalt, bituminous pavement, brick or stone pavers, or a permeable ~~paver~~ pavement system, are handicapped accessible, and are separated from vehicular traffic by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic. At all points where such pedestrian access crosses the lane of motor vehicle travel, raised crosswalks shall be provided.

\* \* \*

**Sec. 36.2-705. Nonconforming uses.**

\* \* \*

(g) Where the use of a structure is deemed nonconforming with respect to the number of dwelling units or the residential use designation, unoccupied spaces such as porches, decks, or accessory buildings may be constructed or expanded.

\* \* \*

**Sec. 36.2-709. Certain uses deemed not nonconforming.**

Uses in existence in a district at the time of adoption or amendment of this chapter, for which a special exception permit would be required if they were new uses, shall be deemed conforming uses so long as they continue in existence on the same lot. Once such use is abandoned for any continuous period longer than two (2) years, any new use of the premises must conform to the applicable district regulations.

\* \* \*

**Sec. 36.2-841. - Powers and duties.**

\* \* \*

(c) *Modifications.* The Zoning Administrator shall have the authority to grant a modification from any provision of this chapter with respect to physical requirements on a lot, including but not limited to size, height, location, or features of or related to any building, structure, or improvements, pursuant to the procedures and standards set forth below.

\* \* \*

(4) The application fee for such modification shall be as set forth in the City of Roanoke’s Fee Compendium and as adopted by City Council in accordance with Section 15.2-107 of the Code of Virginia (1950), as amended.

\* \* \*

## **APPENDIX A. DEFINITIONS**

\* \* \*

*Day care home, Adult:* An adult day program offered in the residence of the provider for up to three (3) aged, infirm, or disabled adults who reside elsewhere. Such day care home shall provide services during only a part of a twenty-four (24) hour day and such home shall not include any overnight stays or overnight sleeping facilities. Services may include aid in personal hygiene, eating and drinking, ambulation, or recreation. The maximum number of adults permitted by this definition shall not include the provider or anyone related to the provider by blood, marriage, or adoption.

*Day care home, Child:* A child day program offered in the residence of the provider, serving one (1) through ~~five (5)~~ four (4) children at any one (1) time, exclusive of any children related to the provider by blood, marriage, or adoption. A child day program means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person has agreed to assume responsibility for the supervision, protection, and well-being of children under the age of thirteen (13) for less than a twenty-four-hour period.

\* \* \*

*Family day home:* a child day program offered in the residence of the provider or the home of any of the children in care for ~~six (6)~~ five (5) through twelve (12) children under the age of thirteen (13), exclusive of the provider’s own children and any children who reside in the home, when at least one (1) child receives care for compensation.

\* \* \*

*Mixed-use building:* A single building containing more than one (1) type of land use permitted within a zoning district, including residential, commercial, and office.

~~*Mini-warehouse:* An enclosed storage facility containing cubicles designed to provide independent, individual, fully enclosed storage space, for lease to individuals for long-term storage of their household goods or personal property, where each cubicle is enclosed by walls and ceiling, and where each cubicle has a separate entrance for the loading and unloading of stored goods. Such facilities are also called self-service storage facilities.~~

\* \* \*

Mobile food vending: the preparation or sale of food or beverage from a motor vehicle, trailer or cart capable of being readily moved.

\* \* \*

Permeable ~~paver~~ pavement system: ~~A grid system utilizing plastic or concrete pavers with surface voids within or between the pavers, arranged over a sand setting bed and a coarse base, and where the surface voids are filled with grass, sand, or gravel. Such a system allows water to filter through the surface voids and reach the underlying soils. For purposes of this definition, a permeable paver system shall have permeable voids which represent at least a forty (40) percent pervious surface. A system consisting of a surface pavement layer that allows water to pass through it into an underlying reservoir layer specifically designed to temporarily store runoff and either release it slowly or allow it to infiltrate into the subsoil. Such a system may include pervious concrete, porous asphalt, permeable grid pavers, or concrete pavers.~~

\* \* \*

River rock: Stone intended for decorative ground cover, characterized by a rounded grain shape and having a grain diameter of no less than 3/16 of an inch.

\* \* \*

Self-storage building: A building that contains enclosed storage units leased for long-term storage of personal property, where access to each unit is provided from the interior of the building.

Self-storage facility: A facility designed to provide enclosed storage units for long-term storage of personal property, where each unit has exterior access, and which may include outdoor storage.

\* \* \*

Short-term rental: An accommodation for transient guests where, in exchange for compensation, a dwelling unit is provided for lodging for thirty (30) days or less and which is not a “boarding house” or “group care facility” as defined in this chapter. Such use may or may not include an on-site manager. For the purposes of this definition, a dwelling unit shall include only dwelling, single family, attached; dwelling single-family detached; dwelling, two-family; dwelling multifamily; dwelling townhouse or rowhouse; and accessory apartment, and shall exclude other group living or other lodging uses specifically listed or defined in this chapter.

\* \* \*

Transient guest: Any person who, for thirty (30) days or fewer, either at his or her own expense or at the expense of another, obtains lodging in a dwelling unit or hotel or motel as defined in this chapter.

\* \* \*

## APPENDIX B. SUBMITTAL REQUIREMENTS

### B-1. Basic Development Plan

\* \* \*

- (b) A basic development plan submitted for approval shall include a completed application form, accompanied by payment of the required fees, ~~and three (3) copies of a survey plot plan or a basic site plan drawing outlining the following information:~~ One copy of the basic development plan, whether digital or paper, shall be submitted for any review by the Zoning Administrator.
- (c) A basic development plan shall include the following information, although the agent to the planning commission may waive any of the following required information, if it is not needed to determine compliance with a specific section of this chapter and if the agent identifies such code section pursuant to Sections 36.2-552(c) and 36.2-553(c)(1)(B) of the City Code:

\* \* \*

- (7) Setback measurements for all existing or proposed structures on the lot from all adjoining property lines; If the development is subject to the front yard dimensions for infill development in Section 36.2-313, delineation of the shallowest established front yard shall be delineated as required by that section on the adjoining lot if minimum or maximum front yard is subject to Section 36.2-205(f)(2)(A) and (B). Setback measurements shall be based on the distance from adjoining property lines to the line parallel to the street right-of-way that passes nearest that street right-of-way, with such point being thirty (30) inches or greater above the graded ground level. (If a structure has overhangs or eaves, setbacks should be measured from the furthest projection of the overhang to the street right-of-way on a line that is parallel to that street right-of-way.)

\* \* \*

- ~~(e)~~(d) If the application for basic development plan approval proposes construction that will require a land disturbing activity in or upon critical terrain that slopes towards adjacent properties, streets, alleys, streams, or creeks, or if the proposed land disturbing activity is found by the Zoning Administrator to involve site-specific features which warrant a review of erosion and sediment control or if such proposed activities are applicable under Chapter 11.1 Erosion and Sediment Control, of this Code, a grading and erosion and sediment control plan, prepared by a licensed professional

engineer, surveyor, or architect, shall be required. Where application is made for a permit for the purpose of preparation for the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan.

\* \* \*

## **B-2. - Comprehensive Development Plan**

\* \* \*

- (c) ~~Ten (10) copies of the comprehensive development plan~~ One copy of the basic development plan, whether digital or paper, shall be submitted for any review by the Zoning Administrator. The comprehensive development plan shall be submitted for review, accompanied by payment of the required fees.
- (d) A comprehensive development plan shall include the following information, although the agent to the planning commission may waive any of the following required information, if it is not needed to determine compliance with a specific section of this chapter and if the agent identifies such code section pursuant to Sections 36.2-552(c) and 36.2-553(c)(1)(B) of the Code of the City of Roanoke (1979), as amended:

\* \* \*

- (4) Parking, loading, and driveway requirements:

\* \* \*

- (K) If applicable, details of a permeable ~~paver-pavement~~ system to be utilized to exceed maximum permitted off-street parking pursuant to Section 36.2-653(c).

\* \* \*

2. This ordinance will become effective immediately upon adoption.
3. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk