

**DRAFT**



# **MATHEWS COUNTY, VIRGINIA**

## **CHAPTER 63**

# **FLOODPLAIN MANAGEMENT ORDINANCE**

### Table of contents

- Article I General Provisions
- Article II Administration
- Article III Establishment of Zoning Districts
- Article IV District Provisions
- ~~Article V Existing Structures in Floodplain Areas Deleted~~
- Article VI Variances: factors to be considered
- Glossary
- Article VII Enactment

### **Draft with Amendments to adopted 2014 Ordinance**

Updated from 12/6/18 draft with additional definitions: From 44 CFR 59.1 for Building; Breakaway walls. From NFIP definitions: Nonresidential building; Residential building. From FEMA Floodplain Management Requirements Unit 5, Section E, Wet flood proofing. Corrected Appurtenant Structure to NFIP definition plus note on Region III 11/7/16 memo. Corrected to Board of Building Code Appeals throughout. 2014 Edition had Board of Building Appeals. ADDED 4.3 B Accessory Structures. From DCR Model Ordinance.

Added Ordinance number to Article VII enactment statement as required by FEMA.

## **MATHEWS COUNTY, VIRGINIA**

### **CHAPTER 63 FLOODPLAIN MANAGEMENT**

#### **ARTICLE I - GENERAL PROVISIONS**

##### **Section 1.1 - Statutory Authorization and Purpose**

This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2-1200. ~~10.1-600 et. seq.~~

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

- A. regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- C. requiring all those **new** uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; ~~and,~~
- ~~D. protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.~~

##### **Section 1.2 - Applicability**

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of Mathews County, VA and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to Mathews County by FEMA.

##### **Section 1.3 - Compliance and Liability**

###### **A. New Structures and Development**

No land shall hereafter be developed and no structure shall be located, relocated, or constructed, ~~reconstructed, enlarged, or structurally altered~~ except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

## **B. Existing Structures in Floodplain District.**

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. Substantial Damage**

The modification, alteration, repair, reconstruction or improvement of any kind to a damaged existing structure, regardless of its location in a floodplain district, to an extent or amount of fifty (50) percent or more of its market value before the damage occurred, shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code and this chapter. OR

### **2. Substantial Improvement**

The modification, alteration, repair, reconstruction or improvement of any kind to an existing structure and/or use, regardless of its location in a floodplain district, to an extent or amount of fifty (50) percent or more of its market value before the start of work shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code and this chapter. Code violation repairs or improvements Exemption from calculation of cost.

### **3. Code Violation Correction Cost of Necessary Improvement or Repairs Exempt:**

Necessary improvements or repairs to correct cited health, sanitary or safety code violations shall not be included in the cost of an improvement or repair when calculating fifty percent of market value.

### **4. Historic Structures Exempt from Compliance Under Certain Conditions:**

If improvements or repairs to a documented historic structure meet the following criteria, the building shall be exempt from compliance with this Floodplain Management Ordinance and will not have to be elevated or floodproofed, as long as it will continue to be an historic structure after the proposed work is completed.

- a. The building must be a bona fide "historic structure" either listed or preliminarily determined to be eligible to be listed on The National Register of Historic Places either individually or as a structure contributing to the historical significance of a registered historic district or a district preliminarily determined to be eligible to be registered (44 CFR §60.3) as determined by:
  - i. a federally-certified local historic preservation program; or
  - ii. the Virginia Department of Historic Resources; or
  - iii. on a list maintained by a federally-certified state program operated through a state historic preservation officer; or
  - iv. on a list maintained by a federally-certified local historic preservation board.
- b. The project must maintain the historic status of the structure.

5. Historic Structure Exemptions by Administrative Exemption.  
Historic structure exemptions shall be granted by the Floodplain Administrator on presentation of documentation of historic status as described in Sections B-3 through B-4.

6. All Possible Flood Damage Reduction Measures Encouraged.  
Applicants receiving historic structure exemptions are encouraged, but not required, to take all possible flood damage reduction measures to reduce the flood damage potential.

7. Insignificant Activities Exempt from Floodplain Permit requirement.  
Obviously insignificant activities and minor repairs are exempt from the permit requirement—such as planting a garden, farming, putting up a mailbox, erecting a flagpole. Other projects, such as painting, carpeting, reroofing and replacing siding, that will not affect flood flows or be substantial improvements, are exempt from floodplain permits, but may still require a building permit.

C. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages. This ordinance shall not create liability on the part of Mathews County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

#### **Section 1.4 - Records**

Records of actions associated with administering this ordinance shall be kept on file and maintained by or under the direction of the Floodplain Administrator in perpetuity.

#### **Section 1.5 - Abrogation and Greater Restrictions**

~~This ordinance supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.~~

These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

#### **Section 1.6 - Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the

remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

## **Section 1.7 - Violations and Penalties**

~~Any person who fails to comply with any of the requirements or provisions of this article or directions of the Floodplain Administrator or any authorized employee of Mathews County shall be guilty of the appropriate violation and subject to the penalties ther efore.~~

### **A. Authority.**

The Floodplain Administrator, or an employee under the direction of the Floodplain Administrator, is authorized to serve written notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the building codes, but is regulated by these regulations and that he determines is a violation. The notice shall identify the nature of the work to be stopped and shall state the conditions under which such work may be resumed. A stop work order shall apply only to the work identified in the order, provided that other work on the building or structure may be continued if not concealing the work covered by the order.

### **B. Unlawful continuance.**

Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

### **C. Penalties**

1. The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115, subject to the limitations of section 115.2. Violations and associated penalties of the Zoning Ordinance of Mathews County are addressed in Article 20 of the Zoning Ordinance.

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

federal Section 1316.

2. Action on violations is subject to the limitations described in VA USBC 115.2 and Va. Code §19.2-8 and Va Code § 15.2-2307.

## **ARTICLE II - ADMINISTRATION**

### **Section 2.1 - Designation of the Floodplain Administrator**

The Building Official is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator designated to coordinate the implementation of this article and to submit an annual report to the administrator of the National Flood Insurance Program concerning such implementation. The Floodplain Administrator may:

- (A) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by Mathews County chief executive officer.
- (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees. A property owner may request use of a third-party inspector at their expense.
- (C) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

### ~~Section 2.2 - Duties and Responsibilities of the Floodplain Administrator~~

~~The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:~~

- ~~(A) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).~~
- ~~(B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.~~
- ~~(C) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.~~

~~(D) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 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 (VADEQ, USACE) and have submitted copies of such notifications to FEMA.~~

~~(F) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).~~

~~(G) 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.~~

~~(H) 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.~~

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

~~(J) 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 Mathews County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.~~

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

~~(1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and~~

~~(2) Documentation supporting issuance and denial of permits, Elevation~~

~~Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood proofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.~~

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

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

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

~~1) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.~~

~~(2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.~~

~~(O) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.~~

~~(P) Notify the Federal Emergency Management Agency when the corporate boundaries of Mathews County have been modified and:~~

~~(1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and~~

~~(2) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the~~

~~governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.~~

~~(Q) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.~~

~~(R) It is the duty of the Floodplain Administrator to take into account flood, mudslide and flood related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).~~

## **SECTION 2.2 Required Notification of Changes to FEMA Special Flood Hazard Area maps.**

As required by Va. Code §15.2-976, the Mathews County Floodplain Administrator, upon receiving notification from the United States Federal Emergency Management Agency (FEMA) that a change in the FEMA Special Flood Hazard Area map concerns or relates to real property within Mathews County, shall provide to each owner of any such property (i) written notification that such change has occurred within that locality and (ii) written notification of the website, address, and telephone number for the National Flood Insurance Program to aid the property owner in determining if there has been a change to the flood risk of the property. Notice sent by bulk or first-class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement.

### Section 2.3 - Use and Interpretation of FIRMs

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

(A) Where field surveyed topography indicates that adjacent ground elevations:

(1) 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;

(2) Are above the base flood elevation, 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) The initial Flood Information Risk Map (FIRM) and Flood Insurance Study had an effective date of 02-04-1987. Revisions were made in 1992, and the current FIRM and FIS have an effective date of 12-09-14.

(1) Preliminary data is presented as the best information available at the time and include new or revised Flood Insurance Rate Maps (FIRMs), Flood Insurance Study (FIS) reports and FIRM Databases since the release of the current FIRM and FIS and are for review and guidance only on what changes are likely to occur.

(2) Preliminary Flood Hazard Data are not for use, distribution or replication until the data are finalized and labeled as “effective” on the FEMA Map Service Center.

~~If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:~~

~~(3) 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.~~

~~(4) 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 3.1 (A) 2 and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.~~

~~(5) Prior to issuance of a Letter of Final Determination by FEMA, the use~~

~~of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.~~

#### Section 2.4 - Jurisdictional Boundary Changes

The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes 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.

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

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

#### Section 2.5 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by Mathews County 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 the Federal Emergency Management Agency.

#### Section 2.6 - Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the

Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Building Code 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.

#### Section 2.7 - Submitting Technical Data

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify 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.

#### Section 2.8 - Letters of Map Revision

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

Examples:

1. Any development that causes a rise in the base flood elevations within the floodway.
2. Any development occurring in Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 Code of Federal Regulations §65.3 and §65.6(a) (12)

#### **Section 2.9 Options if a Floodplain Permit is Denied**

If the Floodplain Administrator denies a permit, he shall notify the applicant in writing of the reason. The applicant may then withdraw the permit application, redesign and resubmit the project, appeal the Floodplain Administrator's decision to the Board of Building Code Appeals, or apply to the Board of Building Code Appeals for a variance in the application of the Floodplain Ordinance.

### **ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS**

#### Section 3.1 - Description of Special Flood Hazard Districts

##### A. Basis of Districts

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for Mathews County prepared by the Federal Emergency Management Agency, Federal Insurance

Administration, dated 12-09-2014, and any subsequent revisions or amendments thereto.

Mathews County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the Mathews County Building Department (office of the Building Official and Floodplain Administrator). According to the FIRM, Mathews County contains A, AE, ~~Coastal-A~~ and VE zones. An informational line with triangles pointing toward the VE Zone indicates the higher risk portion of the AE Zone that may experience waves of 1.5 to 3 feet. Mathews County does not contain any delineated floodways or AO zones.

1. The **AE Zone** on the FIRM accompanying the FIS shall be 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:

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 Zone AE 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 Mathews County. This requirement only applies along rivers, streams and other watercourses where FEMA has provided base flood elevations. The requirement does not apply along lakes, bays and estuaries, and the ocean coast.

Development activities in Zone AE, on the Mathews County 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 - with Mathews County endorsement - for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

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

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown

as Zone A on the maps accompanying the 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 new use, development and/or activity shall determine this base flood elevation. For new development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, 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 Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any new development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level.

During the permitting process, the Floodplain Administrator shall obtain:

- a) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- b) If the structure has been flood-proofed in accordance with the requirements of 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 lots or five acres, whichever is the lesser.

3. The **Coastal A Zone** shall be those areas of the AE Zone ~~, as defined by the VA USBC, that~~ are subject to wave heights between 1.5 feet and 3 feet and identified on the FIRM as the area between the informational Limits of Moderate Wave Action (LiMWA) line and the VE Zone.

Buildings and structures within this Zone shall have the lowest floor elevated to or above the base flood elevation plus one foot of freeboard, and must comply with the provisions in Article III, Section 3.1 A 1 and Article IV, Sections 4.2 and 4.3.

4. The **VE or V Zones** on FIRMs accompanying the FIS shall be those areas that are known as Coastal High Hazard areas, extending from offshore to the inland

limit of a primary frontal dune along an open coast. For these areas, the following provisions shall apply:

- a. All new construction and substantial improvements in Zones V and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:
  - 1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation if the lowest horizontal structural member is parallel to the direction of wave approach or elevated at least one foot above the base flood elevation if the lowest horizontal structural member is perpendicular to the direction of wave approach; and,
  - 2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-percent annual chance).
- b. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance and the VA USBC.
- c. The Floodplain Administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE. The Floodplain Administrator shall maintain a record of all such information.
- d. All new construction and substantial improvement shall be located landward of the reach of mean high tide.
- e. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs meet the following conditions:

- 1) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - 2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year.
- f. 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.
  - g. The use of fill for structural support of buildings is prohibited. When non-structural fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
  - h. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.

## **ARTICLE IV - DISTRICT PROVISIONS**

### Section 4.1 - Permit and Application Requirements

#### A. Permit Requirement

All new uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of any required building and/or zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC), the Mathews County Zoning Ordinance and the Mathews County Subdivision Regulations. Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

#### B. Site Plans and Permit Applications

All applications for new development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

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

#### Section 4.2 - General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to the VA USBC 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. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be located above the base flood elevation or designed 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. In addition to provisions A - H above, in all special flood hazard areas, the additional provisions shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.
- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

#### Section 4.3 - 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 Section 3.1 A 2, the following provisions shall apply:

- A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones AE and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood elevation (BFE), and in VE Zones, shall have the lowest horizontal structural member elevated to or above the base flood elevation (BFE), per Article III Section 3.1 A 4.

- B. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood elevation (BFE). Buildings located in all AE 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 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 flood-proofed, shall be maintained by the Floodplain Administrator.

1. Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of Article IV, Section 4.3.B or, if not elevated or dry floodproofed, shall:
  - a. Not be used for human habitation;
  - b. Be limited to no more than 600 square feet in total floor area;
  - c. Be useable only for parking of vehicles or limited storage;
  - d. Be constructed with flood damage-resistant materials below the base flood elevation;
  - e. Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
  - f. Be anchored to prevent flotation;
  - g. Have electrical service and mechanical equipment elevated to or above the base flood elevation;
  - h. Be provided with flood openings which shall meet the following criteria:
    - (1) There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
    - (2) The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
    - (3) The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
    - (4) Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

C. Space Below the Lowest Floor

In Zones A and AE, fully enclosed areas of new construction or substantially improved structures which are below the regulatory flood protection elevation (BFE) shall:

1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation (base flood elevation);
3. 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 Oengineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  - b. 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.
  - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
  - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
  - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
  - f. 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. All manufactured homes placed, or substantially improved, on individual lots

or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article IV, Section 4.2 and Section 4.3, and if in the VE Zone, Article III, Section 3.1 A 4.

2. All recreational vehicles placed on sites must either
  - a. 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
  - b. meet all the requirements for manufactured homes in Article IV Section 4.3 D 1, and if in the VE Zone, Article III, Section 3.1 A 4.

#### Section 4.4 - Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

### **ARTICLE V DELETED**

### **ARTICLE V - EXISTING STRUCTURES IN FLOODPLAIN AREAS**

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

- ~~A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.~~

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

~~C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA-USBC.~~

## **ARTICLE VI - APPEALS AND VARIANCES**

### Section 6.1 Appeals

Any person aggrieved by the Building Official's application of the Virginia Uniform Statewide Building Code, the Floodplain Administrator's application of the Floodplain Management Ordinance, or the refusal to grant a modification to code requirements may file an appeal to the Local Board of Building Code Appeals. The appeal must be filed within 30 calendar days of the receipt of the Building Official's decision.

The owner of a structure, the owner's agent or any other person involved in the design or construction of the structure may file an appeal to the Local Board of Building Code Appeals. The board has the power to uphold, reverse or modify the decision of the official by a concurring vote of a majority of those present. 0

An applicant must complete a Mathews County Board of Building Code Appeals Application remit a two-hundred-dollar fee, and submit the application to the Building/Floodplain Administration Office. within 30 calendar days of the decision being appealed.

After final determination by the Mathews County Board of Building Code Appeals, an appeal may be made to the State Technical Review Board. The application must be submitted to the State Technical Review Board within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the Mathews County Board of Building Code Appeals decision.

### Section 6.2 Variances.

A variance is a grant of relief by a community from the terms of a land use, zoning or building code regulation. Because a variance can create an increased risk to life and property, variances from flood elevation or other requirements in the flood ordinance should be rare. Granting variances is a local decision that must be based on not only NFIP criteria, but also on state law and other provisions the community may wish to require.

### Section 6.3 Factors to be Considered For a Variance Application

The applicant has the burden of proving unnecessary hardship. Reasons for granting the variance must be substantial; the proof must be compelling. The claimed hardship must be exceptional, unusual and peculiar to the property involved. Financial hardship, inconvenience, aesthetic considerations, physical handicaps, personal preferences or the disapproval of neighbors do not qualify as exceptional hardships.

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

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

In passing upon applications for variances, the Board of Building Code Appeals shall satisfy all relevant factors and procedures specified in other sections of this ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.

- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. Deleted.  
~~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.~~
- M. Such other factors which are relevant to the purposes of this ordinance.
- N. The Board of Building Code 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.
- O. Variances shall be issued only after the Board of Building Code Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.
- P. Variances shall be issued only after the Board of Building Code Appeals has determined that the variance will be the minimum required to provide relief.
- Q. The Board of Building Code Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation

1. increases the risks to life and property and
  2. will result in increased premium rates for flood insurance.
- R. 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.

## **GLOSSARY**

**Actual Cash Value (ACV)** -The cost to replace an insured item of property at the time of loss, less the value of physical depreciation. [See Market Value]

**Accessory Structures** - Detached nonresidential structure whose use is incidental to the principal structure on the same parcel such as a garage, tool or storage shed, playhouse or similar use, provided the building area does not exceed 600 square feet. Open structures, such as carports, gazebos and picnic pavilions that do not have at least two rigid walls are not “buildings” and do not have to be elevated or floodproofed (FMR Unit 5, 5-44 to 45.)

**Appeal** - A process handled by the local Board of Building Code Appeals to resolve differences between an aggrieved party and the Floodplain Administrator over differing interpretations of the Floodplain Ordinance.

**Appurtenant structure** - A subset of Accessory Structure. A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure. See Accessory Structures.

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

**Base Flood Elevation (BFE)** - The elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM).

**Basement** - Any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.

**Board of Building Code Appeals** - The board appointed to review appeals made by aggrieved individuals with regard to decisions of the Floodplain Administrator in the interpretation of this ordinance and of the Building Official's interpretations of the Building Code. The Board of Building Code Appeals is also known as and referred to as the Local Board of Building Code Appeals (LBBCA)

**Breakaway Wall** - A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces,

without causing damage to the elevated portion of the building or supporting foundation system.

**Building** - See Structure.

**Coastal A Zone** - is a higher risk portion of Zone AE on the FIRM (Flood Information Rate Map) identified by an informational line showing the extent of possible 1.5 foot to 3 feet wave heights. This line is called the LiMWA. The Zone AE area between the LiMWA and the Zone VE boundary is referred to as the Coastal A Zone. (See LiMWA Fact Sheets: <https://www.fema.gov/media-library/assets/documents/96413>)

**Conditional Letter of Map Amendment (CLOMA)**: A statement from FEMA that if a project is constructed as planned, a Letter of Map Amendment can be issued later.

**Conditional Letter of Map Revision (CLOMR)**: A statement from FEMA that if a project is constructed as planned, a Letter of Map Revision can be issued later. 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.

**Elevated building** - A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid (perimeter) foundations walls are not an acceptable means of elevating buildings in V and VE zones.

**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.

**Existing construction** - For the purpose of determining flood insurance rates, structures for which the "start of construction" commenced before the effective date of the Flood Insurance Rate Map (FIRM) which was 02-04-87 for Mathews County.

**Existing Structures in Floodplain District** 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, and may be continued subject to the conditions shown in Section 63-1.3 B of this ordinance.

**FIRM** - See Flood Insurance Rate Map.

**FIS** - See Flood Insurance Study.

**Flood or flooding** - Defined in FEMA Floodplain Management Requirements as a general and temporary condition of partial or complete inundation of normally dry land areas. [FMR Unit 2, B]

1. "The overflow of inland or tidal waters or
2. The unusual and rapid accumulation or runoff of surface waters from any source."

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM). The effective date of the initial FIRM for Mathews County was 02-04-87, and it was revised on 08-03-92 and 12-09-14.

Flood Insurance Study (FIS) - A report published by FEMA for a community issued along with the community's Flood Insurance Rate Map (FIRM). The study contains such background data as the base flood discharges and water surface elevations that were used to prepare the FIRM.

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

Floodproofing - Protective measures added to or incorporated in a building that is not elevated above the base flood elevation to prevent or minimize flood damage. "Dry floodproofing" measures are designed to keep water from entering a building. "Wet floodproofing" measures minimize damage to a structure and its contents from water that is allowed into a building.

Floodway - The channel of a river or other watercourse and that portion of the adjacent floodplain that must remain open to permit passage of the base flood without cumulatively increasing the water surface elevation more than one foot.

Functionally Dependent Use - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities.

Freeboard - A margin of safety added to the base flood elevation to account for waves, debris, miscalculations, or lack of data.

Historic structure - Any structure that is

- I. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as

contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

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

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

ICC Increased Cost of Compliance.

Increased Cost of Compliance (ICC) coverage - An additional claim payment made to a flood insurance policy holder to help pay for the cost of bringing a substantially damaged or repetitively damaged building into compliance with the community's floodplain management ordinance.

Letter of Map Amendment (LOMA): An official revision to a FEMA map done by describing the property affected. LOMA's are generally issued when properties have been inadvertently included in the floodplain or SFHA. A LOMA amends the current effective Flood Insurance Rate Map.

Letters of Map Change (LOMC) - An official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. See Letter of Map Amendment and Letter of Map Revision.

Letter of Map Revision (LOMR) - An official revision to a FEMA map done by describing the property affected.

Letter of Map Revision Based on Fill (LOMR-F) - A determination that the community provides assurances that all requirements of 44 CFR 60.3 have been met and that any existing or proposed structures in that area will be "reasonably safe from flooding."

LiMWA - Limit of Moderate Wave Action. An informational line in the AE Zone on the FIRM with triangles pointing toward the VE Zone to indicate the portion of the AE Zone subject to

possible 1.5 foot to 3 feet wave heights. Although not mapped as such on the FIRM at this time, this line indicates the area known as the Coastal A Zone.

Local Board of Building Code Appeals (LBBCA) A Board of at least five members appointed by the locality for a specific term established by written policy to hear appeals from aggrieved parties which relate to the Floodplain Administrator's decisions on enforcements of provisions of the Virginia Uniform Statewide Building Code (USBC) and the Mathews County Floodplain Management Ordinance. In accordance with Section Va Code Section 36-105 and Section 119 of the Va USBC, there shall be established within each local building department an *LBBCA*. Employees or officials of the *locality* shall not serve as members of the *LBBCA* (*per USBC section 119.3*).

Lowest floor - The lowest floor of the lowest enclosed area (including basement) of a building. 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 44CFR §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 180 consecutive days, but does not include a recreational vehicle.

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

Market Value - Acceptable estimates of market value can be obtained from these sources:

- An independent appraisal by a professional appraiser. The appraisal must exclude the value of the land and not use the "income capitalization approach" which bases value on the use of the property, not the structure.
- Detailed estimates of the structure's actual cash value—the replacement cost for a building, minus a depreciation percentage based on age and condition. For most situations, the building's actual cash value should approximate its market value. Your community may prefer to use actual cash value as a substitute for market value, especially where there is not sufficient data or enough comparable sales.
- Property values used for tax assessment purposes with an adjustment recommended by the tax appraiser to reflect current market conditions (adjusted assessed value).
- The value of buildings taken from NFIP claims data (usually actual cash value).

Mean Sea Level (MSL) - Datum plane; the average height of the sea for all stages of the tide, usually determined from hourly height observations over a 19-year period on an open coast or in

adjacent waters having free access to the sea.

**New construction** - For the purposes of determining flood insurance rates, structures for which the "start of construction" commenced on or after 02-04-1987, the effective date of the initial FIRM, 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.

**Non-Residential Building** - A commercial or mixed-use building where the primary use is commercial or non-habitational.

**Post-FIRM structures** - A structure built or substantially improved on or after 02-04-1987, the effective date of the Mathews County's first Flood Insurance Rate Map (FIRM).

- If the site of a post-FIRM structure was not mapped as a Special Flood Hazard Area at the time of construction, then repairs or alterations are regulated as though it is a pre-FIRM structure.
- If the required flood protection level for a post-FIRM structure has increased since the time of construction, then minor renovations or additions should comply with the standards that were in effect when the building was built. However, any substantial improvements to a post-FIRM structure must meet the requirements of the current ordinance, which may require elevation of the entire building.

**Pre-FIRM structures** - A structure built or substantially improved on or before 02-04-1987, the effective date of Mathews County's initial FIRM.

**Primary frontal dune** - a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

**Recreational vehicle** - A vehicle designed to be self-propelled or permanently towable by a light duty truck that is designed for use as temporary living quarters for recreational, camping, travel or seasonal use.

**Repetitive Loss Structure** - A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded at least 25 percent of the market value of the building at the time of each such flood event.

**Residential Building** - A non-commercial building designed for habitation by one or more families or a mixed-use building that qualifies as a single-family, 2 - 4 family, or other residential building.

**Section 1316** - Section of the National Flood Insurance Act of 1968, as amended, which states

that no new flood insurance coverage shall be provided for any property that FEMA finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Severe Repetitive Loss Building - Any building that:

1. Is covered under a Standard Flood Insurance Policy made available under this title; and 2. Has incurred flood damage for which

a. 4 or more separate claim payments have been made under a Standard Flood Insurance Policy issued pursuant to this title, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

b. At least 2 separate claims payments have been made under a Standard Flood Insurance Policy, with the cumulative amount of such claim payments exceed the fair market value of the insured building on the day before each loss.

SFHA - Special Flood Hazard Area

Special Flood Hazard Area (SFHA) - The land in the A and V Zone floodplains subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.1 of this ordinance.

Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (CBRA), 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 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; or
- For a substantial improvement, actual 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 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 50 percent of the market value of the structure before the damage occurred. [44 CFR 59.1]

Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work

performed. [44 CFR 59.1] The term does not, however, include either:

1. any project for necessary improvement or repair 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.

Variance - A grant of relief by a community from the terms of a land use, zoning or building code regulation.

VA USBC - The Virginia Uniform Statewide Building Code.

Violation - Any development in any flood hazard area that is being performed without a required permit or that is in conflict with an issued permit; failure to provide required certificates; or failure to comply with requirements of this ordinance shall be deemed a violation. Repairs exempted from permit requirements do not constitute a violation.

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.

**Wet Floodproofing** -Protecting a structure from flood damage by using flood-resistant materials below the flood level and elevating things subject to flood damage above the flood level.

## ARTICLE VII – ENACTMENT

Enacted and ordained this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. This ordinance, number \_\_\_\_\_ of Mathews, Virginia, shall become effective upon passage.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Attested