

Chapter 63		Dubois	Notes on Changes in GC Morrow Draft Floodplain Ordinance	
Draft		Spreadsheet		Rationale
Reference		Reference		
63-1.1		17, 18	Corrected VA Code reference to § 15.2-1200. General powers of counties. Any county may adopt such measures as it deems expedient to secure and promote the health, safety and general welfare of its inhabitants which are not inconsistent with the general laws of the Commonwealth.	10.1-600 et seq and 10.1-659 refer to DCR activities
63-1.1	A	19	no change	
63-1.1	B		no change	
63-1.1	C	54	add word "new" after "all those"	to separate new from existing uses which will be addressed in another section
63-1.1	D	19	Deleted: "protecting individuals from buying land and structures which are unsuited for intended purposes..."	Locality has no means of identifying planned use before purchase; can only control actual use of property. Existing language is from DCR model
63-1.1	C	54		Bold in previous suggested edit was not intended for ordinance
			63-1.3 Compliance and Liability	
63-1.3	A	20	Added Subtitle: New Structures and Development. Deleted: reconstructed, enlarged or structurally altered	separate new and existing uses in ordinance
63-1.3	B	45, 55	1.3. 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:	Moved statements on existing structures from Article V to Article I

Chapter 63				
Article I			Notes on Changes in Draft Ordinance	
Draft		Spreadsheet		Rationale
Reference		Reference	63-1.3 Compliance and Liability	
63-1.3	B-1 B-2	45	<p>B-1 Substantial Damage FEMA Floodplain Management Requirements Unit 8, p. 8-18</p> <p>B-2 Substantial Improvement Unit 8, p 8-4. Both from 44 CFR 59.1</p> <p>Delete Article V moving existing structure sections into Article ! and Adding Sections 63-1.3 B 3 to B6.</p>	<p>B-1 and B-2 is based on the Gloucester VA Flood Ordinance. Gloucester's CRS status requires a higher standard than the minimum FEMA requirement.</p> <p>https://library.municode.com/va/gloucester_county/codes/code_of_ordinances?nodeId=CH8.5FLMA Also separated substantial improvement from substantial damage as cited in notes.</p>
63-1.3	B-3	23, 45, 47, 55, 62	<p>Added statement on code violation correction exemption of cost of necessary repairs or improvements. In FMR, but not In previous edition of ordinance</p>	<p>"There are two possible exemptions you should be aware of: 1) improvements to correct code violations do not have to be included in the cost of an improvement or repair project and 2) historic buildings can be exempted from substantial improvement requirements." Unit 8, p. 8-6 and 8-25 to 26 of the FEMA Floodplain Management Requirements. 44 CFR 59.1.</p>

63-1.3	B-4a B-4b	16, 24, 46, 47, 62	B-4 a. i-iv, b, Historic Structure exemption from floodplain requirements	NFIP: https://www.fema.gov/media-library-data/20130726-1628-20490-7857/tb_p_467_2_historic_structures_05_08_web.pdf Unit 8, pg 25. Historic structures are exempted from the substantial improvement requirements subject to the criteria listed below. The exemption can be granted administratively if the current NFIP definitions of substantial improvement and historic structure are included in your ordinance. Unit 7. Figure 7-13, Definition of Historic Structure on page 7-58.
63-1.3	B-6	24, 56	new language to encourage use of flood damage reduction measures	FMR Unit 8, 8-26

63-1.3	B-7	7, 11	exemption from flood plain requirement for insignificant activities and minor repairs	FMR Unit 5, 5-18; Unit 7, p. 7-24; 2015 VCC 108.2--Mathews County Building Code § 20-14 Permit required; exemption for ordinary repairs. REQUESTED DOCUMENT for Mathews specific building code exemptions. First reply was no such document. Inquired if there is no list of “ordinary repairs” for Mathews Building Ordinance Code 20-14 available to citizens from the Building Department, and it’s up to them to know what “Basic Code” means and where to find it? NO REPLY as of 12/17
63-1.3	new C	57	relabeled section in existing ordinance from B to C.	
63-1.4		26	Corrected to show records to be kept in perpetuity Important to state clearly. Previous edition of ordinance did say records were to be maintained permanently in job duties, section 2.2K, but people usually don't look at job descriptions to check on policies.	Per 44 CFR 59.22(a)(9)(iii) Response to Amy note: If we show future effective date, it is admission of being out of compliance for an unknown period of time.

63-1.5		27	Changed to be clearer: 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.	FEMA model code statement 109.1 https://www.fema.gov/media-library-data/1414001021938-391835f43d0c18dba2e3d77bb979a881/revDraft_ModelCode_Coordinated_Ordinance_V3_noCh1_noAppG_508.pdf
63-1.5		15	suggestion to say doesn't nullify state and federal laws is covered in the new wording and so is not necessary	
63-1.6		28	no change	
63-1.7	A&B	29, 44, 58, 59	Violations and Penalties: Deleted original opening section and replaced with more specific language. Added statements from FEMA model code. Under Authority: added "or an employee under the direction of the Floodplain Administrator" for clarity and additional language from the Code of Va on the nature of work to be stopped and conditions under which it may be resumed. Added: "Repairs exempted from permit requirements do not constitute a violation under this section." Moved other parts to Penalties.	Used 107.1, 107.2 and 107.3 from FEMA Model Code. Added word "required" for clarity. Used language from 13 VAC 63-140.114 https://law.lis.virginia.gov/admincode/title13/agency5/chapter63/section140/on_stop_work_orders
63-1.7	C-1	29, 44, 50, 58, 59	Penalties: no change in reference to VA USBC sections 104 and 115. Deleted public nuisance statement. Added reference to Section 1316.	Not all violations rise to the level of a public nuisance. Localities may invoke federal Section 1316 to withhold NFIP participation from structures continuing to be in violation of this ordinance.

63-1.7	C-2	59	Added limitations of VA USBC (VCC) 115.2. Added reference to limitations in VA USBC 115.2 and Va. Code §19.2-8, and Va Code § 15.2-2307.	Additions refer to VA USBC 115.2 Va. Code §19.2-8. Statute of limitations on building code violation prosecutions. And Va Code § 15.2-2307 on Vested Rights.
			ARTICLE II Administration	
63-2.1	A-C	10, 30, 60	Clarified wording of 2.1 Designation of Floodplain Administrator.	Job description is not required by FEMA. Says "may list that person's duties," not shall, so it is not required. https://www.fema.gov/pdf/floodplain/nfip_sg_unit_7.pdf p. 7-12.
63-2.1	B	new	Added line allowing property owner to request third party inspector at their own expense.	Done in response to reasonable request by citizen which reflects a common practice.
Old 63-2.2		30	Deleted job description in Duties.	USC 3501 doesn't seem to apply. Could not identify reference to Q.
New 63-2.2		42	Added required notification of Changes to FEMA SFHA maps	Va. Code § 15.2-976
63-2.3	A-D		No change	
63-2.3	E1, E2	31	2014 E 1 to E-4 Deleted. Updated information added to E-1 and E-2.	https://www.fema.gov/view-your-communitys-preliminary-flood-hazard-data
63-2.4 to 2.8			no change	
63-2.9		10	NEW: added administrative process for applicants if Floodplain Administrator denies a permit.	citizen request that made sense

63-3.1	A		Deleted Coastal A from third paragraph because it is not a mapped zone. The Limit of Moderate Wave Action (LiMWA) line is not a zone, but an informational line between the AE and VE Zones indicating the portion of the AE Zone that is subject to waves of 1.5 to 3 feet.	See FEMA LiMWA Fact Sheets https://www.fema.gov/media-library/assets/documents/96413
63-3.1	3	30	Described Coastal A and deleted Reference to VA USBC that doesn't exist	Description is from LiMWA Fact Sheet. Unable to locate any Coastal A zone reference in the 2015 or 2012 VA USBC.
63-3.1	A2		added "new" after proposed use and before development in two places.	clarity
63-3.1	A3	30	Corrected description.Deleted reference to VA USBC because it is not found there.	See FEMA LiMWA Fact Sheets https://www.fema.gov/media-library/assets/documents/96413
			ARTICLE IV DISTRICT PROVISIONS	
63-4.1	A		Add "new" before uses; added "any required" before building and/or zoning permit;	for clarity and consistency with other sections.
63-4.1	B		added new before development	
63-4.2	H	43	No change: on site waste disposal located and constructed to avoid impairment; but requires disxussion by Board and staff.	Mathews Health Dept reprentative doesn't feel that's possible. Per 11/30/18 conversation with GC Morrow.
63-4.3			no change	
63-4.4			no change	
			Deleted Article V. Existing structures material moved to 63-1.3	to keep all uses, new and existing, in the same section
		21	Omitted -Conditional Use from Existing Structure statements	Zoning Dept and Board of Supervisors handle conditional uses.

			If Article V on Existing structures is deleted and contents moved to Article I, Article VI will need to be renumbered	
Article VI			Added Appeals to title: Appeals and Variances	
63-6.1		2, 3, 5, 13, 14, 48, 61	Added Appeals Process as recommended by FEMA.	FMR Unit 7 P. 7-11, 7-50. Appeals process: "The regulations need to provide a way for people to appeal or request a variance when they feel that the construction standards are overly harsh or inappropriate. This process should be handled by a separate body, such as a board of appeals or planning commission; it should not be left up to the decision of a single person, such as the administrator."
63-6.2		6, 12, 22, 34, 49	Variances	FMR Unit 7, 7-50
63-6.3		34, 63	No change - one half acre statement is from FEMA.	
		64	moved historic exemption from variances to 63-1.3 B(5)	
			GLOSSARY	
			Accessory structures: used Floodplain Management Requirements statement. (12/21/18)]	FEMA Region III Nov. 07, 2016 memo in conflict with Open structures statement from Floodplain Management Requirements, Unit 5, pp 5-44 and 5-45. AWAITING CLARIFICATION FROM VA NFIP COORDINATOR.

			<u>Appurtenant structure</u> - A subset of Accessory Structures which is on the same parcel of property as the principal structure to be insured and "very narrowly defined as a detached garage servicing a 1-4 family dwelling." [per Regon III 11/07/16 memo.] See Accessory Structures.	Region III 11/07/16 memo.
		5, 13, 35, 52, 53	Reworded Board of Building Code Appeals	used chapter 20 wording and added floodplain administrator
			Edited Coastal A Zone	
		36	Added LiMWA	
		37	added effective date	
		1, 2, 9, 38	CHANGED MARKET VALUE TO use descriptions from FEMA Floodplain Management Requirements. Used additional definitions FEMA recommends.	FMR Unit 8, p 8-9, https://www.fema.gov/pdf/floodplain/nfip_sg_unit_8.pdf
		39	Repetitive loss definition must use this form to be eligible for ICC claim payments: “. . . 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 25 percent of the market value of the building at the time of each such flood event.”	https://www.fema.gov/media-library-data/20130726-1453-20490-3650/fema301_complete.txt
		40	Severe repetitive loss building definition added.	https://www.fema.gov/national-flood-insurance-program/definitions#S

		4, 7, 8	Substantial Damage and Substantial Improvement used separate definitions.	DiCicco email to Wilks 6/01/18 on Dubois definition of SD/SI: "I have not gotten a 100% firm yes/no from FEMA on the proposed substantial improvement language the county is proposing. It sounds to me, based on the last email I got from Charlie Baker, that the proposed language might be technically compliant but he would advise against it."
		24	Violations	
63-1.7		25. 41	violation--in definitions and section 63-1.7	
			Sources for definitions:	
			https://www.fema.gov/pdf/floodplain/nfip_sg_appendix_e.pdf	Appendix E, NFIP Regulations 44 CFR 59
			https://www.fema.gov/pdf/floodplain/nfip_sg_appendix_d.pdf	FEMA Floodplain Management Requirements, Glossary, Appendix D
			https://www.fema.gov/national-flood-insurance-program/definitions#E	Definitions: FEMA.gov
			FEMA Region III 11/7/16 memo on Accesory Structures	
			Misc FEMA Fact Sheets	
			VA USBC	
	51		Not an ordinance item. General comment from citizen on Dubois spreadsheet on getting legal support.	

			ADDITIONAL CHANGES BEYOND 12-17-18 SPREADSHEET	
63-4.3	B1	ADDED	Accessory Structures	Used DCR Model Ordinance language until Region III coordinates their 11/7/16 memo with the new FEMA HQ Guidance published on 12/12/18.
Article VII - Enactment		Changed	Used DCR model ordinance example	Per DCR: "FEMA also requires a date of adoption and an ordinance number." The 2014 edition did not include an ordinance number.
		GLOSSARY EDITS & ADDITIONS AT SUGGESTION OF VA NFIP COORDINATOR 12/18/18		
Glossary			accessory structures	Used FMR Unit 5, p 5-44
		EDITED	Appurtenant Structure added additional language	44 CFR Section 59.1 of the National Flood Insurance Program (NFIP) Regulations: Definitions of NFIP Terms https://www.fema.gov/media-library/assets/documents/12437
		DELETED	["Very narrowly defined as a detached garage servicing a 1-4 family dwelling" in Region III 11/07/16 Accessory Structure memo.]	Statement is only in regards to insurance coverage, not floodplain management requirements.
		ADDED	definition of Breakaway wall	59.1
		ADDED	Buildings - See Structures	59.1

		ADDED	Nonresidential building	https://www.fema.gov/national-flood-insurance-program/definitions#R
		ADDED	Residential building	https://www.fema.gov/national-flood-insurance-program/definitions#R
		ADDED	Wet Floodproofing	FMR Unit 5, Section E.