

Changes and additions as in ***bold italics underline*** and deletions are ~~crossed out~~.

ARTICLE I. IN GENERAL

Sec. 14-1. Purpose.

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

1. Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.
2. Restricting or prohibiting certain uses, activities and development from locating within districts subject to flooding.
3. Requiring all those uses, activities and developments that do occur in floodprone districts to be protected and/or floodproofed against flooding and flood damage.
4. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(Code 1988, § 14-1; Ord. No. 1991-97, § 1, 11-26-1991)

Sec. 14-2. Applicability.

These regulations shall apply to all property located within an area designated as a floodplain area, and as such shall supplement the regulations of the zoning district within which such property is located. Where these regulations are at variance with other provisions of this chapter, it is intended that these regulations shall apply. These regulations shall only apply to property which is designated as being within a floodplain area.

(Code 1988, § 14-2; Ord. No. 1991-97, § 1, 11-26-1991)

Sec. 14-3. Compliance and liability.

1. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this chapter.
2. The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that districts outside the floodplain district or that land within the floodplain district will be free from flooding or flood damages.
3. The provisions of this chapter shall not impose liability on the city or any officer or employee thereof for any flood damages that result from

reliance on this chapter or any administrative decision lawfully made thereunder.

(Code 1988, § 14-3; Ord. No. 1991-97, § 1, 11-26-1991)

Sec. 14-4. Penalties.

1. Any person who fails to comply with any of the requirements or provisions of this chapter or any order of the director of permits and inspections or his designee or any other authorized employee shall be guilty of a class 1 misdemeanor.

2. In addition to the above penalties, all other remedies are hereby reserved, including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, the provisions of this chapter shall not excuse the violation or noncompliance so as to permit it to continue. Any structure constructed, reconstructed, enlarged, altered or relocated in violation of this chapter may also be declared a public nuisance and abated as such.

(Code 1988, § 14-4; Ord. No. 1991-97, § 1, 11-26-1991)

ARTICLE II. DEFINITIONS

Sec. 14-5. Specific definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Base Flood means a flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means the Federal Emergency Management Agency-designated 100-year water surface elevation, that has a one percent chance of occurring in any one year.

Base flood/100-year flood means a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).

Basement means any area of the building having its floor sub-grade (belowground level) on all sides.

Board means the Board of Zoning Appeals established under the provisions of section 40-191 of this Code having authority also to review appeals made by individuals with regard to decisions of the director of permits and inspections or his designee in the interpretation of this chapter.

Breakaway wall means 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.

Coastal high-hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources.

Development means any manmade 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/Structure

Flood means:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters;
- b. The unusual and rapid accumulation or runoff of surface waters from any source; or
- c. Mudslides or mudflows which are proximately caused by flooding as defined in subsection b. of this section and are akin to a river of liquid, flowing mud over normally dry land areas.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1) of this section.

Floodplain means:

(1) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation;

(2) An area subject to the unusual and rapid accumulation or runoff of surface water from any source.

Floodprone area means any land area susceptible to being inundated by water from any source.

Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed by the commonwealth in an inventory of historic places.

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

Manufactured home means a structure subject to federal regulations, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation when connected to the required facilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

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

Market Value means the current City of Portsmouth Assessment value of the building only as prepared by the City Real Estate Assessor

New construction means, for floodplain management purposes, structures for which the start of construction commenced on or after October 22, 1974, and includes any subsequent improvements to such structures.

Primary frontal dune means 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 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 distinct change from a relatively steep slope to a relatively mild slope.

Recreational vehicle means a vehicle which is:

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

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

Start of construction means the date of issuance of the building permit, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means:

(1) 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

(2) The placement of a manufactured home on a foundation.

The term "permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Substantial damage means damage of any origin sustained by a structure when the cost of restoring the structure to its predamage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. **A structure that has been damaged 2 or more times during any consecutive 10 year period with a cumulative building loss equal to or exceeding 50 percent of the assessed building value shall also be considered a substantial damaged structure.**

Substantial improvement means 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. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code requirements and which are the minimum necessary to assure safe living conditions or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(Code 1988, § 14-5; Ord. No. 1991-97, § 1, 11-26-1991; Ord. No. 1992-6, § 1, 1-28-1992)

ARTICLE III. ESTABLISHMENT OF ZONING OVERLAY DISTRICT

Sec. 14-6. Description of district.

1. Basis of district. The floodplain district shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of the district shall be the 100-year flood elevations or profiles contained in the Flood Insurance Study, , and Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency,

Federal Insurance Administration, dated September 25, 2009, as amended. Where the specific 100-year flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the city engineer in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the city engineer.

2. Overlay concept.

(a) The floodplain district shall be in addition to and shall overlay all other zoning districts designated on the zoning map as adopted by section 40-42 of this Code. The provisions of this chapter shall serve as a supplement to all other provisions of this Code.

(b) In any conflict between the Code requirements for the floodplain district and those for any underlying zoning district, the more restrictive provisions shall apply.

(Code 1988, § 14-6; Ord. No. 1991-97, § 1, 11-26-1991; Ord. No. 1992-6, § 1, 1-28-1992)

Sec. 14-7. Official zoning map.

The boundaries of the floodplain district are established as shown on the Flood Insurance Rate Map, which is declared to be a part of this chapter and which shall be kept on file in the office of the planning department.

(Code 1988, § 14-7; Ord. No. 1991-97, § 1, 11-26-1991)

Sec. 14-8. District boundary changes.

The delineation of any of the floodplain district boundaries may be revised by the city council where natural or manmade changes have occurred, where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or where an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

(Code 1988, § 14-8; Ord. No. 1991-97, § 1, 11-26-1991)

Sec. 14-9. Interpretation of district boundaries.

Initial interpretations of the boundaries of the floodplain district shall be made by the director of permits and inspections or his designee. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. Any person contesting the location of any district boundary shall be given a reasonable opportunity to present his case and to submit his own technical evidence to the board.

(Code 1988, § 14-9; Ord. No. 1991-97, § 1, 11-26-1991)

ARTICLE IV. DISTRICT PROVISIONS**Sec. 14-10. General provisions.**

(1) Permit requirement. All uses and development occurring within the floodplain district shall be undertaken only upon the issuance of a building permit. Such development shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances, including the Virginia Uniform Statewide Building Code and the City of Portsmouth Subdivision Ordinance. Prior to the issuance of any building permit, the city shall review the application for the building permit to determine if all necessary government permits required by state and federal laws have been obtained.

(2) Site plans and permit applications. All applications for development in the floodplain district and all building permits issued for activity in the floodplain district shall include the following information:

(a) For structures to be elevated, the elevation of the “lowest floor”, and **duct work of HVAC equipment, and HVAC equipment**, and of the basement.

(b) For nonresidential structures to be floodproofed, the elevation to which the structure will be floodproofed. **Such elevation shall be at least one (1.5) foot above the Base Flood elevation for the district.**

(c) The elevation of the 100-year flood.

(d) Topographic information showing existing and proposed ground elevations.

(3) Manufactured homes. Manufactured homes that are placed or substantially improved on sites shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(4) Recreational vehicles. Recreational vehicles placed on sites shall either:

(a) Be on the site for fewer than **180 consecutive days** and be fully licensed and ready for highway use; or

(b) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes.

For the purposes of this section, a recreational vehicle shall be deemed 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. (Code 1988, § 14-10; Ord. No. 1991-97, § 1, 11-26-1991; Ord. No. 1992-6, § 1, 1-28-1992)

Cross references: Mobile homes, ch. 21.

Sec. 14-11. ~~Coastal high-hazard areas~~ District Provisions**1. Regulations for subdivisions and site plans.**

The applicant of any subdivision of land or site plan within the city shall submit with his application, a statement by a licensed surveyor or engineer as to whether or not any property

shown on the plat or plan is at an elevation lower than the 100-year flood level. Where an area at or below the 100-year flood level exists, the extent of this area shall be shown on the preliminary and final plat or plan.

2. "X" Unshaded Zones

A non hazard district with areas determined to be outside the 0.2% annual chance floodplain. There are no required floodplain management construction regulations for this district.

3. "X" Shaded Zones

A non hazarded district but an area that has been identified as having 0.2% annual chance of flood or an area with a 1% annual chance flood with average depths less than one (1) foot or drainage areas less than 1 square miles or areas protected by levees from 1% annual chance of flood. There are no required floodplain management construction regulations for this district.

4. Prohibited uses.

I. The following uses shall be specifically prohibited within all "A", "AE" and "V" floodplain districts:

- i. Sanitary landfills, junkyards, outdoor storage of inoperative vehicles.
- ii. Manufactured homes.
- iii. Surface mines and borrow pits.
- iv. Manufacture, bulk storage, transformation or distribution of petroleum, chemical or asphalt products or any hazardous materials as defined in either or both of the following:
 - 1) Superfund Amendment and Reauthorization Act of 1986.
 - 2) Identification and Listing of Hazardous Wastes, 40 CFR section 261 (1987).
 1. The following products shall be specifically included:
 - a. Oil and oil products including petrochemicals.
 - b. Radioactive materials,
 - c. Any material transported or stored in large commercial quantities (such as 55-gallon drums) which is a very soluble acid or base, causes abnormal growth of an organ or organism, or is highly biodegradable, exerting a strong oxygen demand.
 - d. Biologically accumulative poisons.
 - e. Substances containing the active ingredients of poisons that are or were ever registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 135 et seq.).
 - f. Substances highly lethal to mammalian or aquatic life.
- v. Storage or land application of industrial wastes.
- vi. Outdoor storage of equipment, materials or supplies which are buoyant, flammable or explosive.

II. Nonconforming uses of this chapter notwithstanding, no expansion of any of the above uses located within the floodplain district shall be permitted.

5. Costal AE Zone

The AE zone is a special flood hazard district where the “Base Flood Elevations” have been determined. In all special flood hazard areas labeled AE the following provisions shall apply:

I. Residential Construction

New construction or substantial improvement of any residential structure (manufactured homes are not permitted in the AE zone) shall have the lowest floor, including basement, elevated no lower than the base flood elevation plus one and one half foot of freeboard.

II. 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 no lower than the base flood elevation plus one and one half foot of freeboard. Buildings located in the AE, zone may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot 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.

III. Elevated Buildings

Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation 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). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. in the Coastal High Hazard District, follow the standards for elevation outlined in Article 14, Section 4.11 - 6.
4. include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect

or meet the following minimum design criteria:

- 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.

6. Coastal high-hazard Zones

Because of special flood hazards associated with wave wash, the following provisions shall also apply to coastal high-hazard areas:

- a. All new construction shall be located landward of the reach of mean high tide.
- b. No fill shall be used as structural support.
- c. Within V-zones on the Flood Insurance Rate Map, all building permits shall contain 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 and shall state whether or not such structures contain a basement.
- d. All new construction and substantial improvements elevated on pilings and columns shall have the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) elevated to or above the base flood level **plus one and one half foot of freeboard**. The pile or column foundation and any structure attached thereto shall be anchored to resist floatation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water-loading values used shall be those associated with the base flood. Wind-loading values used shall be those required by applicable state or local building codes. A registered professional engineer or

architect shall develop or review the structural design and methods of construction and shall certify that the proposed design and methods of construction are in accordance with accepted standards.

- e. All new construction and substantial improvements within ~~V1-30~~ and ~~V~~ VE zone on the flood insurance rate map shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting 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 ten 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 or state codes) may be permitted only if a registered professional engineer or architect also certifies that the proposed design also meets the following conditions:
 - i. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - ii. 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, both structural and nonstructural. Water-loading values used shall be those associated with the base flood. Wind-loading values used shall be those required by applicable state or local building codes. Such enclosed space shall be usable solely for parking of vehicles, building access or storage.
- f. There shall be no alteration of sand dunes ~~or mangrove stands~~ which would increase potential flood damage.
- g. All recreational vehicles placed in V-zones shall be on site for fewer than 180 consecutive days, be fully licensed and ready for highway use or meet the same standards as for conventional housing in V-zones.

7. 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 provided 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.

(Code 1988, § 14-11; Ord. No. 1991-97, § 1, 11-26-1991)

Sec. 14-12. Design criteria for public improvements.

(1) Sanitary sewer facilities. All new or replacement sanitary sewer facilities and private package sewage treatment plants, including all pumping stations and collector systems, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and of discharges from the systems into the floodwaters. The facilities and plants shall be located and constructed to minimize or eliminate flood damage and impairment.

(2) Water facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and shall be located and constructed to minimize or eliminate flood damage.

(3) Drainage facilities. All storm drainage facilities shall be designed to convey the flow of surface waters without causing injury to persons or damage to property. The facilities shall ensure drainage away from buildings and on-site waste disposal sites. The city engineer may require a primary underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

(4) Utilities. All utilities, such as gas lines, electrical and telephone systems, being placed in floodprone areas should be located, elevated (where possible) and constructed to minimize the chance of impairment during a flooding occurrence.

(5) Streets and sidewalks. Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be designed to reduce exposure to flood hazards.

(Code 1988, § 14-12; Ord. No. 1991-97, § 1, 11-26-1991)

ARTICLE V. VARIANCES

Sec. 14-13. Variances; factors to be considered.

(1) In reviewing applications for variances, the board of zoning appeals shall observe all requirements and procedures set out in the zoning ordinance and shall also consider the following factors:

(a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments.

(b) The potential 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 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 floodwaters expected at the site.
 - (l) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
 - (m) Such other factors which may be relevant to the purposes of this chapter.
- (2) The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to the city engineer or any 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 proposed plans as to flood protection and other related matters.
- (3) Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense and will not create nuisances, cause fraud or victimization of the public, or conflict with the provisions of this Code.
- (4) Variances shall be issued only after the board of zoning appeals has determined that variance will be the minimum required to provide relief from ~~any~~ hardship to the applicant.

(5) The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.

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

(Code 1988, § 14-13; Ord. No. 1991-97, § 1, 11-26-1991; Ord. No. 1992-6, § 1, 1-28-1992)

ARTICLE VI. EXISTING STRUCTURES

Sec. 14-14. Conditions for use of existing structures.

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

(1) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure or use located in any floodplain area to an extent or amount of less than 50 percent of its market value shall be elevated and/or floodproofed to the greatest extent possible, as determined by the director of permits and inspections or his designee.

(2) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure or use, regardless of its location in a floodplain area, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of this chapter and the Virginia Uniform Statewide Building Code.

(3) **Additions regardless of the value of the construction costs all areas of additions must meet the following requirements:**

a. **For additions that are less than 50 percent of its market value of the existing building all parts of the addition to include duct work, HVAC equipment and electrical must be above the Base Flood Elevation**

b. **For where the construction costs is 50 percent or more of the existing building's market value the addition and the existing shall be in full compliance with the provisions of this chapter and the Virginia Uniform Statewide Building Code**

(Code 1988, § 14-14; Ord. No. 1991-97, § 2, 11-26-1991)