

**AN ORDINANCE TO CHAPTER 14 OF THE CODE OF THE CITY OF PORTSMOUTH, VIRGINIA (2006) BY AMENDING SECTIONS 14-3, 14-5, 14-6, AND 14-10 THROUGH 14-14 THEREOF PERTAINING TO FLOOD PROTECTION.**

**BE IT ORDAINED** by the Council of the City of Portsmouth, Virginia:

1. That Sections 14-3, 14-5, 14-6, and 14-10 through 14-14 of the Code of the City of Portsmouth, Virginia (2006) be amended and reordained to read as follows:

**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.
4. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Building Official.

**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* means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*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.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Freeboard* means 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.* 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 one a site for greater than 180 consecutive days.

*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 Assessment value of the building as prepared by the City 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) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

*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 two or more times during any consecutive ten-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.

#### **Sec. 14-6. Description of district.**

(a) *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.

- (b) *Overlay concept.*
- (1) 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.
- (2) In any conflict between the Code requirements for the floodplain district and those for any underlying zoning district, the more restrictive provisions shall apply.

#### **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 elevations of the "lowest floor", HVAC equipment and duct work, and 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.

#### **Sec. 14-11. District Provisions.**

(a) *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.

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A and AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the City.

Development activities in Zones A, AE, and AH, on the City of Portsmouth, Virginia's Flood Insurance Rate Map that increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies, with the City's endorsement, for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

(b) *"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.

(c) *"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.

(d) *Prohibited uses.*

(1) The following uses shall be specifically prohibited within all "A", "AE" and "V" floodplain districts:

- a. Sanitary landfills, junkyards, outdoor storage of inoperative vehicles.
- b. Manufactured homes.
- c. Surface mines and borrow pits.
- d. 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.
- e. Storage or land application of industrial wastes.
- f. Outdoor storage of equipment, materials or supplies which are buoyant, flammable or explosive.

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

(e) *Coastal 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:

(1) *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.

(2) *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.

(3) *Elevated Buildings.* Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

- a. 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;
- b. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- c. in the Coastal High Hazard District, follow the standards for elevation outlined in Article 14, Section 4.11 - 6.
- d. include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of

floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

- 1) Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
- 2) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
- 3.) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
- 4) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
- 5) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- 6) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(f) *Coastal high-hazard Zones.* Because of special flood hazards associated with wave wash, the following provisions shall also apply to coastal high-hazard areas:

- (1) All new construction shall be located landward of the reach of mean high tide.
- (2) No fill shall be used as structural support.
- (3) 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.
- (4) 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 feet 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.

(5) All new construction and substantial improvements within V-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 register professional engineer or architect also certifies that the proposed design also meets the following conditions:

- a. Breakaway wall collapse shall result from a water load than less that which would occur during the base flood; and
- b. 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.

(6) There shall be no alteration of sand dunes which would increase potential flood damage.

(7) 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.

(g) *Standards for the Floodway District.* The following provisions shall apply within the Floodway District:

- (1) Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.

Development activities, which increase the water surface elevation of the base flood, may be allowed, provided that the {developer or applicant} first applies – with the City of Portsmouth, Virginia’s endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

- (2) If Article 4, Section 4.6 (A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
- (3) The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

(h) *Standards for Subdivision Proposals*

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- (4) 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.

**Sec. 14-12. Design criteria for public and private 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 flood prone 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.

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

(a) 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:

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

(2) The showing of good and sufficient cause and 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-year flood elevation.

(3) The potential danger that materials may be swept on to other lands or downstream to the injury of others.

(4) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(5) 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.

(6) The importance of the services provided by the proposed facility to the community.

(7) The requirements of the facility for a waterfront location.

(8) The availability of alternative locations not subject to flooding for the proposed use.

(9) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(10) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(11) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(12) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

(13) 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.

(14) Such other factors which may be relevant to the purposes of this chapter.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

#### **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

2. That this ordinance shall take effect on September 25, 2009.

**ADOPTED** by the Council of the City of Portsmouth, Virginia at a meeting held on August 25, 2009.

Teste:

City Clerk