



NEW KENT COUNTY
PLANNING COMMISSION -- REGULAR MEETING
MARCH 16, 2015, AT 6:30 PM
COUNTY ADMINISTRATION BUILDING BOARDROOM
AGENDA

ITEM DESCRIPTION

1. CALL TO ORDER

PLEASE BRING YOUR

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

CIP BINDERS!

3. ROLL CALL

4. APPROVAL OF MINUTES

A. JANUARY 20, 2015

5. CITIZEN COMMENT PERIOD

COMMENTS ARE LIMITED TO THOSE ON PLANNING RELATED ISSUES THAT ARE NOT SCHEDULED FOR A PUBLIC HEARING LATER ON THE AGENDA. PLEASE SIGN UP ON THE SHEET AT THE BACK OF THE ROOM PRIOR TO THE START OF THE MEETING.

6. PRESENTATION

- A. PRESENT RESOLUTION OF APPRECIATION TO MR. HOWARD GAMMON
- B. FLOODPLAIN ORDINANCE – CLARENCE JACKSON, BUILDING OFFICIAL

7. UNFINISHED BUSINESS

- A. ACTION ON OA-01-15 – OPEN SPACE/CLUSTER SUBDIVISION – PUBLIC HEARING HELD JANUARY 20
- B. ACTION ON OA-02-15 – AFD ORDINANCE – PUBLIC HEARING HELD JANUARY 20
- C. ACTION ON 2014 ANNUAL REPORT

8. PUBLIC HEARINGS

7:00 PM OR AS SOON THEREAFTER AS POSSIBLE. SPEAKERS ARE LIMITED TO THREE MINUTES EACH AND SHOULD COME TO THE PODIUM AND STATE THEIR NAME AND ADDRESS.

- A. **PROPOSED FY 16 LAND DEVELOPMENT FEES:** PURSUANT TO SECTIONS 15.2-407 AND 15.2-2204 OF THE CODE OF VIRGINIA, AS AMENDED, CONSIDER THE PROPOSED FY 16 LAND DEVELOPMENT FEES (SEE ATTACHED)
- B. **CAPITAL IMPROVEMENT PLAN (CIP):** PURSUANT TO SECTION 15.2-2239 OF THE CODE OF VIRGINIA THE PLANNING COMMISSION WILL REVIEW AND MAKE RECOMMENDATIONS ON THE NEW KENT COUNTY FISCAL YEAR 2016-2020 CAPITAL IMPROVEMENT PLAN BASED ON THE COUNTY'S COMPREHENSIVE PLAN. THE COMMISSION WILL REVIEW ESTIMATES OF THE COST OF PUBLIC FACILITIES AND LIFE CYCLE COSTS, INCLUDING ANY ROAD IMPROVEMENT AND ANY TRANSPORTATION IMPROVEMENT THE LOCALITY CHOOSES TO INCLUDE IN ITS CAPITAL IMPROVEMENT PLAN AND AS PROVIDED FOR IN THE COMPREHENSIVE PLAN, AND THE MEANS OF FINANCING THEM, TO BE UNDERTAKEN IN THE ENSUING FISCAL YEAR AND IN A PERIOD NOT TO EXCEED THE NEXT FOUR YEARS. THE PROPOSED CIP CONTAINS PROJECT REQUESTS TOTALING APPROXIMATELY \$28,874,228 FOR THE NEXT FIVE FISCAL YEARS.

9. NEW BUSINESS

A. SUBDIVISION ORDINANCE AMENDMENT TO ALLOW A WAIVER TO RESTRICTED ACCESS EASEMENT REQUIREMENTS

10. CHAIRMAN'S REPORT

11. RRPDC REPORT

12. COMMISSIONER'S REPORTS

13. STAFF REPORTS

14. MEETING SCHEDULE

A. THE PLANNING COMMISSION'S NEXT REGULAR MEETING IS SCHEDULED FOR MONDAY, APRIL 20, 2015 AT 6:30 PM IN THE BOARDROOM

16. ADJOURNMENT



**NEW KENT COUNTY
PLANNING COMMISSION -- REGULAR MEETING
TUESDAY, JANUARY 20, 2015, AT 6:30 PM
COUNTY ADMINISTRATION BUILDING BOARD ROOM
MINUTES**

THE REGULAR MEETING OF THE NEW KENT COUNTY PLANNING COMMISSION WAS HELD ON THE 20TH DAY OF JANUARY IN THE YEAR TWO THOUSAND FIFTEEN IN THE BOARD ROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:30 PM.

IN RE: CALL TO ORDER

Mr. Chalmers called the meeting to order at 6:30 pm.

IN RE: ROLL CALL

Attendance:

Mrs. Joyce Williams	Present
Mr. Clarence "Tommy" Tiller	Present
Mrs. Charna Moss-Gregory	Present
Ms. Joanne Schmit	Present
Mr. Michael Lane	Present
Mr. Edward Pollard	Present
Ms. Katherine Butler	Present
Ms. Laura Rose	Present
Mrs. Patricia Townsend	Present
Mr. Richard Kontny	Present
Mr. Jack Chalmers	Present

Mr. Chalmers established that there was a quorum.

Also Attending:

- Mr. Rodney Hathaway, County Administrator
- Ms. Michele Gowdy, County Attorney
- Mr. Matthew Smolnik, Director, Community Development
- Ms. Kelli L. Z. Le Duc, Planning Manager
- Mr. Kenneth Vaughan, Zoning Official
- Mr. Kyle Flanders, Planner
- Mr. Matthew Venable, Environmental Planning Manager

IN RE: MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Mr. Chalmers led the Moment of Silence and Pledge of Allegiance.

IN RE: ANNUAL ELECTIONS AND REORGANIZATION

A. Election of Officers

- I. Mr. Michael Lane was elected as the 2015 Chair of the New Kent County Planning Commission.
- II. Mrs. Patricia Townsend was elected as the 2015 Vice Chair of the New Kent County Planning Commission.
- III. Ms. Katherine Butler was elected as the 2015 Public Hearing Chair of the New Kent County Planning Commission.
- IV. Mrs. Laura Rose was elected as the 2015 Public Hearing Vice Chair of the New Kent County Planning Commission.
- V. Mr. Edward Pollard was elected as the 2015 Representative to the Richmond Regional Planning District Commission.

Mr. Lane assumed his position as Chairman.

B. Review and Adoption of By-Laws

Mr. Chalmers made a motion to adopt the By-Laws as presented.

The members were polled:

Mr. Edward Pollard	Aye
Ms. Laura Rose	Aye
Mr. Jack Chalmers	Aye
Ms. Katherine Butler	Aye
Mr. Clarence Tiller	Aye
Mrs. Charna Moss-Gregory	Aye
Mrs. Joyce Williams	Aye
Mr. Richard Kontny	Aye
Ms. Joanne Schmit	Aye
Mrs. Patricia Townsend	Aye
Mr. Michael Lane	Aye

The motion carried with an 11:0:0 roll call vote.

C. Adoption of Meeting Schedule

Mrs. Townsend made a motion to adopt the 2015 Meeting Schedule as presented.

Mr. Jack Chalmers	Aye
Mrs. Joyce Williams	Aye
Mrs. Charna Moss-Gregory	Aye
Mr. Clarence Tiller	Aye
Ms. Katherine Butler	Aye

Mr. Richard Kontny	Aye
Mrs. Laura Rose	Aye
Mrs. Patricia Townsend	Aye
Mr. Edward Pollard	Aye
Ms. Joanne Schmit	Aye
Mr. Michael Lane	Aye

The motion passed with an 11:0:0 roll call vote.

Mr. Lane introduced new District 4 Commissioner Dr. Joanne Schmit.

IN RE: APPROVAL OF MINUTES

A. December 15, 2014 – Regular Planning Commission Meeting.

A motion was made by Mr. Chalmers to approve the minutes as presented.

The members were polled:

Ms. Joanne Schmit	Abstain
Mrs. Joyce Williams	Aye
Mr. Clarence “Tommy” Tiller	Aye
Mr. Edward Pollard	Aye
Mrs. Patricia Townsend	Abstain
Mrs. Charna Moss-Gregory	Aye
Mr. Jack Chalmers	Aye
Ms. Laura Rose	Aye
Mr. Richard Kontny	Aye
Ms. Katherine Butler	Aye
Mr. Michael Lane	Aye

The motion carried with a 9:0:2 roll call vote.

IN RE: CITIZEN COMMENT PERIOD

Comments are limited to those on planning related issues that are not scheduled for public hearings later on the agenda. The comment sign-up sheet is located at the back of the room and citizens are required to sign up prior to the start of the meeting.

None

IN RE: PRESENTATIONS

None

IN RE: UNFINISHED BUSINESS

None

At this point it was determined that there was enough time to move on to New Business seeing that it was not yet time for the public hearing portion of the meeting.

IN RE: NEW BUSINESS

A. PLANNING COMMISSION 2014 ANNUAL REPORT

Ms. Le Duc gave a brief overview of the 2014 Annual Report and asked that it be adopted at the February meeting.

IN RE: CHAIRMAN'S REPORT

None

IN RE: RICHMOND REGIONAL PLANNING DISTRICT COMMISSION (RRPDC)

Mr. Pollard gave a brief overview of the presentation on industrial sludge and bio solids from the last RRPDC meeting.

IN RE: PUBLIC HEARING

The meeting was turned over to Ms. Butler, Public Hearing Chairwoman, who explained the process for the public hearings.

A. APPLICATION CUP-03-14 COLONIAL HOLDINGS, INC.: COLONIAL HOLDINGS, INC. HAS APPLIED FOR AN AMENDMENT TO THEIR EXISTING CONDITIONAL USE PERMIT TO ALLOW COLONIAL DOWNS TO HOST ACCESSORY EVENTS AND USES AT THE FACILITY WHETHER OR NOT THE FACILITY HOLDS A PARI-MUTUEL HORSERACING LICENSE FROM THE VIRGINIA RACING COMMISSION. THE SUBJECT PROPERTY IS LOCATED AT 10515 COLONIAL DOWNS PARKWAY AND IS FURTHER IDENTIFIED AS TAX MAP & PARCEL NUMBER 33-6 (GPIN #118-2736-0725).

Ms. Butler opened the public hearing.

Ms. Le Duc gave an overview of the CUP application and request.

Mr. Jim Theobald, representing Colonial Downs, also gave a presentation which included some background information on why Colonial Downs was requesting this CUP Amendment, explained the efforts in this session of the General Assembly to bring horse racing back to Colonial Downs, and stated that a Color Run event was already being planned for April of 2015. Approving this amendment to allow events at the facility without the facility holding a pari-mutuel horseracing license is their request.

Ms. Butler opened the citizen comment period of the public hearing.

Ron Durer, 13403 Old Church Road, spoke in opposition to this application. He stated that he felt the amendment compromises the intent of the original Colonial Downs permit. The amount of revenue received from these single day events is minimal. This facility is in a prime location and has the potential to be another Innsbrook or an over 55 residential development.

Ms. Butler closed the public hearing and turned the meeting back over to Mr. Lane.

Mr. Chalmers made the point that it wouldn't be in anyone's interest to let the property at Colonial Downs go into disrepair. Continuing to host events would ensure that the facility is being used and kept up.

Mrs. Townsend suggested that action on the application be deferred for a month in order to allow the General Assembly time to make some decisions.

Mr. Chalmers stated that he felt that a time limit on the CUP Amendment, perhaps for one year, should be added.

The Commissioners discussed both options. A short recess was called for in order for Ms. Gowdy and Mr. Theobald to discuss the options.

Mr. Theobald stated that Colonial Downs would not be opposed to a one year limit on the CUP Amendment. He felt that no one would learn anything more in the next 30 days and asked that the decision on the application not be deferred.

A motion was made by Mr. Chalmers to adopt PC Resolution PC-01-15 to forward Application CUP-03-14 to the New Kent County Board of Supervisors, with the condition that the CUP Amendment is applicable for one year, with a favorable recommendation.

The members were polled:

Mr. Clarence "Tommy" Tiller	Abstain
Mr. Richard Kontny	Aye
Mrs. Charna Moss-Gregory	Aye
Mr. Edward Pollard	Aye
Ms. Joanne Schmit	Aye
Mr. Jack Chalmers	Aye
Ms. Katherine Butler	Aye
Ms. Laura Rose	Aye
Mrs. Patricia Townsend	No
Mrs. Joyce Williams	Aye
Mr. Michael Lane	Aye

The motion carried with a 9:1:1 roll call vote.

B. APPLICATION OA-01-15: THE PLANNING COMMISSION WILL CONSIDER ORDINANCE CHANGES FOR SECTION 91-127 OF THE NEW KENT COUNTY CODE. THIS SECTION CONTAINS SPECIAL PROVISIONS FOR OPEN SPACE OR CLUSTER SUBDIVISIONS. PROPOSED AMENDMENTS INCLUDE RAISING THE MINIMUM ACREAGE TO 50 ACRES, ALLOWING DEED RESTRICTIONS IN LIEU OF RECORDED CONSERVATION EASEMENTS, REQUIREMENTS TO CONNECT TO PUBLIC WATER/SEWER IF THE SUBDIVISION IS IN A SERVICE AREA, NOT PERMITTING THESE TYPES OF SUBDIVISIONS ON LAND ZONED R-1, AND ONLY ALLOWING THESE SUBDIVISIONS IN AREAS DESIGNATED AS RURAL LANDS IN THE COMPREHENSIVE PLAN.

The public hearing was opened by Ms. Butler.

Planner Kyle Flanders gave an overview of the proposed changes to the Open Space/Cluster Subdivision Ordinance.

The citizen comment period of the public hearing was opened.

Mr. Mathew Star, 6592 Terminal Road, spoke to the Commission regarding a timing issue with a current cluster subdivision application under review by the County. He explained that his subdivision has not yet received preliminary approval, and without this preliminary approval he will not be vested under the current ordinance. He requested that the decision on the ordinance amendments before the Commission tonight be postponed. He clarified that he was not opposed to the proposed amendments.

Mr. David Horsley, 6339 Pocahontas Trail, stated that he is not opposed to the proposed amendments. He expressed his opinion that the required open space within the cluster subdivision should be able to be connected to other open spaces.

Ms. Butler closed the public hearing and turned the meeting back over to Mr. Lane.

Ms. Rose asked about Grandfathering applications that are currently under review by the County. Ms. Gowdy responded that an application is vested once it has preliminary approval.

Mr. Kontny asked if the 50 acre minimum was mandated by the State. Ms. Gowdy and Mr. Chalmers clarified that the 50 acre minimum had been discussed several times by both the Board of Supervisors as well as the Planning Commission. Mr. Kontny stated that he felt that instead of a minimum acreage requirement, the acreage for a cluster subdivision should be based on a ratio of "usable acreage" so as not to prohibit smaller cluster developments.

Mr. Chalmers asked Ms. Gowdy if it was possible to base an Ordinance off of a ratio of usable acreage. Ms. Gowdy said that she will do some research of other localities' requirements, as well as the VA State Code, and get back to the Commission.

A motion was made by Mr. Kontny to defer action on Application OA-01-15 until the February Planning Commission meeting.

The members were polled:

Mr. Clarence "Tommy" Tiller	Abstain
Mr. Richard Kontny	Aye
Mrs. Charna Moss-Gregory	Aye
Mr. Edward Pollard	Aye
Ms. Joanne Schmit	Aye
Mr. Jack Chalmers	Aye
Ms. Katherine Butler	Aye
Ms. Laura Rose	Aye
Mrs. Patricia Townsend	Aye
Mrs. Joyce Williams	Aye
Mr. Michael Lane	Aye

The motion carried with a 10:0:1 roll call vote.

C. APPLICATION OA-02-15: THE PLANNING COMMISSION WILL CONSIDER ORDINANCE CHANGES FOR ARTICLE II, CHAPTER 62, OF THE NEW KENT COUNTY CODE. THIS ARTICLE CONCERNS THE AGRICULTURAL AND FORESTAL DISTRICTS PROGRAM AND THE PROCESS AS OUTLINED IN THE STATE CODE. THE PROPOSED CHANGES TO THE COUNTY CODE REFLECT CHANGES TO THE VIRGINIA STATE CODE CONCERNING AGRICULTURAL AND FORESTAL DISTRICTS.

The public hearing was opened by Ms. Butler.

Environmental Planning Manager Matthew Venable gave an overview of the changes to the Ordinance. He stated that all of the changes have been considered by the Board of Supervisors and the AFD Advisory Committee. He stated that the majority of the changes reflect changes to the Virginia State Code concerning Agricultural and Forestal Districts.

The citizen comment period of the public hearing was opened and closed, with no one speaking. Ms. Butler closed the public hearing and turned the meeting back over to Mr. Lane.

The Commissioners and staff discussed whether or not March 1 was an appropriate deadline for the 2015 round of AFD applications. The Commissioners felt that more aggressive outreach was needed to make the citizens aware of the AFD application deadline.

The staff asked that they be given some time to look into the date requirements and some of the other unanswered questions.

A motion was made by Mr. Chalmers to defer action on Application OA-02-15 until the February Planning Commission meeting.

The members were polled:

Mr. Clarence "Tommy" Tiller	Abstain
Mr. Richard Kontny	Aye

Mrs. Charna Moss-Gregory	Aye
Mr. Edward Pollard	Aye
Ms. Joanne Schmit	Aye
Mr. Jack Chalmers	Aye
Ms. Katherine Butler	Aye
Ms. Laura Rose	Aye
Mrs. Patricia Townsend	Aye
Mrs. Joyce Williams	Aye
Mr. Michael Lane	Aye

The motion carried with a 10:0:1 roll call vote.

D. APPLICATION OA-03-15: THE PLANNING COMMISSION WILL CONSIDER ORDINANCE CHANGES FOR SECTIONS 91-128 AND 98-871 OF THE NEW KENT COUNTY CODE. THESE SECTIONS CONTAIN SPECIAL PROVISIONS FOR COMMERCIAL AND INDUSTRIAL SUBDIVISIONS AND PROVIDE SITE PLAN PROVISIONS FOR BUSINESS, COMMERCIAL, AND SERVICE USES. THE PROPOSED CHANGES WILL MODIFY THE EXCEPTION PROCESS FROM AN ADMINISTRATIVE PROCEDURE TO A LEGISLATIVE PROCEDURE.

The public hearing was opened by Ms. Butler.

Community Development Director Matthew Smolnik gave an overview of the ordinance amendments. He stated that the underground utilities requirement was where these ordinance amendments stemmed from. He explained that the purpose of the ordinance amendments was to make the exception process a legislative one instead of an administrative one.

The citizen comment period of the public hearing was opened and closed, with no one speaking. Ms. Butler closed the public hearing and turned the meeting back over to Mr. Lane.

Mr. Kontny asked about the process that the applicant will need to follow in order to receive consideration for an exception. Ms. Smolnik referred the Commission to the proposed ordinance. The applicant will be required to submit a letter to the agent and the agent will submit all information to the Planning Commission and the Board of Supervisors along with a staff recommendation.

A motion was made by Mr. Kontny to adopt Resolution PC-04-15 to forward Application OA-03-15 to the New Kent County Board of Supervisors with a favorable recommendation.

The members were polled:

Mr. Clarence "Tommy" Tiller	Abstain
Mr. Richard Kontny	Aye
Mrs. Charna Moss-Gregory	Aye
Mr. Edward Pollard	Aye
Ms. Joanne Schmit	Aye
Mr. Jack Chalmers	Aye
Ms. Katherine Butler	Aye
Ms. Laura Rose	Aye

Mrs. Patricia Townsend	Aye
Mrs. Joyce Williams	Aye
Mr. Michael Lane	Aye

The motion carried with a 10:0:1 roll call vote.

IN RE: NEW BUSINESS

B. PRESENTATION OF THE FY2016 CAPITAL IMPROVEMENT PLAN

County Administrator Rodney Hathaway presented the proposed CIP. The FY2016-2020 general government CIP includes 74 individual requests with a total five-year estimated cost of \$29,262,228. This total does not include 14 additional requests anticipated beyond FY20 with an estimated cost of \$31,897,600. The FY16 general government CIP budget requests that are recommended by the County Administrator total \$1,839,190. Mr. Hathaway reviewed these projects and explained the sources for the funding (proffers, taxes, and grants).

Mr. Hathaway explained that the FY 2016-2020 Public Utility CIP includes 14 individual requests with a total five-year estimated cost of \$16,408,232. The Public Utility CIP schedule also reflects 10 projects planned beyond FY20 with a total estimated cost of \$45,384,000. The CIP reflects FY16 funding in the amount of \$343,710. These projects will be financed by user fees and will not require tax support. Mr. Hathaway reviewed these projects with the Commission.

Mr. Hathaway requested that the Planning Commission hold a public hearing on the proposed FY16 CIP at their February meeting. The Commission agreed.

IN RE: COMMISSIONER'S REPORT

A motion was made by Mrs. Townsend to approve a Resolution of Appreciation for Mr. Howard Gammon, honoring and thanking him for his years of service as a Planning Commissioner. This Resolution will be framed and presented to Mr. Gammon at a future meeting.

The members were polled:

Mr. Clarence "Tommy" Tiller	Aye
Mr. Richard Kontny	Aye
Mrs. Charna Moss-Gregory	Aye
Mr. Edward Pollard	Aye
Ms. Joanne Schmit	Aye
Mr. Jack Chalmers	Aye
Ms. Katherine Butler	Aye
Ms. Laura Rose	Aye
Mrs. Patricia Townsend	Aye
Mrs. Joyce Williams	Aye
Mr. Michael Lane	Aye

The motion carried with an 11:0:0 roll call vote.

IN RE: STAFF REPORTS

None.

IN RE: MEETING SCHEDULE

The Planning Commission's next meeting is scheduled for Tuesday, February 17, 2015 at 6:30 p.m. in the Boardroom of the County Administration Building.

IN RE: ADJOURNMENT

A motion to adjourn was made by Mrs. Townsend and approved unanimously by a voice vote.

The meeting was adjourned at 8:40 p.m.

Respectfully submitted:

Kelli Le Duc
Planning Manager



FEMA

Flood Hazard Mapping Fact Sheet

January 31, 2014

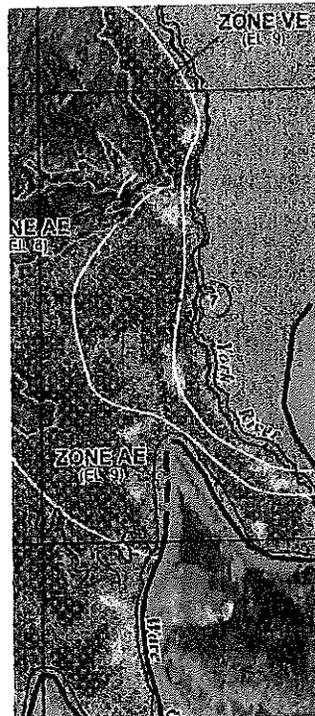
New Kent County, Virginia

This Fact Sheet provides background information on the National Flood Insurance Program (NFIP) and Risk Mapping, Assessment, and Planning (Risk MAP) program, which are administered by the Federal Emergency Management Agency (FEMA), as well as an overview of the flood hazard assessment and mapping process underway in New Kent County, Virginia. FEMA is revising the county's Flood Insurance Rate Maps (FIRMs) and creating non-regulatory flood risk assessment products, using the latest technologies and the most current data, so that residents, homeowners, business owners, and community officials may understand their local flood risk and take action to keep people and property safe from floods.

What is the NFIP? What is Risk MAP?

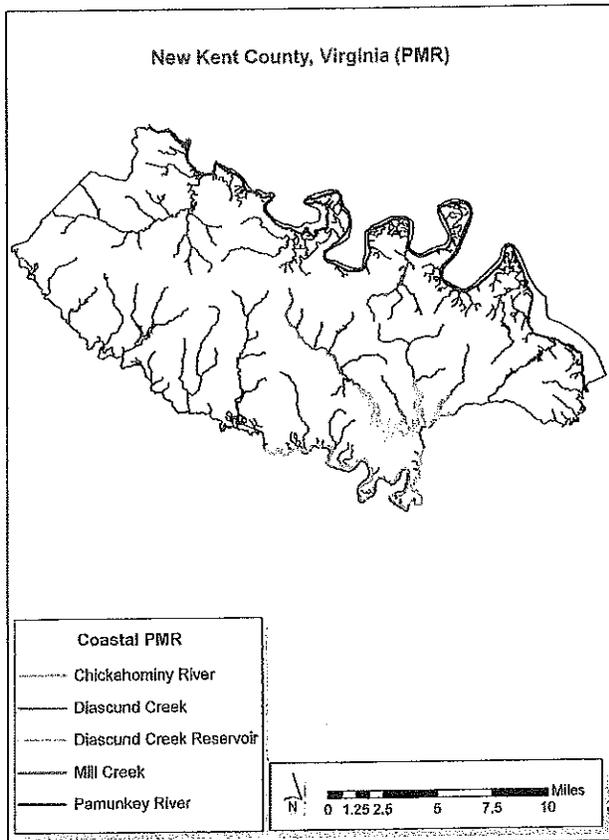
Congress established the NFIP due to escalating costs to taxpayers for flood disaster relief. If a community participates in sound floodplain management, the Federal Government will make flood insurance available to residents in that community. FIRMs show the Special Flood Hazard Area (SFHA). Development may take place within the SFHA provided that it complies with local floodplain ordinances that meet NFIP criteria. Risk MAP is a FEMA program that provides communities with additional risk assessment tools and outreach support. Through collaboration with States and local entities, FEMA will deliver quality data that increase public awareness and strengthen local ability to make informed decisions about reducing risk to life and property.

What is a FIRM?



When FEMA maps flood hazards in a community or county, two products are produced – a Flood Insurance Study (FIS) report and a FIRM. An FIS contains prior flooding information, descriptions of the flooding sources, information on flood protection measures, and a description of the hydrologic and hydraulic methods used in the study. A FIRM illustrates the extent of flood hazards in a community by depicting flood risk zones and the SFHA and is used with the FIS to determine the floodplain development regulations that apply in each flood risk zone and who must buy flood insurance. FIRMs also depict Base (1% annual chance) Flood Elevations (BFEs) or flood depths, floodways, and common physical features such as roads.

Flood Hazard Mapping Fact Sheet



Why Are the Maps Being Updated?

Existing coastal flood hazard areas reflect information that was available at the time the maps were created, and may not reflect the effects of development or changes in the shoreline, topography and vegetation. Incorporating recent data into the new modeling and mapping technologies will provide more detailed and reliable information about the Region's coastal flood risks.

This Physical Map Revision (PMR) has been issued for New Kent County in order to incorporate new detailed coastal flood hazard analyses for the Chickahominy River, Pamunkey River, and York River and their tributaries.

With this update, the flood hazard zones for the revised streams have been changed from Zone A and Zone AE to Zone AE, Zone VE, and Zone X (unshaded). There are revisions in Zone AE and Zone VE static elevations. Revised BFEs have been added to the updated areas. The coastal flood hazard areas within the County were also revised. The digital files will be available when these maps become effective.

What Else Has Changed?

The Limit of Moderate Wave Action (LiMWA) that divides the Zone AE, is added to the FIRM. The LiMWA represents the approximate landward limit of the 1.5 foot breaking wave. The preliminary FIS Report does not revise Flood Profiles or the Floodway Data Table for any flooding source as part of this PMR.

How do I Find Out if a Structure or Property is Located in the Special Flood Hazard Area?

You can locate a building or a lot by consulting the FIRM, or by contacting the floodplain administrator for your community. For help interpreting a FIRM, telephone the FMIX at 1-877-FEMA MAP (1-877-336-2627).

What is an Appeal?

Some flood studies result in new or revised flood hazard information. During the 90-day appeal period, community officials and others may object to the accuracy of this flood hazard information, which may include new or revised BFEs, base flood depths, SFHA boundaries or zone designations, or regulatory floodways. All appeals must be based on data that show the new or revised flood hazard information is scientifically or technically incorrect. Communities should coordinate with the FEMA Philadelphia office before submitting an appeal.

What is a Comment?

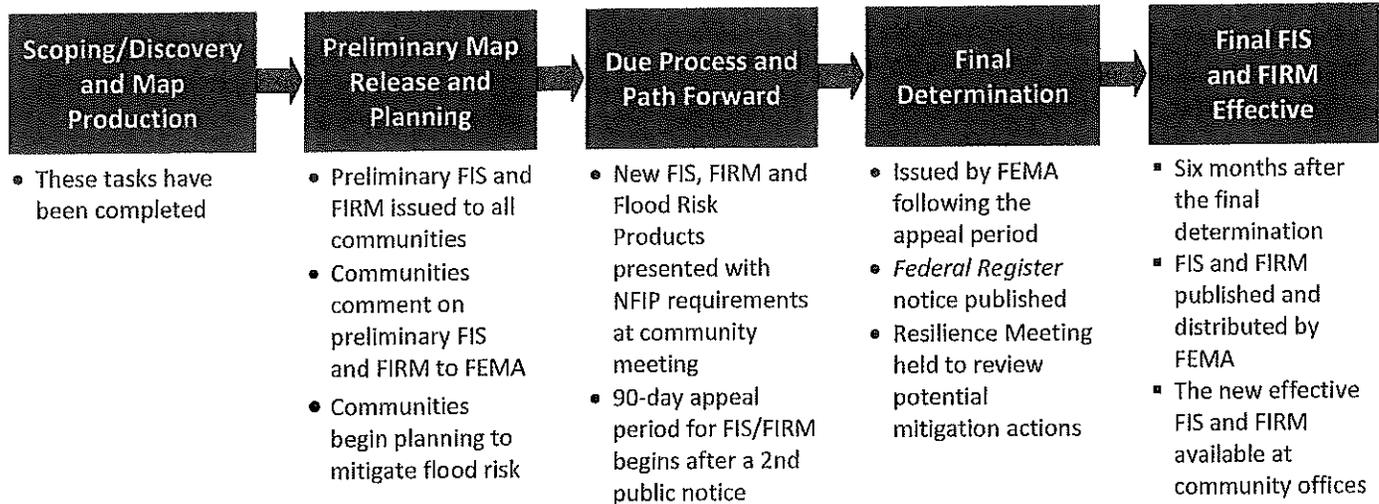
Challenges received during the appeal period that do not involve proposed flood hazard information are called "comments"; these generally involve concerns with updated corporate limits, jurisdictional boundaries, road names, and other base map errors or omissions; or requests that a Letter of Map Amendment (LOMA) Letter of Map Revision Based on Fill (LOMR-F), or LOMR be incorporated.

What Happens After the Appeal Period?

FEMA will issue a Letter of Final Determination and then provide the community with six months to adopt up-to-date floodplain management ordinances. If the floodplain ordinances in effect are satisfactory, they can be submitted in their current form. If ordinances need to be updated, communities should seek assistance from their State NFIP Coordinator or the FEMA office in Philadelphia. After the six-month compliance period, the new FIS and FIRM will become effective.

The Mapping Process

The key steps in the Risk MAP mapping and product development process are outlined below. Additionally, the points at which community officials and property owners may provide comments and express concerns with the information in the FIS report and FIRM are identified.



What if a Structure is Shown in a Different Flood Zone on the New Map?

The new map will not affect continuing insurance policies for a structure built in compliance with local floodplain management regulations and the flood map in effect at the time of construction. However, should the structure be substantially improved or substantially damaged (where damages or improvements reach 50% or more of the predamage market value) the entire structure will have to be brought into compliance with the floodplain requirements and the BFE in effect at the time any repairs take place.

Is There any Recourse if I Do Not Agree with the New Map?

Although FEMA uses the most accurate flood hazard information available, limitations of scale or topographic definition of the source maps used to prepare the FIRM may cause small areas that are at or above the BFE to be inadvertently shown within Special Flood Hazard Area boundaries. Such situations may exist in New Kent County. For these situations, FEMA established the LOMA process to remove such structures from the Special Flood Hazard Area.

How Can I Request a LOMA?

To obtain a LOMA, the requester must complete a LOMA application form that is downloadable from: http://www.fema.gov/plan/prevent/fhm/dl_mt-ez.shtm. For a LOMA to be issued removing a structure from the SFHA, federal regulations require that lowest adjacent grade be at or above the BFE. There is no fee for FEMA's review of the LOMA request, but the requester of a LOMA must provide all of the information needed for a review. Elevation information certified by a licensed surveyor is often required if an elevation certificate is not available.

Will LOMAs Issued under the Old Map be Valid under the New Map?

When a new FIRM becomes effective, it automatically supersedes previously issued LOMAs, LOMRs, and other map changes that have been issued for structures and properties on the revised FIRM panels. Recognizing that some map changes may still be valid even though the flood hazard information on the FIRM has been updated, FEMA has established a process for revalidating such map changes.

What is FEMA's Process for Revalidating Existing LOMAs and LOMRs?

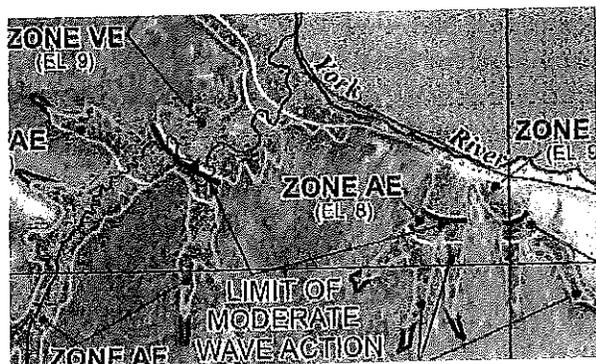
To revalidate map changes, FEMA conducts a detailed comparison of the BFEs shown on FEMA's new FIRM and the lowest adjacent grade or lowest lot elevation of previously issued map changes. Those structures or properties that are above the BFE or are located in areas of the community that are not affected by updated flood hazard information are revalidated through a formal determination letter that is issued to the community's Chief Executive Officer when the new FIRM becomes effective. The revalidation letter is also mailed to each community's map repository to be kept on file and is available for public reference. Map changes that have been issued for multiple lots or structures where the determination for one or more of the lots or structures have changed cannot be automatically revalidated through the administrative process described above. To request that FEMA review such map changes (i.e., those that are not included in the revalidation letter), please submit the following to FEMA:

- A letter requesting the re-issuance (provide the case number of the LOMA to be reissued); and
- A copy of the LOMA to be reissued, if available.

FEMA will review the case file and issue a new letter reflecting its new determination.

How can I purchase flood insurance?

A policy may be purchased from most licensed property insurance agents or brokers who are in good standing in the State in which the agent is licensed or through any agent representing a Write Your Own (WYO) company. Call 1-800-720-1093 or visit floodsmart.gov to find a flood insurance agent near you.



What Factors Determine Flood Insurance Premiums?

A number of factors are used to determine flood insurance premiums, including the amount of coverage purchased, the deductible, location, age, occupancy, and type of building. For newer buildings in floodplains, the elevation of the lowest adjacent grade (the lowest ground touching the structure), or lowest floor relative to the BFE will also be used to rate the policy.

For Further Information

For any questions concerning flood hazard mapping or LOMAs, please contact the FEMA Map Information eXchange's (FMIX) toll-free information line at 1-877-FEMA MAP (1-877-336-2627).

More information is available online at:
http://www.fema.gov/plan/prevent/fhm/fq_genhm.shtml

The FMIX has flood hazard mapping information and products that may be reviewed online and downloaded at <http://msc.fema.gov>. For map orders and questions call 1-877-FEMA MAP (1-877-336-2627).

For information about floodplain management, ordinances, or map adoption policies, communities can contact their State NFIP Coordinator.

For questions specifically concerning insurance, please call 1-800-427-4661 or visit <http://www.floodsmart.gov>.

 **FLOODSMART.GOV**
An official site of the National Flood Insurance Program

Acronym List

ACV - Actual Cash Value

ASFPM - Association of State Floodplain Managers

BFE - Base Flood Elevation

CAC - Community Assistance Contact

CAV - Community Assistance Visit

CBRA - Coastal Barrier Resources Act

CCO Meeting - Consultation Coordination Officers Meeting (also known as Community Coordination and Outreach Meeting)

CLOMR - Conditional letter of Map Revision

CLOMR-F - Conditional Letter of Map Revision Based on Fill

CRS - Community Rating System

DFIRM - Digital Flood Insurance Rate Map

DHS - Department of Homeland Security

EAP - Expanded Appeals Process

EMI - Emergency Management Institute

FDPA - Federal Disaster Protection Act

FHBM - Flood Hazard Boundary Map

FIRM - Flood Insurance Rate Map

FIS - Flood Insurance Study

Flood Zone

FMIX - FEMA Map Information Exchange

GIS - Geographic Information System

HMA - Hazard Mitigation Assistance

HMGP - Hazard Mitigation Grant program

IBC - International Building Code

IRC - International Residential Building Code

ICC - Increased Cost of Compliance

ISO - Insurance Services Office

LAG - Lowest Adjacent Grade

LFD - Letter of Final Determination

LIDAR - Light Detection and Ranging System

LimWA - Limit of Wave Action

LODR - Letter of Determination Review

LOMA - Letter of Map Amendment

LOMC - Letter of Map Change

LOMR - Letter of Map Revision
LOMR-F - Letter of Map Revision Based on Fill
Map Mod - Flood Map Modernization Program
MoWA - Moderate Wave Action
MSC - Map Service Center
NFIP - National Flood Insurance Program
NFIRA - National Flood Insurance Reform Act
NFHL - National Flood Hazard Layer
OPA - Otherwise Protected Area
PA - Public Assistance Grant Program
PAL - Provisionally Accredited Levee
PDM - Pre-Disaster Mitigation Program
PMR - Physical Map Revision
PRP - Preferred Risk Policy
QA/QC - Quality Assurance/Quality Control
RAMPP - Risk Assessment, Mapping, and Planning Partners
RFC - Repetitive Flood Claim
Risk MAP - Risk Mapping, Assessment, and Planning
RC - Replacement Cost Value
SFHA - Special Flood Hazard Area
SFHDF - Special Flood Hazard Determination Form
SFIP - Standard Flood insurance Policy
SRL - Severe Repetitive Loss
SOMA - Summary of Map Actions
UCC - Uniform Construction Code
USACE - United States Army Corps of Engineers
USGS - United States Geological Survey
WYO - Write Your Own

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O- -15

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the ___ day of _____, 2015:

Present:

Vote:

Thomas W. Evelyn
C. Thomas Tiller
James H. Burrell
Ron Stiers
W. R. Davis, Jr.

Motion was made by ____, which carried __: __, to adopt the following ordinance:

**AN ORDINANCE REPEALING
CHAPTER 98, ARTICLE II, SECTION 57 “FMO, FLOODPLAIN MANAGEMENT
OVERLAY DISTRICT” AND ESTABLISHING CHAPTER 18, ARTICLE IV
“FLOODPLAIN DISTRICTS” TO THE NEW KENT COUNTY CODE OF
ORDINANCES**

WHEREAS, the Federal Emergency Management Agency is in the process of updating floodplain maps throughout the Commonwealth of Virginia; and

WHEREAS, the Virginia Department of Conservation and Recreation, Dam Safety and Floodplain program has promulgated guidance for Local Floodplain Ordinances in Virginia; and

WHEREAS, localities are tasked with ensuring that the local floodplain ordinance reflects that new maps and the guidance on Local Floodplain Ordinances; and

WHEREAS, the Board of Supervisors desires to protect the health, safety, welfare, and property of New Kent County residents and businesses within the County;

NOW THEREFORE BE IT ORDAINED that the New Kent County Code Section 98-57 be repealed and Chapter 18, Article IV be established.

~~Sec. 98-57. FMO, floodplain management overlay district.~~

~~(a)~~

~~*Statement of intent.* In accordance with the objectives of the comprehensive plan, these regulations are intended to ensure the health, safety and general welfare of the public by ensuring that inhabitants and property within the areas designated as special flood hazard areas are safe from damage due to flooding and that development actions will not endanger others. This section complies with the requirements of the National Flood Insurance Program (44 CFR 60.3 et seq.) administered by the Federal Emergency Management Agency (FEMA) and is necessary to ensure that all property owners within the county are eligible for participation in the National Flood Insurance Program regular program and thereby able to secure such insurance at nominal rates. Additional requirements are provided in order for the county to participate in the National Flood Insurance Program Community Rating System (CRS). The degree of flood protection sought by the provisions of these regulations is for reasonable regulatory purposes and is based on acceptable engineering methods of study. 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 or storms of exceptional size, intensity or duration. These regulations do not imply that districts outside the floodplain management overlay district or that land uses permitted within such district will be free from flooding or flood damage.~~

~~(b)~~

~~*Applicability.*~~

~~(1)~~

~~The special provisions established in this section shall apply to the following areas:~~

~~a.~~

~~Areas designated as being within the 100-year floodplain by the flood insurance study and as delineated on the flood insurance rate map (FIRM) dated 25 September 2009, or as subsequently may be amended, as Zone A or Zone AE. A copy of the flood insurance study and accompanying maps shall be on file in the offices of the zoning administrator and building official and are available digitally in the county's geographic information system.~~

~~b.~~

~~Such other areas as may be determined by the zoning administrator, through drainage and hydrology studies, to be essential to the alleviation of potential flood damage caused by the 100-year flood~~

and for which the county has requested amendment or revision of the flood insurance rate map.

~~6.~~

~~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 zoning administrator 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 county. Where flood elevations are provided by the federal insurance administrator, these elevations shall not be changed except with FEMA approval.~~

~~(2)~~

~~These special provisions shall supplement the regulations of the zoning district within which a subject property is located. The floodplain districts described herein shall be overlays to the existing underlying zoning districts.~~

~~(3)~~

~~Where these regulations are at variance with the general regulations of this chapter, the specific regulations of the zoning district within which the property is located, or other provisions of this Code, the most restrictive regulation shall apply.~~

~~(4)~~

~~Any changes to the data contained in either the flood insurance study or the flood insurance rate map as a result of natural or man-made conditions or subsequent study and analysis shall require the approval of the federal insurance administrator prior to implementation. Evidence of such approval shall require the filing with the zoning administrator of one of the following:~~

~~a.~~

~~Letter of map amendment (LOMA).~~

~~b.~~

~~Letter of map revision (LOMR).~~

~~c.~~

~~Physical map revision.~~

~~(5)~~

~~In all cases, the burden of proof shall be on the applicant requesting a map or data change.~~

(6)

No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered within the floodplain management overlay district except in full compliance with the terms and provisions of this section. All uses, activities, and development occurring within any floodplain district shall be undertaken only in strict compliance with the provisions of this section and all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code, the subdivision ordinance (chapter 91), and other applicable state and federal laws. All other provisions of this chapter notwithstanding, a building permit is required to locate, relocate, construct, reconstruct, enlarge, or structurally alter any structure within the FMO district.

(7)

All applications for development and building permits in the FMO district shall incorporate the following information:

a.

The elevation of structures including the elevation of the lowest floor (including basement);

b.

The type and method for flood proofing of nonresidential structures and the elevation to which the structure will be floodproofed;

c.

The elevation of the 100-year flood plain;

d.

Topographic information showing existing and proposed ground elevations.

(8)

Elevation certificates shall be provided to the building official by the developer for all development within the FMO.

(9)

No development shall be permitted in the FMO unless it has been demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, including fill, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(c)

Definitions. For the purposes of this section and interpreting the flood insurance study, the following terms shall have the following meanings:

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood.

Base flood elevation. The elevation in feet of the 100-year flood level as shown on the flood insurance rate map (FIRM) published by the National Flood Insurance Program and the Federal Emergency Management Agency.

Basement. As used in this section, a basement shall be defined as any part of any structure where the floor is below ground level on all sides.

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

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, and the storage of materials and equipment.

Elevated building. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

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

Flood or flooding.

a.

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

i.

Overflow of inland or tidal waters; or

ii.

The unusual and rapid accumulation or run-off of surface waters from any source; or

b.

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 water 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 flood or

by some similarly unusual and unforeseeable event which results in flooding as defined above.

Flood, 100-year. A flood level with a one percent or greater chance of being equaled or exceeded in any year. Also referred to as base flood.

Flood insurance rate map (FIRM). The flood insurance rate map is prepared under the direction of the Federal Emergency Management Agency and illustrates the extent of flood hazards in a community by depicting flood risk zones and special flood hazard area and is used to determine which structures must purchase flood insurance.

Floodplain. Any land area susceptible to being inundated by water from any source. Also referred to as flood-prone areas. Floodplain areas are generally adjacent to a river, stream, bay, lake, watercourse, or storm drainage facility.

Floodplain management area. A land area located within a special flood hazard zone or which has been designated by the county and to which the provisions of this section apply.

Floodproof. A construction method designed to ensure that all parts of a structure or facility located below the base flood elevation are watertight with walls impermeable to the passage of water and with structural components having the capability of withstanding hydrostatic and hydrodynamic loads and the effects of buoyancy.

Floodway. That portion of the floodplain management area comprised of the channel of a river or other watercourse and the adjacent land areas that must be kept free from obstruction or impairment in order to carry the discharge of the base flood without cumulatively increasing flood levels or areas inundated.

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.

Highest adjacent grade. The highest natural elevation of the ground surface prior to commencing clearing, grading or construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

a.

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;

b.

~~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;~~

c.

~~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~~

d.

~~Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either~~

~~i.~~

~~By an approved state program as determined by the secretary of the interior; or~~

~~ii.~~

~~Directly by the secretary of the interior in states without approved programs.~~

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

~~*Manufactured home.* The provisions of section 98.2, Definitions and rules of construction, of this chapter notwithstanding, for purposes of this section, a manufactured home shall be defined as 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. Also included within this definition shall be park trailers, travel trailers, and other similar vehicles placed on a site for more than 180 consecutive days.~~

~~*Mean sea level.* National Geodetic Vertical Datum (NGVD) of 1988 to which all elevations on the FIRM and within the flood insurance study dated September 25, 2009, are referenced.~~

~~*New construction.* For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after December 5, 1990, and includes any subsequent improvements to such structures. For floodplain management purposes, new~~

construction means structures for which 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.

Recreational vehicle. A vehicle which is:

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

Shallow flooding area. 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.

Special flood hazard zone. The land in the floodplain subject to a one percent or greater chance of being flooded in any given year. Special flood hazard areas are delineated into insurance risk and rate classifications on the flood insurance rate map (FIRM) published by the Federal Emergency Management Agency (FEMA) and include the following zones and criteria:

- a. *Zone A.* Areas subject to inundation by the base flood where detailed analyses have not been performed and base flood elevations are not shown.
- b. *Zone AE.* Areas subject to inundation by the base flood as determined by detailed methods with base flood elevations shown within each area.
- c. *Zone X.* Areas located above the base flood boundary and having moderate or minimal flood hazards.

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

Structure. For flood plain management purposes, a structure is a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. For flood plain management purposes, structures do not include piers, boathouses bulkheads or similar construction at the edge of or over the water.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds fifty 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 either:

a.

Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

b.

Any project for improvement of a structure to correct existing violations of Virginia or county health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions.

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

(c)

Use regulations. Permitted uses, specially permitted uses, accessory uses, dimensional standards, and special requirements shall be as established by the underlying zoning district, except as specifically modified herein.

(1)

The following uses shall be specifically prohibited within the FMO district:

- a. ~~Landfills, junkyards, outdoor storage of inoperative vehicles.~~
- b. ~~Manufactured homes.~~
- c. ~~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:~~
 - i. ~~Superfund Amendment and Reauthorization Act of 1986.~~
 - ii. ~~Identification and listing of hazardous wastes, 40 C.F.R. § 261 (1987), as amended.~~

~~The following products shall be specifically included:~~

 - ~~Oil and oil products including petrochemicals.~~
 - ~~Radioactive materials.~~
 - ~~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.~~
 - ~~Biologically accumulative poisons.~~
 - ~~Substances containing the active ingredients of economic 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.).~~
 - ~~Substances highly lethal to mammalian, avian, or aquatic life.~~
- d. ~~Storage or land application of industrial wastes.~~
- e.

Outdoor storage of equipment, materials, or supplies which are buoyant, flammable, or explosive. This shall not however preclude the storage of boats and watercraft.

f.

Outdoor storage of recreational vehicles other than boats and watercraft except when such recreational vehicles are:

i.

On the site for fewer than 180 consecutive days; and

ii.

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.

(2)

The nonconforming use provisions of this chapter notwithstanding, no expansion of any of the above uses located within the FMO district shall be permitted; neither shall reconstruction of such uses occur if substantially damaged by a flood event.

(e)

Special standards and requirements.

(1)

Standards for subdivisions. Preliminary plans, development plans and final subdivision plats of all properties, all or part of which are located within any special flood hazard area, must be prepared and sealed by a licensed surveyor or engineer and shall demonstrate that the proposal is consistent with the need to minimize flood damage within the flood-prone area. The following information, in addition to that which would otherwise be required, shall be provided on the respective plans:

a.

The special flood hazard boundary, as depicted on the FIRM and the flood hazard zone classification(s) shall be depicted on preliminary plans, development plans, and final plats. Where the base flood elevation contains a fraction of a foot, it shall be rounded up to the next higher whole foot.

b.

Development/construction plans shall provide topographical information for the site at a maximum contour interval of two feet, provided, however, that a one foot contour interval for elevations two feet lesser and two feet greater than the 100-year flood boundary

shall be shown. Where the base flood elevation contains a fraction of a foot, it shall be rounded up to the next higher whole foot.

c.

The elevation of the finished surface of the ground at each corner of each existing building located within any flood hazard zone shall be shown on development plans and final plats.

d.

Detailed information demonstrating that adequate drainage is provided to reduce exposure to flood hazards.

(2)

Standards for site plans. Site plans for development of all properties, all or part of which are located within any special flood hazard area, must be prepared and sealed by a licensed surveyor or engineer and include the following information in addition to that which would otherwise be required:

a.

The 100-year flood boundary, as depicted on the FIRM and the flood hazard zone classification(s). Where the base flood elevation contains a fraction of a foot, it shall be rounded up to the next higher whole foot.

b.

Topographical information for the site provided at a maximum contour interval of two feet, provided, however, that a one-foot contour interval shall be required for elevations two feet lesser and two feet greater than the 100-year flood boundary and the boundary itself shall be shown. Where the base flood elevation contains a fraction of a foot, it shall be rounded up to the next higher whole foot.

c.

The elevation of the finished surface of the ground at each corner of each existing or proposed building location within any flood hazard zone.

d.

The elevation of the bottom of the lowest horizontal structural member of the lowest floor in all proposed buildings or additions to existing buildings.

(3)

Standards for utilities. All new or replacement utilities, water filtration, and wastewater treatment facilities, installed in the floodplain management area shall be designed to prevent the infiltration of floodwaters into or discharge from such utilities and to minimize the potential for flood damage. Where private waste disposal systems are to be installed or replaced, they shall be

installed so that they cannot be permanently contaminated or impaired by a base flood.

(4)

Standards for streets and roads.

a.

New public or private streets shall not traverse floodplain management areas provided, however, that where an existing street within a floodplain management area is to be extended, the zoning administrator may approve street extensions or parts thereof, but only where said extensions will not contribute to increased flood levels or place additional properties in jeopardy of flooding.

b.

The centerline of all new streets within 1,000 feet of a special flood hazard area boundary shall be at an elevation 2.0 feet above base flood elevation or higher.

(5)

Standards for filling of floodplain areas.

a.

Where fill within the FMO district is proposed, the following minimum standards shall apply:

i.

Fill areas shall extend laterally a minimum of 15 feet beyond building lines from all points.

ii.

Fill material shall consist only of soil and small rock materials which can pass through a three-inch opening ASTM standard sieve. Organic materials, including tree stumps and asphalt rubble, shall be prohibited as fill material.

iii.

Fill areas shall be compacted as may be specified by the zoning administrator in consultation with the director of public utilities to provide necessary permeability and resistance to erosion, scouring, or settling.

iv.

Fill areas shall be graded to a finished slope of no steeper than one vertical to three horizontal, unless substantiated data, certified by a licensed engineer, which justifies steeper slopes is submitted to and approved by the zoning administrator in consultation with the director of public utilities.

v.

The zoning administrator in consultation with the director of public utilities shall impose any additional standards deemed necessary to ensure the safety of the community and properties from additional flood hazard potentials caused by filling within the floodplain management area.

b.

Filling or any other encroachment into any channel within the floodplain management area which would, as determined by the zoning administrator in consultation with the director of public utilities, obstruct or unduly restrict water flows through the channel and, in so doing, increase the potential for flood damage shall be prohibited.

c.

The filling of any portion of property solely to increase the elevation of the land to meet minimum lot area requirements and thereby create a buildable lot for residential construction within the floodplain management area shall be prohibited.

d.

These standards may be waived individually by the zoning administrator in consultation with the director of public utilities, upon the recommendation of the wetlands board for approved parks, recreation facilities, shoreline erosion control and beach maintenance projects where sufficient data is presented justifying the project and where it is demonstrated that such actions will not increase flood levels on any properties.

(6)

Standards for watercourse modification. Watercourses shall not be altered or relocated except upon the presentation of data, certified by a licensed engineer, that the flood-carrying capacity of such a modified watercourse will be at least equal to that prior to modification. Prior to any proposed alteration of any channels or of any watercourse or stream within the FMO district, necessary permits shall be obtained from the Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. 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) and the Federal Insurance Administration.

(7)

Construction standards for properties in Zone AE. All new construction of or substantial improvement to structures in Zone AE of the floodplain management area shall occur in accordance with the applicable floodplain

construction provisions for Zone AE contained in the Virginia Uniform Statewide Building Code. The building official must be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy. In addition, the following standards shall apply:

a.

The lowest floor of any structure, including basements, shall be elevated to at least 1½ feet above the base flood elevation or, in the case of nonresidential structures, floodproofed to at least that level.

b.

All new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities shall be installed at least three feet above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.

c.

All electrical distribution panels shall be installed at least five feet above the base flood elevation or otherwise designed and located so as to prevent inundation.

d.

No new construction, substantial improvements, or other development (including fill) shall be permitted unless it is demonstrated through engineering analyses 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 community.

(8)

Construction standards for properties in Zone A.

a.

All new construction of or substantial improvements to structures in Zone A must comply with all standards applicable to Zone AE contained in this section and the floodplain construction provisions of the Virginia Uniform Statewide Building Code. In addition, the owner and developer of such property shall provide to the zoning administrator sufficiently detailed hydrologic and hydraulic analyses, certified by a licensed engineer, to determine the base flood elevation for the property and the location of the special flood hazard area boundary. Upon approval by the zoning administrator, copies of all such detailed analyses shall be transmitted within six months of

submission to the federal insurance administrator for incorporation into the FIRM.

b.

For new single-family residential construction, in lieu of conducting sufficiently detailed hydrologic and hydraulic analyses to determine the base flood elevation for the property and the location of the special flood hazard area boundary, the lowest horizontal structural member of the lowest floor of the residential structure may be elevated three feet above the highest adjacent grade.

(9)

Construction standards for elevated buildings in all zones. 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.

Include, in Zones A and AE, 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:

i.

Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

ii.

The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding.

iii.

If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

iv.

The bottom of all required openings shall be no higher than one foot above the adjacent grade.

d.

Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

e.

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.

(10)

~~Construction standards for floodproofed buildings. Floodproofing may only be utilized for construction of nonresidential structures when elevating the structure is not an option. When floodproofing is used, the following conditions apply:~~

~~a.~~

~~Floodproofing requirements and documentation shall extend to attendant utility and sanitary facilities.~~

~~b.~~

~~A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for floodproofed structures.~~

(11)

~~Construction standards for existing buildings. 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 flood plain areas to an extent or amount of less than 50 percent of its market value shall conform to 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 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.~~

~~(12)~~

~~Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage system or facility.~~

~~(13)~~

~~The building official shall maintain complete records of all structures constructed within the FMO, including elevation certificate, foodproofing documentation and all engineering reports and analyses related to hydrology and hydraulics that may have been submitted with construction or as-built plans.~~

~~(f)~~

~~*Variances.* Variances from the provisions of this section may be granted by the board of zoning appeals in accordance with the provisions of article VI of this chapter.~~

~~(1)~~

~~All applicants who apply for a variance from the provisions of the FMO district shall be notified, in writing, that the issuance of a variance to construct a structure below the base flood level may result in increased premium rates for flood insurance and that such construction may increase risks to life and property, both their own and others. Copies of this notification shall be transmitted, along with all other records of variances from the provisions of the floodplain management area, to the federal insurance administrator at least biannually.~~

~~(2)~~

~~In granting variances from the provisions of this section, the board of zoning appeals shall require a showing of good and sufficient cause, shall satisfy all relevant factors and procedures specified in other sections of the zoning~~

~~ordinance and shall find that the variance is the minimum necessary to afford relief, that a failure to grant the variance will result in substantial hardship to the applicant and will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with local laws or ordinances. Furthermore, the board shall 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 100-year flood elevation.~~

~~b.~~

~~Potential or real threats to public health.~~

~~c.~~

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

~~d.~~

~~The danger that materials may be swept onto other lands or downstream to the injury of others.~~

~~e.~~

~~The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.~~

~~f.~~

~~The importance of the services provided by the proposed facility to the community.~~

~~g.~~

~~The requirements of the facility for a waterfront location.~~

~~h.~~

~~The availability of alternative locations not subject to flooding for the proposed use.~~

~~i.~~

~~The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.~~

~~j.~~

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

~~k.~~

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

l.

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

m.

The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

n.

Such other factors which are relevant to the purposes of this section.

(3)

The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters. The costs of such technical assistance shall be invoiced to the applicant who shall reimburse the county within 15 days of the presentation of an invoice. Failure to promptly pay invoiced amounts shall result in all review of the application to cease at which time the application shall be returned to the applicant. Reapplication shall require a new fee as well as settlement of all prior debts to the county.

(4)

The county shall maintain a record of all variance applications and the action taken on each including the findings made and the justification provided for those requests granted. The county shall report all variances issued to the federal insurance administrator.

(g)

Penalties. Violations of the provisions of the FMO district are violations of the zoning ordinance and shall be treated in the same manner as other violations of the zoning ordinance.

(1)

Any person, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this chapter shall be guilty of a misdemeanor punishable by a fine of not less than \$100.00, nor more than \$1,000.00. If the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the

violation of the compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$100.00, nor more than \$1,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than \$100.00, nor more than \$1,500.00.

(2)

Nothing in this section shall be construed as to prohibit the zoning administrator from applying to the appropriate court of the county to restrain, correct or abate any violation of this chapter by injunction or other appropriate proceedings.

(Ord. No. O-15-09, 8-10-2009)

Editor's note—

Ord. No. O-15-09, adopted Aug. 10, 2009, repealed ~~§ 98-57~~ and enacted a new section as set out herein. The former ~~§ 98-57~~ pertained to floodplain and derived from § 9-62 of the 1999 Code and Ord. No. O-15-08(R2), adopted Jan. 12, 2009.

~~Sec. 98-58. Reserved.~~

Editor's note—

Ord. No. O-15-09, adopted Aug. 10, 2009, repealed ~~§ 98-58~~ which pertained to establishment of zoning districts and derived from § 9-62.1 of the 1999 Code and Ord. No. O-15-08(R2), adopted Jan. 12, 2009.

~~Sec. 98-59. Reserved.~~

Editor's note—

Ord. No. O-15-09, adopted Aug. 10, 2009, repealed ~~§ 98-59~~ which pertained to district provisions and derived from § 9-62.2 of the 1999 Code and Ord. No. O-15-08(R2), adopted Jan. 12, 2009.

~~Sec. 98-60. Reserved.~~

Editor's note—

Ord. No. O-15-09, adopted Aug. 10, 2009, repealed ~~§ 98-60~~ which pertained to design criteria for utilities and facilities and derived from § 9-62.3 of the 1999 Code and Ord. No. O-15-08(R2), adopted Jan. 12, 2009.

~~Sec. 98-61. Land uses by conditional use permit.~~

~~If a use is not permitted under section 98-62, a conditional use permit application may be submitted in accordance with article XIX of this chapter.~~

~~(Ord. No. O-02-14, 1-13-2014)~~

~~Editor's note—~~

~~Prior to the reenactment of § 98-61 by Ord. No. O-02-14, said section was repealed by Ord. No. O-15-09, adopted Aug. 10, 2009. The former § 98-61 pertained to existing structures in floodplain districts and derived from § 9-62.4 of the 1999 Code and Ord. No. O-15-08(R2), adopted Jan. 12, 2009.~~

Chapter 18 COMMUNITY DEVELOPMENT

ARTICLE IV FLOODPLAIN

DIVISION I - DEFINITIONS

Sec. 18-233 Definitions

- A. **Appurtenant or accessory structure** – Accessory structures not to exceed two hundred sq. ft. (200).
- B. **Base Flood** – The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- C. **Base Flood elevation** – The water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community’s Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the one percent (1%) annual chance flood.
- D. **Basement** – Any area of the building having its floor sub-grade (below ground level) on all sides.
- E. **Board of Zoning Appeals** – The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance. (See Chapter 98, Article XXVI Board of Zoning Appeals)
- F. **Coastal A Zone** – Flood hazard areas that have been delineated as subject to wave heights between one (1) and one-half (1.5) feet and three (3) feet.

G. **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.

H. **Elevated building** – A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

I. **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.

J. **Existing construction** – Structures for which the “start of construction” commenced before December 5, 1990. “Existing construction” may also be referred to as “existing structures.”

K. **Existing Manufactured Home Park or Subdivision**- A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

L. **Expansion to an Existing Manufactured Home Park or Subdivision** – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads). M. **FEMA** – Federal Emergency Management Agency.

N. **Flood or flooding** –

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

O. **Flood Insurance Rate Map (FIRM)** – An official map of our community on which the Federal Emergency Management Agency (FEMA) has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

P. **Flood Insurance Study (FIS)** – A report by FEMA that examines, evaluates, and determines flood hazards, and if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

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

R. **Flood proofing** – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

T. **Freeboard** – A factor of safety usually expressed in feet above a flood level for purposes of floodplain managements. “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.

U. **Highest adjacent grade** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

V. **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;

ii. 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;

- iii. 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,
- iv. 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.

W. 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 (VDCCR) and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

X. Letters of Map Change (LOMC) – A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- i. **Letter of Map Amendment (LOMA):** An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by metes and bounds or structure is not located in a special flood hazard area.
- ii. **Letter of Map Revision (LOMR):** A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A **Letter of Map Revision Based on Fill (LOMR-F)** – is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
- iii. **Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

Y. Lowest adjacent grade – The lowest natural elevation of the ground surface next to the walls of a structure.

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

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

BB. **Manufactured home park or subdivision** – A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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

DD. **New Construction** – For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after December 5, 1990, 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.

EE. **New Manufactured Home Park or Subdivision** – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance.

FF. **Post-FIRM structures** – A structure for which construction or substantial improvement occurred after December 5, 1990.

GG. **Pre-FIRM structures** – A structure for which construction or substantial improvement occurred on or before December 5, 1990.

HH. **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.

II. **Recreational vehicle** – A vehicle which is:

- i. Built on a single chassis;
- ii. Four hundred square feet (400) or less when measured at the largest horizontal projection;
- iii. Designed to be self-propelled or permanently towable by a light duty truck; and,
- iv. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

JJ. **Repetitive Loss Structure** – A Repetitive Loss (RL) property is an insurable building for which two (2) or more claims of more than one thousand dollars (\$1,000) were paid by the National Flood Insurance Program (NFIP) within any rolling ten-year period, since 1978. A RL property may or may not be currently insured by the NFIP. A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions within ten years, in which the cost of the repair, on the average, equaled or exceeded twenty-five percent (25%) of the market value of the structure at the time of each such flood event, and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

KK. **Severe repetitive loss structure** – A structure that (a) is covered under a contract for flood insurance made available under the NFIP, and (b) has incurred flood related damage – (i) For which four (4) or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding five thousand dollars (\$5,000), and with the cumulative amount of such claims payments exceeding twenty thousand dollars (\$20,000), or (ii) for which at least two (2) separate claim payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

LL. **Shallow flooding area** – A special flood hazard area with base flood depths from one (1) to three (3) 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.

MM. **Special flood hazard area** – The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in 18-261 of this ordinance.

NN. **Start of construction** – For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. 0 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred and eighty days (180) of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of

piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

OO. **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.

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

QQ. **Substantial Improvement** – Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred repetitive loss or substantial damage regardless of the actual repair work performed. The term does not, however, include either:

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

RR. **Violation** – The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the

elevation certificate, or other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

SS. 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.

DIVISION II – GENERAL PROVISIONS

Sec. 18-236 Statutory Authorization and Purpose

This ordinance is adopted pursuant to the authority granted to localities by Virginia Code §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 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.

Sec. 18-237 Applicability

- A. These provisions shall apply to all privately and publicly owned lands within the jurisdiction of New Kent County and identified as areas of special flood hazard according to the FIRM that is provided to New Kent County by FEMA.
- B. 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 ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- 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 damage.

D. This ordinance shall not create liability on the part of New Kent County or any officer or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

Sec. 18-238 Records

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

Sec. 18-239 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.

Sec. 18-240 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 of this ordinance shall remain in full force and effect, and for this purpose, the provisions of this ordinance are hereby declared severed.

Sec. 18-241 Penalty for Violation

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 the County of New Kent shall be guilty of the appropriate violation and subject to the penalties thereof.

The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the Zoning Ordinance of New Kent County are addressed in section 98-11 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. 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 period of time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the County of New Kent to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

DIVISION III ADMINISTRATION

Sec. 18-251 Designation of the Floodplain Administrator [44 CFR 59.2(b)]

The New Kent County Building Official is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- A. Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the County of New Kent County Administrator, and/or
- B. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, and/or
- 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 CFR Section 59.22.

Sec. 18-252 Duties and Responsibilities of the Floodplain Administrator [44 CFR 60.3]

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 Commonwealth.
- 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 the 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 the County of New Kent 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:

- i. Flood insurance studies, Flood insurance rate maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
- ii. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been 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 Zoning 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;

- i. Make determinations as to whether buildings and structures that are located in the flood hazard areas and that are damaged by any cause have been substantially damaged,
 - ii. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, 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 the County of New Kent have been modified and:
 - i. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - ii. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the New Kent County Board of Supervisors 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 the 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 Community 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).

Sec. 18-253 Use and Interpretation of FIRMs [44 CFR 60.3]

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:

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

ii. Are above the base flood elevation, the area shall be regulated as a special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

B. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

C. Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.

D. Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.

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

i. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

ii. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 18-261(iii) and used where no base flood elevation and/or floodway areas are provided on the effective FIRM.

iii. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Sec. 18-254 Jurisdictional Boundary Changes [44 CFR 59.22, 65.3]

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.

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.

Sec. 18-255 District Boundary Changes

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

Sec. 18-256 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 Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Sec. 18-257 Submitting Technical Data [44 CFR 65.3]

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 FEMA 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 flood plain management requirements will be based upon current data.

Sec. 18-258 Letters of Map Revision

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

Examples:

- i. Any development that cause a rise in the base flood elevations within the floodway.
- ii. Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- iii. 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)*.

DIVISION IV ESTABLISHMENT OF ZONING DISTRICTS

Sec. 18-261 Description of Special Flood Hazard Districts (44 CFR 59.1, 60.3)

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 the County of New Kent prepared by FEMA, Federal Insurance Administration, **dated and any subsequent revisions or amendments thereto.**

The County of New Kent 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 Office of Building Development.

- i. The Floodway District is in an AE Zone and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent (1%) annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. According to the Firms, there are no delineated floodways for New Kent County.

The following provisions shall apply within the Floodway District of an AE zone [44 CFR 60.3(d)]:

- a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with

standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analysis shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with New Kent County’s endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of FEMA.

If 18-261 (A)(i) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Division V.

b. The placement of manufactured homes (mobile homes) is prohibited, except in existing manufactured home (mobile home) parks or subdivisions. A replacement home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

ii. The AE, or AH Zones on the FIRM accompanying the FIS shall be those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE or AH zone [44 CFR 60.3(c)]*.

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1) at any point within New Kent County.

Development activities in Zones A1-30 and AE or AH, on the New Kent County’s FIRM which increase the water surface elevation of the base flood by more than one foot (1) may be allowed, provided that the applicant first applies – with New Kent County’s endorsement – for a Conditional Letter of Map Revision, and receives the approval of FEMA.

*The requirement in 63.3(c)(10) 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.

iii. 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 (1%) annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)].

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred year (100) 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 (1%) annual chance flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps. of Engineers Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development, and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted 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 development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level of no less than one foot (1).

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 (50) or five acres (5), whichever is the lesser.

iv. The AO Zone on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply [44 CFR 60.3(c)]

a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet (2) above the highest adjacent grade.

b. All new construction and substantial improvements of non-residential structures shall:

i. Have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet (2 ft.) above the highest adjacent grade; or,

ii. Together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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

v. The Coastal A Zone shall be those areas, 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 areas of Limits of Moderate Wave Action (LiMWA). For these areas, the following provisions shall apply:

Building 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 Section 18-261 (A)(ii) and Sections 18-267 and 18-268.

vi. The VE Zone 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 [44 CFR 60.3(e)]

a. All new construction and substantial improvements including manufactured homes in Zones V and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:

i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood level no less than one foot (1) if the lowest horizontal structural member is parallel to the direction of wave approach or elevated at least one foot (1) above the base flood level if the lowest horizontal structural member is perpendicular to the direction of wave approach; and,

ii. 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 (1%) chance of being equaled or exceeded in any given year (one-percent (1%) 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 18-261(a)(6)(a) .

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 Management Administrator shall maintain a record of all such information.

d. All new construction 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 nonsupporting breakaway walls, open wood-latticed 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 (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty (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 proposed meet the following conditions:

i. Breakaway wall collapse shall result from 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 (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent (1%) 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 building permit.

h. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.

Sec. 18-262 Overlay Concept

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Division V – District Provisions [44 CFR 59.22, 60.2, 60.3]

Sec. 18-266 Permit and Application Requirements

A. Permit Requirement

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the County of New Kent Subdivision Ordinances. 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 floodway of any watercourse, drainage ditch, or any other drainage facility or system.

B. Site Plans and Permit Applications

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

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

Sec. 18-267 – General Standards

The following provisions shall apply to all permits:

A. New construction and substantial improvements shall be according to 18-261 of this ordinance and the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

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 designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

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. Army 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 FEMA.

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

Sec. 18-268 Elevation and Construction Standards [44 CFR 60.3]

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 18-261(A)(3), the following provisions shall apply:

A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above not less than one foot (1) above the base flood level. See 18-261(A)(v) and 18-261(A)(vi) for requirements in the Coastal A and VE zones.

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 not less than one foot (1) above the base flood level. See 18-261(A)(v) and 18-261(A)(vi) for requirements in the Coastal A and VE zones. Non-residential buildings located in all A1-30, AE and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components, including attendant utility and sanitary facilities, 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. 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.

C. Space Below the Lowest Floor

In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

- i. Not be designed or used for human habitation, but shall 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);
- ii. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- iii. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two (2) 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 (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit,
- iv. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade,
- v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions,
- vi. 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

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 18-268(A) and 18-268(B).

All manufactured homes placed, or substantially improved, on sites in an existing manufactured home park or subdivision within Zones A-1-30, AH, and AE on the community's FIRM that are not subject to the provisions in 18-268(A), 18-268(B) or 18-261(A)(vi) be elevated so that either (i) the lowest floor of the manufactured home is at or above the base flood elevation; or (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All recreational vehicles placed on sites must either:

- i. 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
- ii. Meet all the requirements for manufactured homes.

Sec. 18-18-269 Standards for Subdivision Proposals

- i. All subdivision proposals shall be consistent with the need to minimize flood damage;
- ii. All subdivisions proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- iv. 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 FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots (50) or five acres (5), whichever is the lesser).

DIVISION VI – 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 area to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC and the appropriate provisions of this ordinance.

C. The modification, alternation, 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 and the appropriate provisions of this ordinance.

DIVISION VII – VARIANCES: FACTORS TO BE CONSIDERED [44 CFR 60.6]

Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (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.

While the granting of variances is generally limited to a lot size less than one-half acre (1/2), deviations from that limitation may occur. However, as the lot size increases beyond one-half acre (1/2), the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre (1/2) 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 Zoning Appeals shall satisfy all relevant factors, and procedures specified in other sections of the zoning ordinance and consider the following additional factors.

- A. The danger to life and property due to increase in 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 one percent (1%) chance 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. 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.

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

Variations shall be issued only after the Board of Zoning 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.

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

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one percent (1%) chance flood elevation (a) increase the risks to life and property and (b) will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage.

A record shall be maintained of the above notifications as well as all variance actions, including justification for the issuance of the variations. Any variations that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

This Ordinance to be effective upon adoption.

Rodney A. Hathaway
County Administrator

Chairman



Office of the County Attorney

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MEMORANDUM

TO: The Honorable Planning Commission:

Thomas Tiller, Jr.
Dr. Joanne K. Schmit
Michael B. Lane, Sr.
Edward W. Pollard
Katherine Butler
Joyce B. Williams

Jack Chalmers
Laura Rose
Charna Moss-Gregory
Richard Kontny, Jr.
Patricia E. Townsend

FROM: Michelle M. Gowdy, County Attorney 

DATE: January 30, 2015

SUBJECT: Cluster Subdivision Ordinance

EXCERPT FROM MEMO DATED MAY 7, 2014

At the Board of Supervisors' April work session, a proposed change to the cluster subdivision was brought to them at the request of several Board members.

Several changes were proposed which will make the ordinance more consistent with the current practice. The first change allows for the cluster subdivision to be used only in areas designated as rural lands by the Comprehensive Plan and nowhere in the R-1 zoning classification. Also, the minimum area is 50 acres rather than the current 10 acres. Next the proposed change allows the open space to be held by anyone if it is used for the appropriate purposes as outlined in the code. Lastly, the proposed changes allow there to be restrictions on the deed rather than a conservation easement being required.

The Board of Supervisors referred this matter to you and particularly asked that you consider whether or not 50 acres is enough; at least one of the members expressed concern that this may be too little.

RESEARCH OF OTHER LOCALITIES CLUSTER ORDINANCES

**Please note that not all Localities have to have a cluster subdivision ordinance.*

King and Queen County states that the minimum area set aside for preservation be 50 acres and there can be 7 lots for the first 21 acres plus one lot for every 10 additional acres of the total tract. The average residential lot size shall be not less than 3 acres provided that no single lot shall be smaller than one acre nor larger than 5 acres.

Hanover County has a minimum parcel size of 20 acres and the density is one lot per 10 acres. No lot shall exceed 2 acres and a minimum of 80% of the total parcel shall be conservation.

Nelson County has a minimum area of 200 acres and the overall density not greater than 1 unit per 20 acres with 40% of the land reserved in C-1 zoning. In A-1 there minimum is 75 acres with 1 dwelling per 6.8 acres and 1 dwelling per 20 acres for an area exceeding 75 acres with 40% of the land being open space. In R-1 there is a minimum of 30 acres with one dwelling per 2 acres and 40% open space.

I also looked at Dinwiddie and Lancaster which vary the minimum size by zoning classification.

REQUIREMENTS OF THE ORDINANCE FROM STATE CODE

The Cluster Subdivision State Code section has some requirements that must be included in the County ordinance. The first is that the cluster subdivision ordinance must be applicable to a minimum of 40% of the unimproved land in residential and agricultural zoning district classifications. Any county ordinance for a cluster subdivision cannot include more stringent land use requirements than other subdivision types and shall not prohibit water and sewer service if it is available.

The County may include in the ordinance the option of clustering single-family and the preservation of open space at a density calculation greater than the density permitted in the applicable land use ordinance (zoning classification). In addition, the County shall permit this by right and approved administratively by the locality's staff.

With regard to the open space, the County shall not require the open space to be excluded from the calculation of density, prohibit roads from being located in for access to the development, prohibit stormwater management areas from being located in such areas or require that lots in the cluster directly about such areas. With regard to a property resource map or location of riparian zones, endangered species, in the open space these areas do not have to be identified.

SUMMARY

The Board of Supervisors mentioned three key changes in our discussions regarding the cluster; review the minimum parcel size, allow for deed restrictions and conservation easements, and to modify the requirement for a central water system without prohibiting public water and sewer hookup if available.

More than one cluster subdivision was approved without a central water system because it was not economically feasible for these water systems to be maintained by the County Department of Public Utilities. There have been cluster subdivisions approved as well with a deed restriction rather than a conservation easement due to the size and ownership of the easement. The County does not want to responsibility of holding the conservation easements and with a deed restriction, the HOA can hold the easement and keep up with the maintenance.

Please let me know if you have any specific questions and I will be happy to answer them.

Thank you.

cc: Smolnik, Matthew
Le Duc, Kelli
Flanders, Kyle



MEMORANDUM

DATE: March 3, 2015

TO: New Kent County Planning Commission

FROM: Kyle Flanders, Planner I

SUBJECT: Consideration of proposed amendments to Section 91-127 of the New Kent County Code

REQUEST:

Consider the proposed amendments to Section 91-127 of the New Kent County Code. The proposed amendments will modify certain requirements of the Cluster or Open Space Subdivision provisions of the New Kent County Code.

PUBLIC HEARINGS:

Planning Commission: January 20, 2015 at 7:00 p.m., County Boardroom
Board of Supervisors: Tentatively scheduled for the April 13, 2015 meeting at 7:00 p.m., County Boardroom

BACKGROUND:

In order to make the County Code consistent with current practice, staff, under direction from the Board Supervisors and the Planning Commission has proposed amendments to the Cluster or Open Space Subdivision Ordinance. Proposed amendments were previously discussed at the Planning Commission Meeting on May 19, 2014 and then referred to the Planning Commission for a public hearing at the Board of Supervisor's work session on November 19, 2014.

The first change allows for the cluster subdivision to be used only in areas designated as rural lands by the Comprehensive Plan and not in any area within the R-1 zoning district. Also, if the cluster subdivision is within a water or sewer service district as outlined by the Department of Public Utilities, all residential units must connect to public water and/or sewer. Additionally, easements or covenants must be submitted if the development proposes

to locate principal buildings within ten (10) feet of the rear or side property line; this number has been increased from five (5) feet. Further, the minimum area required for a cluster subdivision is proposed to increase from ten (10) to fifty (50) acres. Additionally, the amendments will allow for the open space to be held by any entity if it is used for appropriate purposes as outlined in the County Code. The last proposed change allows restrictions on the deed rather than requiring the open space be placed in a permanent conservation easement.

SUGGESTED MOTION:

In order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County, I move to adopt Resolution No. PC-02-15 to forward Ordinance Amendment OA-01-15 to the New Kent County Board of Supervisors with a favorable recommendation.

Attachments:

- Resolution, PC-02-15

**PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA**

PC-02-15

At the regular meeting of the Planning Commission of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 16th day of March, 2015:

Present:

C. Thomas Tiller, Jr.
Jack Chalmers
Dr. Joanne K. Schmit
Laura Rose
Michael B. Lane, Sr.
Charna Moss-Gregory
Edward W. Pollard
Richard Kontny, Jr.
Katherine Butler
Patricia E. Townsend
Joyce B. Williams

Vote:

Motion was made by _____, which carried _____, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF OA-01-15 AMENDING
CHAPTER 91, SECTION 127, ENTITLED SPECIAL PROVISIONS FOR OPEN SPACE OR
CLUSTER SUBDIVISIONS**

WHEREAS, the Commonwealth of Virginia has enacted Virginia Code Section 15.2-2286.1 which requires New Kent to have an open space or cluster subdivision ordinance; and

WHEREAS, pursuant to Virginia Code Section 15.2-4300 et. seq., the New Kent County Board of Supervisors has the authority to amend Chapter 91 of the County Code; and

WHEREAS, the Commission finds the proposed changes to Section 91-127 of the New Kent County Code are to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County; and

NOW THEREFORE, BE IT RESOLVED that the New Kent County Code be repealed, amended, restated and readopted as follows:

Sec. 91-127. Special provisions for open space or cluster subdivisions.

(a) The intent of the residential open space or cluster development technique is to provide design flexibility to make efficient use of topography and develop residential communities with significant permanent reservations of open space that preserve the look and feel of a rural area while exploiting economics of scale and compact design forms. *This technique is only allowed in areas designated as*

rural lands by the Comprehensive Plan and is not allowed in the R-1 zoning district regardless. Design details are crucial and a higher level of review and approval is appropriate to this technique.

(b) The minimum gross area for an open space or cluster subdivision is ~~ten-fifty~~ acres. Additions of less than ~~ten-fifty~~ acres to existing open space developments may be approved if the agent finds that such an addition forms a logical extension.

(c) Density calculations shall be based on total developable acreage (gross acreage less Chesapeake Bay Resource Protection Areas) divided by the minimum lot size of the zoning district in which located. Fractional units are rounded up to the next whole number. The result is the maximum lot yield for the development.

(d) Lots created in open space or cluster subdivisions must access an internal road system. No lots may directly access existing public streets. Where lots abut an existing public street, a restricted access easement extending the entire distance shall be established and recorded contemporaneously with the record plat of the subdivision.

(e) If the proposed subdivision is in a water or sewer service district as outlined by the Department of Utilities, public water and/or sewer must be utilized in the subdivision. The installation of all necessary facilities to connect to public water and/or sewer is the responsibility of the developer/builder/owner.

(~~e~~) (f) Yard, size and dimension requirements.

(1) There are no lot width or area requirements.

(2) The above notwithstanding, any lots abutting the exterior boundary of the open space development shall be of the same size as would be required of conventional development. Unless separated by an area of common open space that is not less than 75 feet in width, a lot shall be considered to be abutting.

(3) The rear and side yards may be reduced to zero provided that easements or covenants clearly establish the rights of the two abutting properties where principal buildings are to be constructed on or within ~~five~~ ten feet of a property line.

(4) The minimum setback from external public streets shall be twice that which is prescribed in the underlying zoning district.

(5) The minimum setback from internal public streets shall be 20 feet; from internal private driveways, streets or alleys the setback shall be established on the plan of development.

(6) The minimum distance between any two buildings within the open space development shall be governed by the building code, provided, however, that the fire chief shall approve the fire protection measures for any development where principal buildings are separated by less than 20 feet.

(7) There are no minimum house sizes or house footprint requirements.

(8) Where flag lots are utilized, the “staff” portion shall be 20 feet or greater in width. A single shared access for two abutting flag lots is required; the width of the “staff” portion shall be 30 feet or greater in width.

(9) In the case of shared access arrangements, an easement establishing the right-of-way and maintenance responsibilities shall be recorded at such time as the lots are created and the existence of such easement shall be noted on the face of the plat creating the lots.

~~(f)~~ (g) Open space requirements.

(1) No less than 50 percent of the gross area of an open space development shall be preserved as open space assuring its availability for agricultural, forestall, recreational, or open-space uses by establishment of a permanent open space conservation easement or deed restriction.

(2) All areas not included in lots or public street rights-of-way shall be incorporated into open space.

(3) The open space shall be arranged and designed so as to facilitate its use, ensure, continuity of design, and preserve all of the sensitive environmental features within the development. Failure to achieve these goals shall be sufficient reason for the agent to deny applications for open space development plan approval or to require modifications that may include loss of lots.

(4) With the approval of the board of supervisors, open space other than the required recreational space within an open space or cluster subdivision may be held by an owner ~~other than a duly constituted property owners’ association~~ when the open space is used for agriculture, forestry, historical preservation, or other similar uses. The board of supervisors may not approve any use of the open space not allowed under the terms of the conservation easement.

(5) Conservation easement and Deed Restriction requirements:

a. Designated open space in cluster subdivisions shall be protected from any future subdivision or development by the establishment of a permanent conservation easement or deed restriction that must be recorded at the time of final plat subdivision approval.

b. The easement shall comply with the requirements of the Virginia Conservation Easement Act, Code of Virginia Tit. 10, Ch. 10.1 or contain similar provisions.

c. The conservation easement or deed restriction shall be in a form approved by the county attorney and shall provide that the eased portion of an open space subdivision shall be maintained by the owner of the property and that the county shall bear no responsibility or liability for such maintenance.

d. The board of supervisors, in its sole discretion, may approve a suitable alternative plan for maintaining the open space.

~~(g)~~ (h) . Recreational space requirements.

(1) Recreational space equivalent to at least five percent of the gross land area, but no less than one acre, shall be provided and shall be suitable, as determined by the agent, for recreation purposes and the

development of recreational facilities that are appropriate to the size, scale, and market orientation of the development.

(2). Recreational areas shall not abut the exterior boundary of the open space development unless entirely adjacent to a publicly-owned facility or community recreation facility of an adjoining residential development.

(3) The agent may modify the requirement for recreational space in any manner deemed appropriate or necessary, other than reducing the area required to be set aside, for the purpose of ensuring that adequate recreation facilities are available to serve the development given its size, scale, and market orientation.

(4) Adequate pedestrian and bicycle facilities shall be provided which fully interconnect the development and its recreation areas both internally and with existing, planned or desirable external pedestrian and bicycle facilities.

~~(h)~~ (i) Applications for open space developments shall be made in the same manner as prescribed for conventional subdivisions. In determining whether or not to grant approval, the applicant shall be required to show how the proposed open space cluster development provides superior protection of rural views from existing public roadways to that which would be effected by conventional subdivision of the subject property.

~~(i)~~ (j) Final plats recorded for an open space development utilizing the cluster technique and all deeds for lots within such development shall bear a statement indicating that the land is within an approved residential open space (cluster) subdivision and shall also bear a statement indicating the ownership status of the development's open space system and shall reference the covenants creating a property owners association which shall also be recorded at the time final plats were put to record.

Attested:

Michael Lane
Chairman, New Kent County Planning Commission



Office of the County Attorney

Post Office Box 150
12007 Courthouse Circle
New Kent, Virginia 23124-0150
Tel: (804) 966-9683
Fax: (804) 966-9370

MEMORANDUM

TO: The Honorable Planning Commission:

Thomas Tiller, Jr.
Dr. Joanne K. Schmit
Michael B. Lane, Sr.
Edward W. Pollard
Katherine Butler
Joyce B. Williams

Jack Chalmers
Laura Rose
Charna Moss-Gregory
Richard Kontny, Jr.
Patricia E. Townsend

FROM: Michelle M. Gowdy, County Attorney

DATE: January 30, 2015

SUBJECT: Proposed AFD Ordinance

This memo is in response to the concerns expressed at the January 20th meeting regarding the changes to the ordinance. These changes were designed to meet the current Virginia State Code and to reflect the change in process. One of the major changes is that the Planning Commission no longer has to procedurally send the AFD applications to the AFD Advisory Committee – the applications now begin at the AFD Committee and then go to the Planning Commission and Board of Supervisors both for public hearing.

There were also concerns expressed about the date of March 1 in the proposed AFD ordinance. Staff has informed me that they will meet this deadline and that this deadline is appropriate for this program. There will be advertisements of this deadline in both the Chronicle and the Tidewater Review advising citizens of this deadline and letters have been mailed to all of the current AFD members whose districts are up for renewal.

If you have any other questions, please feel free to contact me. Thank you.

cc: Smolnik, Matthew
Le Duc, Kelli
Flanders, Kyle
Venable, Matt

**PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA**

PC-03-15

At the regular meeting of the Planning Commission of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 16th day of March, 2015:

Present:

C. Thomas Tiller, Jr.
Jack Chalmers
Joanne Schmit
Laura Rose
Michael B. Lane, Sr.
Charna Moss-Gregory
Edward W. Pollard
Richard Kontny, Jr.
Katherine Butler
Patricia E. Townsend
Joyce B. Williams

Vote:

Motion was made by _____, which carried _____, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF ORDINANCE
AMENDMENT OA-02-15,
AMENDING Ch. 62, Article II entitled “Agricultural and Forestal Districts.”**

WHEREAS, the Agricultural and Forestal District advisory committee has reviewed the amendments to Ch. 62, Article II of the County Code;

WHEREAS, pursuant to Virginia Code Section 15.2-4300 et. seq., the New Kent County Board of Supervisors has the authority to amend Chapter 62 of the County Code; and

WHEREAS, the Commission finds the proposed changes to the Agricultural and Forestal Districts are to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County; and

NOW THEREFORE, BE IT RESOLVED that on this, the 16th day of March, 2015, that the New Kent County Planning Commission hereby recommends amending Ch. 62, Article II – Agricultural and Forestal Districts.

Attested:

Michael Lane, Chairman
New Kent County Planning Commission



2014 ANNUAL REPORT

New Kent County Planning Commission

Planning Commissioners

Mr. Jack Chalmers - Chairman

Mr. Michael Lane - Vice-Chairman

Ms. Katherine Butler

Mr. Howard Gammon

Mr. Roger Gregory

Mr. Richard Kontny, Jr.

Mrs. Charna Moss-Gregory

Mr. Edward Pollard

Mrs. Laura Rose

Mrs. Patricia Townsend

Mrs. Joyce Williams

Honorable Tommy Tiller - Board of Supervisors Representative

Staff Support

Mr. Rodney Hathaway, County Administrator

Mr. Jonathan Stanger, Asst. County Administrator

Mr. Matthew Smolnik, Director of Community Development

Mrs. Michele Gowdy Esq., County Attorney

Mrs. Kelli Le Duc, Planning Manager

Mr. Matthew Venable, Environmental Planning Manager

Mr. Kenneth Vaughan, Zoning Official

Mr. Kyle Flanders, Planner

Mrs. Cathy Williams, Recording Secretary

MEETING SYNOPSES

Meeting Date: February 18, 2014

- Mr. Jack Chalmers was elected as the 2014 Chair.
- Mr. Michael Lane was elected as the 2014 Vice Chair.
- Mrs. Patricia Townsend was elected as the 2014 Public Hearing Chair.
- Ms. Katherine Butler was elected as the 2014 Public Hearing Vice Chair.
- Mr. Edward Pollard was re-elected as the 2014 Representative to the Richmond Regional Planning District Commission.
- Minor changes to the Bylaws were discussed.
- The 2014 meeting schedule was adopted.
- There was a presentation from the Liberty Landing representatives.
- The 2013 Annual Report was adopted.
- Mr. Hathaway presented the FY 2015 CIP and changes to the Land Development Fees.
- Mr. Stanger presented proposed changes to the family subdivision ordinance.
- Ms. Gowdy gave an update on proposed changes to the Stormwater Ordinance.

Meeting Date: March 17, 2014

- The 2014 Bylaws were adopted.
- A **public hearing** was held regarding ZM-01-14, Liberty Landing. The Planning Commission voted to forward an unfavorable recommendation to the Board of Supervisors.
- A **public hearing** was held on the FY 2015 CIP. The Planning Commission recommended approval of the CIP to the Board of Supervisors.
- A **public hearing** was held on FY 15 Land Development Fees and Zoning and Subdivision Fees. The Planning Commission recommended approval of the fees to the Board of Supervisors.

Meeting Date: May 19, 2014

- A **public hearing** was held on OA-01-14, Amendments to the AFD Ordinance, but action was deferred until a future meeting.
- A **public hearing** was held on OA-02-14, Amending, Restating, and Readopting Stormwater Management to the New Kent County Code of Ordinances. The Planning Commission recommended approval of the ordinance amendment to the Board of Supervisors.
- Ms. Gowdy presented possible changes to the Cluster Subdivision Ordinance.

Meeting Date: June 23, 2014 joint meeting with the Board of Supervisors

- Before the Board of Supervisors and Planning Commission for a joint **public hearing** were Ordinance O-09-14 repealing, amending, restating, and readopting Chapter 82 "Environment" to the New Kent County Code of Ordinances, and Ordinance O-10-14 amending Chapter 94, Waterways, Article II, Chesapeake Bay Preservation Areas to the New Kent County Code of Ordinances, to comply with the Stormwater Management Programs, Section 62.1-44.15.27 of the Code of Virginia. The Planning Commission recommended approval of both Ordinance Amendments to the Board of Supervisors.

Meeting Date: July 21, 2014

- A presentation from Kim Turner, Director of Parks and Recreation, was given to the Commission on the concept plans for a future park being planned along Pine Fork Road.
- The Planning Commission voted to recommend approval of Application OA-01-14, Ordinance Changes for the AFD Program, to the Board of Supervisors.

Meeting Date: August 18, 2014 at New Kent Middle School

- It was announced that Mr. Gregory had resigned from the Planning Commission.
- A **public hearing** was held regarding Application PUD-01-14, Patriots Landing. Action was deferred on this application to gather more information and to allow the applicant and PL Homeowner’s Association time to confer.
- There were **sixteen public hearings** held on AFD Applications.

Meeting Date: September 15, 2014

- It was announced that Mrs. Laura Rose was appointed to take Mr. Gregory’s vacant spot for District 1.
- Action on Application PUD-01-14 was deferred again.
- A **public hearing** was held regarding Application CUP-01-14, Pilot Travel Centers, LLC. The Planning Commission voted to send a favorable recommendation to the Board of Supervisors on the application.
- Mr. Hathaway gave a presentation regarding a possible Overlay Zoning District for Bottoms Bridge. A Subcommittee consisting of Mr. Lane, Mr. Gammon, Mrs. Rose, Mr. Kontny, and Mrs. Townsend was formed to work on this.

Meeting Date: December 15, 2014

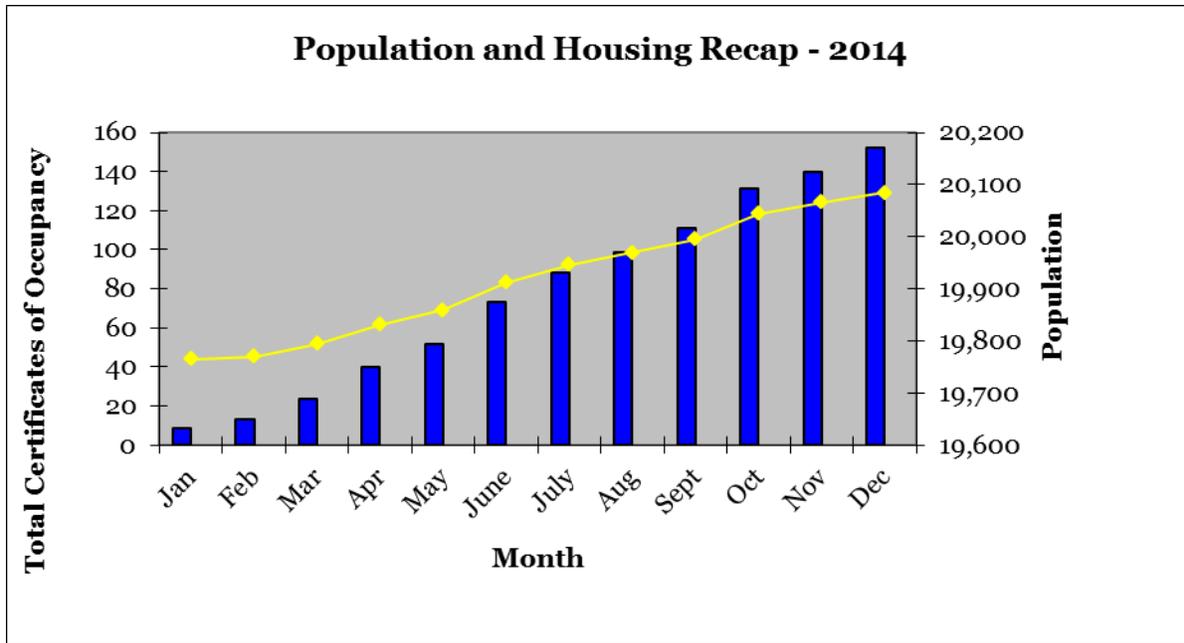
- Action was taken on Application PUD-01-14, with the Planning Commission voting to send a favorable recommendation to the Board of Supervisors on the application.
- A **public hearing** was held regarding Application CUP-02-14, Colonial Holdings, Inc. The Planning Commission voted to send a favorable recommendation to the Board of Supervisors.

2014 Planning Commission Attendance

	2-18	3-17	5-19	6-23	7-21	8-18	9-15	12-15
Planning Commissioner								
Patricia Townsend District 1	P	P	P	P	P	P	P	A
Roger Gregory District 1	P	A	P	A	P	A		
** Laura Rose District 1							P	P
Michael Lane District 2	P	P	A	P	A	P	P	P
Katherine Butler District 2	P	P	P	P	P	P	A	P
Charna Moss-Gregory District 3	P	P	P	P	P	A	A	P
Joyce Williams District 3	P	P	P	P	P	P	P	P
Jack Chalmers District 4	P	P	P	P	P	A	P	P
Richard Kontny District 4	P	P	P	P	P	P	P	P
Howard Gammon District 5	P	P	P	P	P	A	P	A
Edward Pollard District 5	P	P	P	P	P	P	P	P

P = Present A = Absent

** Mrs. Rose joined the Planning Commission in September. Mr. Gregory resigned.



Certificates of Occupancy (cumulative) are depicted with the blue bars. Population figures are depicted with the yellow line.

A total of 152 Certificates of Occupancy were issued in 2014, bringing the estimated County population figure to 20,085. In 2013, 172 Certificates of Occupancy were issued and the estimated County population was 19,743.

2014 Monthly Single-Family Building Permit Comparison Data

Source: UVA Weldon Cooper Center

County	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Chesterfield	68	69	50	79	83	85	80	71	65	71	71	68
Gloucester	15	5	17	17	7	11	12	17	11	9	1	6
Goochland	21	9	14	7	13	7	6	11	6	12	6	15
Hanover	34	35	45	39	51	42	78	53	39	31	35	37
Henrico	47	69	59	70	62	71	49	60	72	55	39	40
James City	37	24	37	98	48	27	43	32	35	22	24	27
New Kent	n/r	n/r	20	12	12	12	10	14	14	13	9	19
Powhatan	n/r	n/r	9	21	17	21	19	19	20	23	12	10
York	n/r	n/r	4	7	5	11	8	8	5	4	10	7

* n/r = not reported for that month

Planning Division Applications for 2014

Application Type	Number Received
<i>Subdivisions</i>	
Parent Tract	2
Family	9
Large Lot Exempt	2
Preliminary/Final	6
Boundary Line Adjustment/Lot Consolidation	23
<i>Site Plans</i>	
Site Plan	14
Construction Plan	4
<i>Zoning</i>	
Rezoning	1
Conditional Use Permit	3
Certificate of Zoning	143
Zoning Variance	0
Zoning Violation	14
Inoperable Vehicles	8
Zoning Administrative Modification	0
Tall Grass Complaints	8
Zoning Opinion Letter	5
Notice of Zoning Violation	7
Cultural Events	24
 <i>Application Total for 2014</i>	 273

Comparison to Previous Years			
	2012	2013	2014
Certificate of Zoning	107	147	143
Conditional Use Permit	0	4	3
Rezoning	2	0	1
Zoning Violation	42	28	14
Zoning Variance	0	0	0
Cultural Event	14	17	24
Subdivisions (all)	38	41	42
Site Plans & Construction Plans	17	11	18

Environmental Division Applications for 2014

Application Type	Number Received
<i>Land Disturbance Permit</i>	
Single Family	200
Commercial	14
Agricultural Screening Forms	2
<i>Wetland Related</i>	
CBPA Exception	4
RPA Modifications	0
Wetland Applications	8
Required Ches Bay, Wetland, or Beaches & Dunes approval	3
<i>Agricultural & Forestal District</i>	
Active Districts	19
Additions to existing districts	26
Districts created	0
Withdrawals	0
<i>Application Total for 2014</i>	231

Comparison to Previous Years			
	2012	2013	2014
Single Family Land Disturbance	187	199	200
Commercial Land Disturbance	12	15	14
Agricultural Screening Forms	3	2	2
CBPA Permits	6	11	4
RPA Modifications	9	5	0
Wetland Applications	4	2	8
Applications requiring Board approval	4	7	3



MEMORANDUM

DATE: February 17, 2014
 TO: New Kent County Planning Commission
 SUBJECT: Public Hearing on FY 16 Land Development Fees

In accordance with Section 15.2-107 and Section 15.2-2204 of the Code of Virginia, the Planning Commission will consider the proposed FY16 Land Development Fees set forth below:

Section 15.2 - 107. Advertisement and enactment of certain fees and levies.

All levies and fees imposed or increased by a locality pursuant to the provisions of Chapters 21 (§ [15.2-2100](#) et seq.) or 22 (§ [15.2-2200](#) et seq.) shall be adopted by ordinance. The advertising requirements of subsection F of § [15.2-1427](#), or § [15.2-2204](#), as appropriate, shall apply, except as modified in this section.

The advertisement shall include the following:

- 1. The time, date, and place of the public hearing.*
- 2. The actual dollar amount or percentage change, if any, of the proposed levy, fee or increase.*
- 3. A specific reference to the Code of Virginia section or other legal authority granting the legal authority for enactment of such proposed levy, fee, or increase.*
- 4. A designation of the place or places where the complete ordinance, and information concerning the documentation for the proposed fee, levy or increase are available for examination by the public no later than the time of the first publication.*

The proposed fee changes are as follows and will help to offset the cost of staff time and processing of applications:

LAND DEVELOPMENT FEES – PROPOSED CHANGES ARE UNDERLINED

Item	FY 15 Adopted Fee	Suggested FY 2016 Base Fee	Plus Per Lot/Acre Fee
Erosion and sediment control plan review and inspection fee; Single Family for one acre or less	\$75.00	\$75.00	\$10.00 per acre
Erosion and sediment control plan review and inspection fee; Commercial, Mixed Use, or Industrial	\$100.00	\$100.00	\$50.00 per acre
Land Disturbance Permit – Single Family	\$210.00	\$210.00	\$20.00 per acre

Land Disturbance Permit Renewal Fee – all Single Family	\$35.00	<u>\$50.00</u>	
Land Disturbance Permit – Commercial, Mixed Use, or Industrial	\$465.00	\$465.00	\$50.00 per acre
Land Disturbance Permit Renewal Fee – Commercial, Mixed Use, or Industrial	\$35.00	<u>\$150.00</u>	
Erosion and sediment control – Environmental Violation	\$100.00	\$100.00	
Environmental Restoration Fee (SFD)	\$25.00	\$25.00	
RPA Modification Permit	\$95.00	\$95.00	
Wetlands development/CBPA application fee (when public hearing required)	\$625.00	\$625.00	
CBPA Exception Permit	\$250.00	\$250.00	
RPA Signs	\$7.50	<u>\$10.00 per sign</u>	

SUGGESTED MOTIONS

1. In order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County, I move to adopt Resolution No. PC-06-15, to forward the advertised fees for Land Development to the New Kent County Board of Supervisors with a favorable recommendation.

or

2. I move to forward the advertised fees for Land Development to the New Kent County Board of Supervisors with an unfavorable recommendation for the following reasons:

a. _____

b. _____

Attachments: *Advertisement *Resolution PC-06-15

**PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA**

PC-06-15

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 16th day of March, 2015:

Present:

Katherine Butler
Jack Chalmers
Joanne Schmit
Laura Rose
Charna Moss-Gregory
Richard Kontny
Michael Lane
Edward Pollard
Tommy Tiller
Patricia Townsend
Joyce Williams

Vote:

Motion was made by _____, which carried _____, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF
THE FY 16 LAND DEVELOPMENT AND
ZONING & SUBDIVISION FEES LISTED BELOW**

WHEREAS, Section 15.2-107 and Section 15.2-2204 of the Code of Virginia require the local Planning Commission to consider changes to a localities fee schedule; and

WHEREAS, several changes to the fee schedule (shown below) are proposed by staff; and

WHEREAS, the Planning Commission scheduled and conducted a formal and duly advertised public hearing, carefully considering the public comment received; and

WHEREAS, with regard to the proposed change in the FY 16 Land Development and Zoning & Subdivision Fee schedules the New Kent County Planning Commission has found that the proposed change in fees as well as existing fees are appropriate and in the best interest of the county; and

WHEREAS, the New Kent Planning Commission finds that approval of this fee schedule would address, protect, and promote public convenience, necessity, general welfare, and good zoning and land development practices in the County;

NOW THEREFORE, BE IT RESOLVED that on this, the 16th day of March, 2015, by the New Kent County Planning Commission, that the FY 16 Land Development and Zoning & Subdivision fee schedule below, be forwarded to the New Kent County Board of Supervisors with a recommendation of approval:

LAND DEVELOPMENT FEES – PROPOSED CHANGES ARE UNDERLINED

Item	FY 15 Adopted Fee	Suggested FY 2016 Base Fee	Plus Per Lot/Acre Fee
Erosion and sediment control plan review and inspection fee; Single Family for one acre or less	\$75.00	\$75.00	\$10.00 per acre
Erosion and sediment control plan review and inspection fee; Commercial, Mixed Use, or Industrial	\$100.00	\$100.00	\$50.00 per acre
Land Disturbance Permit – Single Family	\$210.00	\$210.00	\$20.00 per acre
Land Disturbance Permit Renewal Fee – all Single Family	\$35.00	<u>\$50.00</u>	
Land Disturbance Permit – Commercial, Mixed Use, or Industrial	\$465.00	\$465.00	\$50.00 per acre
Land Disturbance Permit Renewal Fee – Commercial, Mixed Use, or Industrial	\$35.00	<u>\$150.00</u>	
Erosion and sediment control – Environmental Violation	\$100.00	\$100.00	
Environmental Restoration Fee (SFD)	\$25.00	\$25.00	
RPA Modification Permit	\$95.00	\$95.00	
Wetlands development/CBPA application fee (when public hearing required)	\$625.00	\$625.00	
CBPA Exception Permit	\$250.00	\$250.00	
RPA Signs	\$7.50	<u>\$10.00 per sign</u>	

Attested:

Michael Lane, Chairman
New Kent County Planning Commission



Board of Supervisors

Thomas W. Evelyn	District 1
C. Thomas Tiller, Jr.	District 2
James H. Burrell	District 3
Ronald P. Stiers	District 4
W. R. "Ray" Davis, Jr.	District 5

Rodney A. Hathaway,
County Administrator

www.co.new-kent.va.us

TO: New Kent Planning Commission

FROM: Rodney A. Hathaway, County Administrator 

DATE: February 5, 2015

SUBJECT: Revised CIP Documents

Three modifications were made to the capital improvement documents that you received in January. The enclosed documents reflect the following changes:

1. The Airport reflects a new project titled Disadvantage Business Enterprise Study in the amount of \$12,000.
2. The total funding amount for the "NKHS Technology One-To-One Learning Initiative" has been reduced.
3. The Public Utility Fund reflects one new project entitled "DEQ Water Supply Feasibility Study" in the amount of \$300,000.

Please do not hesitate to call me should you have questions or concerns.



Board of Supervisors
Thomas W. Evelyn District 1
C. Thomas Tiller, Jr. District 2
James H. Burrell District 3
Ronald P. Stiers District 4
W. R. "Ray" Davis, Jr. District 5

Rodney A. Hathaway,
County Administrator

www.co.new-kent.va.us

TO: New Kent Planning Commission

FROM: Rodney A. Hathaway, County Administrator

CC: New Kent Board of Supervisors
 David A. Myers, Ph. D., Superintendent of Schools

DATE: January 20, 2015 (Revised 2/5/15)

SUBJECT: Proposed Fiscal Year 2016-20 Capital Improvement Plan

The County of New Kent Proposed FY 2016-20 Capital Improvement Plan (CIP) has been developed under the provisions of Section 15.2-2239 of the Code of Virginia. The CIP is a five-year planning tool that identifies capital requirements, estimated costs, available sources of funding, and estimates the likely future fiscal impact on County tax rates, debt capacity and financial policies.

In order to distinguish capital projects from operating expenses, the County defines a capital expenditure as facilities, equipment or services that are valued at \$25,000 or greater with an expected lifespan of at least five years. The plan also provides for the scheduled replacement of vehicles and computers, which do not necessarily satisfy the \$25,000 threshold. This process ensures that vehicle and computer replacements are based on established policies and that the County considers current and future needs on an annual basis.

Annually, the County's CIP is developed with the full participation of County departments and constitutional offices. CIP request forms are submitted to Financial Services in October. The County Administrator meets with department heads to discuss individual requests, goals and objectives, service requirements and implementation strategies. The process includes a fiscal impact analysis by the County's financial advisors to access cash flows, debt capacity, and compliance with existing bond covenants and County financial policies. The proposed CIP is submitted to the Planning Commission to assess compliance with the County's Comprehensive Plan. Upon review and approval by the Planning Commission, the plan is referred to the Board of Supervisors for adoption or modification, at the Board's discretion. Expenditure authority for the first year of the plan (FY16 in this case) is established by the Board of Supervisors, with the adoption of the fiscal year operating budget.

The goals of the Capital Improvement Plan budget process include:

- Develop a capital improvement plan consistent with the County's Comprehensive Plan.

- Provide a routine process and procedure that promotes an informed decision-making process to identify and evaluate the current and future capital requirements of the County.
- To preserve and improve the capital assets of the County through a systematic process of construction, rehabilitation and maintenance. This process requires that the County schedule major renovations and modifications at the appropriate time in a facility's life-cycle that enhance the efficiencies of existing systems and result in a reduction in the cost of governmental operations.
- A process that balances the goals and objectives of the County against existing conditions and needs in order to efficiently allocate limited resources to competing priorities.
- To provide a process for the distribution of proffered funds in accordance with related agreements.
- Enhance the County's ability to develop, improve and maintain levels of service in the community; plan for future government or community facilities; and finally, to assess future financing opportunities and consequences.

While the County cannot possibly fund all requests, the CIP process is designed to balance available resources with the critical needs of the County. This process involves difficult choices regarding the allocation of resources to serve the needs of our Citizens, which include the core functions of education and public safety. Some projects, if approved in future years, will require debt financing and will result in significant increases in operating budgets. Where possible future debt financing and operating budget impacts related to these projects has been noted in the CIP schedules. The County has also allocated proffers to various projects in compliance with the original agreements.

Capital Funding

A majority of the funding for the proposed FY16 CIP as recommended by the County Administrator will be provided by cash reserves on deposit in the Capital Projects Fund. Annually at the conclusion of the annual audit, funds exceeding 15% of fund balance (governmental funds) are transferred to the Capital Projects Fund for the purpose of providing cash reserves for the procurement of future capital requirements. The following schedule denotes prior year transfers from the General Fund to the Capital Projects Fund:

Fiscal Year	Transfer Amount
2014	\$1,301,183
2013	2,700,271
2012	1,847,895
2011	2,632,866
2010	4,615,418

The amount transferred annually is a function of many variables, but primarily the amount by which revenues exceed budget, and the amount of departmental savings resulting from employee vacancy savings and operational efficiencies. This policy provides additional motivation for departments to operate efficiently as they understand that bottom line savings will be transferred to the capital fund for their future capital needs. As can be seen by the above schedule, with the exception of 2013, annual transfers have declined due to reductions in local and state revenues, increased operating costs and cuts to departmental budgets in the wake of the economic downturn. The FY13 increase was partially related to FEMA receipts pertaining to reimbursements for County expenditures relative to Hurricane Irene.

County capital procurements are also funded by a variety of state and federal grants, which have also been negatively impacted by financial stress at the state and federal levels.

Cash Reserves-Capital Improvement Fund

At June 30, 2014, the Capital Projects Fund reflected a fund balance totaling \$12,488,297. The schedule below provides an overview of the budgetary claims against this balance and the resulting estimated ending fund balance of \$599,325. Until such time as additional or new revenue sources are identified, future allocations of cash reserves for capital procurements may have to be restricted to the annual transfer from the General Fund, which as indicated above, has been declining in recent years for a variety of factors.

Description	Balance
FY14 Ending Fund Balance (Including Proffers)	\$ 12,488,297
FY15 CIP Adopted Budget - Cash Reserve Allocation	(3,437,882)
FY14 Carry Forwards To FY15	(3,700,730)
Fund Balance Reserve - Per County Policy	<u>(1,000,000)</u>
Available for FY16 Allocation - Before Public Safety Radio System	\$ 4,349,685
Earmarked - Public Safety Radio System (\$175,000 + \$48,000)	(223,000)
Proposed Public Safety Radio System - Debt Reduction	(1,500,000)
Proposed Public Safety Radio System - Project Contingency	<u>(500,000)</u>
Funds Available For FY16 CIP - After Public Safety Radio System	\$ 2,126,685
Proposed FY16 Cash Reserve Allocation - County Administrator	<u>(1,527,360)</u>
Estimated Ending Fund Balance	\$ 599,325

General Government CIP

The Fiscal Year 2016-2020 general government CIP includes 76 individual requests with a total five-year estimated cost of \$28,874,228. This total does not include 14 additional requests anticipated beyond FY20 with an estimated cost of \$31,897,600. Combined, County CIP requests total approximately \$60.8 million. FY16 general government CIP budget requests recommended by the County Administrator total \$1,951,190, and are proposed to be funded as follows:

Funding Source	Amount
• CIP Cash Reserves	\$1,352,465
• Transfer from the Debt Service Fund (040)	100,000
• Federal Grants	245,300
• Proffer Allocations – Cash Reserves	174,895
• State Grants	78,530
Total	\$1,951,190

The total FY16 proposed reduction in cash reserves (fund balance) totals \$1,527,360, which is the sum of the \$1,352,465 related to CIP Cash Reserves and the \$174,895 related to Proffer Allocations. FY16 proposed major allocations of cash reserves include the following:

- \$390,000 – Vehicle replacements for all departments. Of this amount, \$288,000 has been proposed for vehicle replacements in the Sheriff's office. Generally, vehicles are replaced every five years in compliance with County policy. The decision to replace a vehicle takes into account a variety of factors such as vehicle mileage, public safety, annual miles driven, repair costs and employee safety. Replaced vehicles may be transferred to departments with occasional transportation requirements. The \$390,000 also includes \$26,000 for the replacement of a Social Services vehicle, of which, the Commonwealth of Virginia will contribute approximately \$21,970, leaving a net cost of \$4,030 for the County.
- \$257,000 – Four Airport projects, which include rehabilitation of runway lighting, replacement of main aircraft ramp pavement, construction of a security fence around the east end of the airport and a disadvantage business enterprise study. Approximately 95% of the \$257,000 project cost is expected to be funded by state and federal grants, leaving a County contribution of \$14,140.
- \$213,000 – The three Fire Department procurements include \$118,000 for a new ambulance chassis for unit 593, \$75,000 for non-grant Burn Building construction costs, and \$20,000 for public safety mobile data terminals. We anticipate that the County will receive a \$59,000 federal grant for the ambulance chassis. Mobile data terminals are replaced every three to five years depending on asset condition.

- \$81,190 – Computer replacements for all departments. Computers are replaced every five years in accordance with the County’s replacement policy. The five year policy is generally reflective of the useful life of technology procurements.

Proposed Public Safety Radio System

The Proposed FY 2016-20 Capital Improvement Plan does not reflect funding for the new 800 MHz public safety radio system. The proposed project will be appropriated in the current fiscal year (FY15) once all outstanding issues are finalized. The project is expected to cost \$6,695,000 and is expected to be financed over an eleven year period.

School Board CIP

The FY16-20 School Board CIP reflects 12 projects with a total cost of \$9,738,000. Of this amount, the School Board is requesting \$2,250,000 for FY16. The \$9,738,000 total does not include \$28 million for a new Elementary School that is scheduled beyond fiscal year 2020. Of the \$1,527,360 available for the County’s FY16 CIP program, I am proposing that the School Board receive \$900,000, or 52.4% of allocated cash reserves. The \$900,000 will be partially funded by a \$100,000 transfer from the Debt Service Fund, which reflects savings resulting from the recent refinancing of the Series 2004 bonds. Major FY16-20 School Board requests include:

- \$6,180,000 – Renovation of New Kent Elementary School. It is anticipated that this project would be completed in five stages. Most likely, a project of this magnitude would have to be debt financed, which might take the form of one financing package for all five phases. This project was not approved for FY16 funding due to the lack of a dedicated funding source, and the current economic climate.
- \$2,268,000 – School Bus Replacement. Buses are replaced in accordance with established State guidelines. The FY16 request totals \$285,000, and funds have been allocated for this procurement.
- \$1,000,000 – Technology for the One-to-One Learning Initiative. This initiative would equip each high school student with an internet access device and establish building-wide wireless access. The project would allow real time access to information and the ability to collaborate on assignments with other students both inside and outside the classroom. The personal devices provide management tools for students to better organize information and maintain online text resources. Students would have equitable opportunity and access to current technology through safe, filtered Internet allowing communication and learning in a way that is more conducive to their future learning needs. The proposed budget fully funds the FY16 request of \$300,000, which is really a transfer from the Capital Projects Fund to the School’s General Fund (205). The FY16 transfer of \$300,000 to Fund 205 will provide the necessary resources for the first of three annual lease-purchase payments of \$200,000 each, and FY16 annual maintenance costs of \$100,000. The CIP also reflects a \$200,000 transfer for FY17 and a \$100,000 transfer in FY18, as it is anticipated that this program

(lease-purchase payments and maintenance) will be fully funded by School operating revenues in FY19, with no support from the Capital Projects Fund.

Public Utility CIP

The Fiscal Year 2016-2020 Public Utility CIP includes 15 individual requests with a total five-year estimated cost of \$16,708,232. The Public Utility CIP schedule also reflects ten projects planned beyond FY20 with a total estimated cost of \$45,384,000. The CIP reflects FY16 funding in the amount of \$543,710. These projects will be financed by user fees and will not require tax support.

Overview and Conclusion

The following schedule summarizes requests by department and constitutional office. Departmental requests do not include vehicles and computers, which are shown collectively in the schedule below for all departments. This schedule also does not include requests for the period beyond FY20.

Department / Office	Number of Requests	Total \$\$ Requested (FY16-20)	FY16 Administrator Recommends	Fund Balance FY 16 (Net of Other Sources)
Accounting / Finance	1	\$400,000	\$ --	\$ --
Airport	12	3,492,000	257,000	14,140
Community Development	2	113,669	--	--
Fire Department	10	9,365,000	213,000	154,000
Information Technology	5	690,000	85,000	85,000
Parks & Recreation	4	1,058,000	25,000	25,000
School Board	12	9,738,000	900,000	800,000
Sheriff	2	1,550,000	--	--
Vehicle Replacement	9	2,127,507	390,000	368,030
Computer Replacement	19	340,052	81,190	81,190
Total General Government	76	\$28,874,228	\$1,951,190	\$1,527,360
Public Utilities *1	15	16,708,232	543,710	543,710
Total	91	\$45,582,460	\$2,494,900	\$2,071,070

*1 – Funds provided by user fees, not tax supported

County Fees

In accordance with the Code of Virginia, the CIP process also includes an annual review of the County's fee structure to consider additions and changes. Changes relative to environmental, planning, subdivision and zoning fees must be reviewed by the Planning Commission and referred to the Board of Supervisors for consideration and adoption. The FY16 recommended changes to public safety fees and land development are reflected in the enclosed package.

I look forward to working with the Planning Commission and the Board of Supervisors in the development of a CIP plan that is compliant with the Comprehensive Plan and addresses the capital requirements of the County while maintaining fiscal stability in this challenging economic environment.

COUNTY OF NEW KENT
 FY 2015-16 PROPOSED BUDGET - PLANNING COMMISSION
 CAPITAL IMPROVEMENT PLAN - DEPARTMENTAL DETAIL - GENERAL GOVERNMENT
 FISCAL YEARS 2016 - 2020

Request Description	FY15 Adopted/Amended	FY14 Carryforward To FY15	Department Requests						Total Requests Requested FY15-16 thru FY19-20	Revenue Sources FY15-16 thru FY19-20					Fund Balance Requirement For FY 15-16 (Yellow Areas Only)	Beyond FY 19-20		
			FY15-16 Dept. Requests	FY15-16 Administrator Recommends	FY 16-17	FY 17-18	FY 18-19	FY 19-20		Federal	State / Other Government	Private	Professors/ Grants/CDA (FY15 Only)	Other - Loans, Transfers			Fund Balance FY16 - FY20 (Unrestricted)	
Subtotal:	\$ 66,200	\$ -	\$ 81,190	\$ 53,600	\$ 60,125	\$ 108,712	\$ 36,425	\$ 340,052	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 340,052	\$ 81,190	\$ 27,600
TOTAL CIP - ALL DEPT'S.	\$ 3,013,200	\$ 1,114,926	\$ 5,022,190	\$ 1,851,190	\$ 5,807,819	\$ 6,118,775	\$ 7,134,019	\$ 28,874,228	\$ 2,332,300	\$ 1,663,865	\$ -	\$ 174,895	\$ 100,000	\$ 24,603,168	\$ 1,352,465	\$ 31,887,600	\$ 174,895	\$ 31,887,600

Professors Allocated \$ 174,895
 Fund Balance Allocated 1,352,465
 Total FY16 Fund Balance Reduction \$ 1,527,360

COUNTY OF NEW KENT
 FY 2015-16 PROPOSED BUDGET - PLANNING COMMISSION
 CAPITAL IMPROVEMENT PLAN - DEPARTMENTAL DETAIL - ENTERPRISE FUND
 FISCAL YEARS 2016 - 2020

	FY15 Adopted/Amended	FY14 Carryforward To FY15	Department Requests						Total Requests Requested FY15-16 thru FY19-20	Revenue Sources FY15-16 thru FY19-20					Fund Balance Requirement For FY15-16 (Yellow Areas Only)	Beyond FY19-20	
			FY15-16 Dept. Requests	FY15-16 Administrator Recommends	FY16-17	FY17-18	FY18-19	FY19-20		Federal	State / Other Government	Private	Professors/ Grants/COA (FY15 Only)	Other (Loans)			Fund Balance FY16 - FY20 (Unrestricted)
Public Utilities																	
Ground Level Storage Tank Maintenance (Repairs at the Colonies, Whitehouse Farms & Sherwood Estates)	\$ 160,000	\$ 387,006	\$ 160,000	\$ 160,000				\$ 160,000								\$ 180,000	\$ 100,000
Parham Landing SBR Diffuser Maintenance Project			\$ 58,000	\$ 58,000				\$ 58,000								\$ 58,000	\$ 58,000
GIS Utility Mapping & Upgrades (Using "as-built" drawings)	\$ 40,000		\$ 40,000	\$ 40,000				\$ 40,000								\$ 40,000	\$ 40,000
Software & Hardware Upgrade for Aqua Aerobics Computer - (From Windows XP to Windows 7 for the Aqua Aerobics SBR System)			\$ 29,710	\$ 29,710				\$ 29,710								\$ 29,710	\$ 29,710
DEQ Water Supply Feasibility Study - To determine the feasibility of water withdrawal from the Pamunkey River			\$ 200,000	\$ 200,000	\$ 100,000			\$ 300,000								\$ 300,000	\$ 200,000
Storage Garage Building - (Replace existing block storage building)				\$ 139,740				\$ 139,740								\$ 139,740	
F-550 Utility Truck - (With crane body & 5000lb mounted crane)					\$ 37,782			\$ 37,782								\$ 37,782	
Water System Interconnections (Based on completed FY15 study for \$135,000) (\$6.9 million loan over 30 yrs at 3% = \$352,033 annual P&I)	\$ 135,000			\$ 1,200,000	\$ 1,200,000	\$ 4,500,000	\$ 6,900,000	\$ 6,900,000								\$ 6,900,000	
Talleysville SPS Spiral Lift Grinder - (Grind large objects deposited into the waste water treatment system)					\$ 175,000			\$ 175,000								\$ 175,000	
Solids Stabilization, Dewatering & Disposal for PLWWTP - (Sludge Disposal) (\$7.3 million loan; 30-Yrs; 3% = \$372,441 annual P&I)					\$ 7,300,000			\$ 7,300,000								\$ 7,300,000	
Bottoms Bridge Cary Street Well Replacement (Backup Well)					\$ 740,000			\$ 740,000								\$ 740,000	
FONK Talleysville Well Replacement					\$ 570,000			\$ 570,000								\$ 570,000	
Parham Landing Intelpro Upgrade					\$ 130,000			\$ 130,000								\$ 130,000	
New Water Treatment Plant Construction - (Annual P&I = \$1,502,897)								\$ -								\$ -	\$ 35,000,000
Reclaimed Water Line Extension								\$ -								\$ -	\$ 4,185,000
Parham Landing W&S Service Area Expansion - Water and wastewater infrastructure from Rt. 33 to Interstate 64.	\$ 154,532							\$ -								\$ -	\$ 2,500,000
Elevated Storage Tank for Bricksblair								\$ -								\$ -	\$ 2,500,000
The Colonias-Fire Flow Upgrades								\$ -								\$ -	\$ 825,000
Sherwood Estates Backup Water Supply Well - Existing well is 40 yrs old								\$ -								\$ -	\$ 105,000
Manitree Glen Backup Water Supply Well								\$ -								\$ -	\$ 105,000
Water System Audit and Leak Detection								\$ -								\$ -	\$ 50,000
Public Utilities - Vehicles			\$ 22,000	\$ 22,000	\$ 44,000			\$ 66,000								\$ 66,000	\$ 22,000
Public Utilities - Computers	\$ 5,500		\$ 14,000	\$ 14,000	\$ 14,000	\$ 3,000	\$ 5,000	\$ 42,000								\$ 42,000	\$ 14,000
TOTAL CIP - ALL DEPTS.	\$ 340,500	\$ 541,538	\$ 543,710	\$ 297,740	\$ 1,243,782	\$ 10,118,000	\$ 4,505,000	\$ 16,708,232	\$ -	\$ -	\$ -	\$ 7,300,000	\$ 9,408,232	\$ 543,710	\$ 45,384,000	\$ 45,384,000	



MEMORANDUM

DATE: February 17, 2015

TO: New Kent County Planning Commission

SUBJECT: Suggested Motions for Capital Improvements Program Resolution PC-07-15

SUGGESTED MOTIONS

1. In order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County, I move to adopt Resolution No. PC-07-15, to forward the Capital Improvements Program FY2016 through FY2020 to the New Kent County Board of Supervisors with a favorable recommendation.

or

2. I move to forward the Capital Improvements Program FY2016 through FY2020 to the New Kent County Board of Supervisors with an unfavorable recommendation for the following reasons:

- a. _____
- b. _____
- c. _____

Attachments:

*Resolution PC-07-15

**PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA**

PC-07-15

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 16th day of March, 2015:

<u>Present:</u> Katherine Butler Jack Chalmers Joanne Schmit Laura Rose Charna Moss-Gregory Richard Kontny Michael Lane Edward Pollard Tommy Tiller Patricia Townsend Joyce Williams	<u>Vote:</u>
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Motion was made by _____, which carried _____, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND CAPITAL IMPROVEMENT
PROJECTS TO THE BOARD OF SUPERVISORS FOR THE FY2016
THROUGH FY2020 CAPITAL IMPROVEMENTS PROGRAM**

WHEREAS, the New Kent County Planning Commission received a listing of proposed capital investments by the County for the period of Fiscal Year 2016 through Fiscal Year 2020 and has carefully reviewed the capital projects which involve public facilities, land acquisition, and transportation improvements for conformance with the Comprehensive Plan; and

WHEREAS, the Commission has evaluated the need for and priority of each of the capital projects contained for its contribution to the appropriate development of the County in both the short and long terms; and

WHEREAS, the Commission has conducted a duly advertised public hearing and carefully considered the public comment received; and

THEREFORE BE IT RESOLVED this, the 16th day of March, 2015, by the New Kent County Planning Commission that the capital projects listed below within the Capital Improvement Program FY2016-2020 be, and it is hereby transmitted to the New Kent County Board of Supervisors with a recommendation for approval:

Medium Intensity Runway Lighting Rehabilitation	\$100,000
Rehabilitate Ramp Pavement - Design Phase	\$95,000
Security Fence - Construction	\$50,000
Disadvantaged Business Enterprise Study	\$12,000
Re-Chassis Ambulance 593	\$118,000
Burn Building Construction	\$75,000
Radio Shop	\$20,000
Data Networking Infrastructure Upgrades	\$85,000
Historic School Fields/Bleachers	\$25,000
George Watkins Elementary Roof Repair	\$50,000
New Kent Elementary Roof Maintenance	\$10,000
N K Middle School Gym Floor Replacement	\$125,000
Bus/Car Replacement	\$285,000
NKHS Technology One to One Learning Initiative	\$300,000
NKMS HVAC Replacement	\$35,000
NKMS Lighting	\$70,000
All Schools - Misc Improvement/Equipment	\$25,000
Vehicle Replacement - General Government	\$390,000
Computer Replacement - General Government	\$81,190
TOTAL GENERAL GOVERNMENT	\$1,951,190
Ground Level Storage Tank Maintenance	\$180,000
Parham Landing SBR Diffuser Maintenance Project	\$58,000
GIS Utility Mapping & Updates	\$40,000
Software and Hardware Upgrades for Aqua Aerobics Computer	\$29,710
DEQ Water Supply Feasibility Study	\$200,000
Vehicle Replacement - Public Utilities	\$22,000
Computer Replacement - Public Utilities	\$14,000
TOTAL PUBLIC UTILITIES	\$543,710
Total - FY2016 Administration Recommended Projects	\$2,494,900

BE IT FURTHER RESOLVED that the New Kent County Planning Commission finds that all of the capital projects contained on the project list referenced herein conform to the County Comprehensive Plan.

Attested:

Michael Lane, Chairman, New Kent County Planning Commission

PUBLIC NOTICE
NEW KENT COUNTY PLANNING COMMISSION

Notice is hereby given that the following public hearings will be held on Monday, March 16, 2015 at 7:00 PM or as soon thereafter as possible in the Boardroom of the New Kent County Administration Building located in New Kent, VA, where the Planning Commission of the County of New Kent may or may not take action on the following:

- Proposed FY16 Land Development Fees:** Pursuant to Sections 15.2-107 and 15.2-2204 of the Code of Virginia, as amended, consider the proposed FY16 Land Development Fees, as set forth below:

LAND DEVELOPMENT FEES – PROPOSED CHANGES ARE UNDERLINED

Item	FY 15 Adopted Fee	Suggested FY 2016 Base Fee	Plus Per Lot/Acre Fee
Erosion and sediment control plan review and inspection fee; Single Family for one acre or less	\$75.00	\$75.00	\$10.00 per acre
Erosion and sediment control plan review and inspection fee; Commercial, Mixed Use, or Industrial	\$100.00	\$100.00	\$50.00 per acre
Land Disturbance Permit – Single Family	\$210.00	\$210.00	\$20.00 per acre
Land Disturbance Permit Renewal Fee – all Single Family	\$35.00	<u>\$50.00</u>	
Land Disturbance Permit – Commercial, Mixed Use, or Industrial	\$465.00	\$465.00	\$50.00 per acre
Land Disturbance Permit Renewal Fee – Commercial, Mixed Use, or Industrial	\$35.00	<u>\$150.00</u>	
Erosion and sediment control – Environmental Violation	\$100.00	\$100.00	
Environmental Restoration Fee (SFD)	\$25.00	\$25.00	
RPA Modification Permit	\$95.00	\$95.00	
Wetlands development/CBPA application fee (when public hearing required)	\$625.00	\$625.00	
CBPA Exception Permit	\$250.00	\$250.00	
RPA Signs	\$7.50	<u>\$10.00 per sign</u>	

- Capital Improvement Plan (CIP):** Pursuant to Section 15.2-2239 of the Code of Virginia the Planning Commission will review and make recommendations on the New Kent County Fiscal Year 2016-2020 Capital Improvement Plan based on the County’s Comprehensive Plan. The Commission will review estimates of the cost of public facilities and life cycle costs, including any road improvement and any transportation improvement the locality chooses to include in its capital improvement plan and as provided for in the Comprehensive Plan, and the means of financing them, to be undertaken in the ensuing fiscal year and in a period not to exceed the next four years. Copies of the proposed CIP (summary as well as a detailed version) are available for review in the Department of Community Development and the Financial Services Department. Some revisions may occur prior to the public hearing. The proposed CIP contains project requests totaling approximately \$28,874,228 for the next five fiscal years.

Questions concerning these public hearings may be directed to the Department of Community Development at 804-966-9690. All interested persons may appear and present their opinions at the above time and place. If a member of the public cannot attend the hearings, comments may be submitted in writing to the New Kent County Department of Community Development, P.O. Box 150, New Kent, VA 23124; by fax to 804-966-8531, or by email to planning@newkent-va.us. Comments received by 12:00 P.M. on the day of the hearing will be distributed to Planning Commission members and made a part of the public record. Copies of applications, proposed resolutions, and staff reports may be viewed approximately one week prior to the hearings in the New Kent County Department of Community Development at 12007 Courthouse Circle, New Kent, VA 23124 during regular business hours or at <http://www.co.new-kent.va.us/index.aspx?NID=143>. Anyone needing assistance or accommodation under the provisions of the Americans with Disabilities Act should call the County Administrator's Office at (804)966-9683 at least 24 hours in advance of the hearing. If a meeting cannot be held due to inclement weather, the meeting will be held on the next business day that the New Kent County offices are open.

PLANNING COMMISSION

Please use 10 point upper case type in the heading as indicated. Use 8 point type in the body.

Please publish notice for two successive weeks.

Kindly send certification of publication and bill to New Kent County, Department of Community Development. Charge to Account # 81060-3600.