

**WEST POINT TOWN COUNCIL  
ADVERTISED MEETING  
August 10th, 2015**

**I. CALL TO ORDER**

The West Point Town Council held an Advertised meeting on Monday, August 10th, 2015 to hold a public hearing on Floodplain Ordinance 06-2015. The Honorable James H. Hudson III called the meeting to order at 5:00 p.m.

Members Present: Mayor, Jim Hudson; Vice Mayor, Deborah Ball; Tina Gulley; Wayne Healy; Jack Lawson and Chris Vincent.

Members Absent: Paul Kelley and Bub Shreaves

Also Present: John B. Edwards, Jr., Town Manager; Karen Barrow, Town Clerk; Holly McGowan, Community Development Coordinator; Tim Sawyer, Building Inspector.

**II. Public Hearing, Ordinance 06-2015 / Floodplain**

Mr. Hudson read the advertisement for the public hearing then asked the Town Clerk if anyone asked to review the Ordinance.

The Town Clerk advised that no requests were received.

Mr. Hudson asked if anyone asked for assistance to attend the public hearing.

The Town Clerk advised that no requests were received.

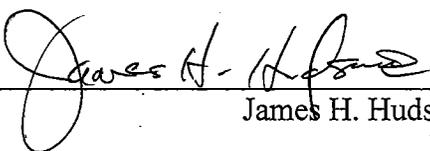
Mr. Hudson opened the floor for citizens to comment on Ordinance 06-2015. There being none, the public hearing was closed.

**A Action**

Mr. Lawson made a motion for Town Council to adopt Ordinance 06-2015, Floodplain, to reflect correct language for manufactured homes, seconded by Mrs. Ball. Upon roll call, Mrs. Ball; Mrs. Gulley; Mr. Healy; Mr. Lawson and Mr. Vincent all voted "Aye".

**III. Adjournment**

There being no further business the meeting was adjourned.

  
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James H. Hudson, III  
Mayor

ATTEST:

  
\_\_\_\_\_  
Karen M. Barrow  
Town Clerk

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Chapter 29 - FLOODS  
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**DIVISION 5. EXISTING STRUCTURES IN FLOODPLAIN AREAS**

Sec. 29-91. Existing structures in floodplain areas.

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

- (1) 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.
- (2) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than 50 percent of its market value shall conform to the Virginia Uniform State-wide Building Code.
- (3) 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 article and shall require the entire structure to conform to the Virginia Uniform State-wide Building Code.

(Ord. of 5-29-90, art. VI; Ord. No. 05-09, 3-30-09)

**ARTICLE VII – ENACTMENT<sup>[1]</sup>**

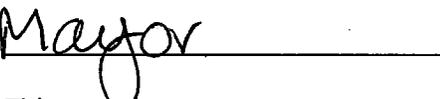
Enacted and ordained this 10<sup>th</sup> day of August, 2015. This ordinance, number 06-2015, of The Town of West Point, Virginia, shall become effective upon passage.

**VOTE:**

Jim H. Hudson, III Mayor N/A

Deborah Ball	Aye
Tina Gulley	Aye
Wayne Healy	Aye
Paul Kelley	Absent
Jack Lawson	Aye
Bub Shreaves	Absent
Chris Vincent	Aye

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Title

Attested

  
\_\_\_\_\_  
Karen M. Barrow, Town Clerk

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DIVISION 1. GENERALLY

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Sec. 29-31. Purpose.

Sec. 29-32. Applicability.

Sec. 29-33. Compliance and liability.

Sec. 29-34. Abrogation and greater restrictions.

Sec. 29-35. Severability.

Sec. 29-36. Penalties.

Sec. 29-37. Definitions.

Sec. 29-38. Administration.

Secs. 29-39—29-50. Reserved.

**Sec. 29-31. Purpose.**

This ordinance is adopted pursuant to the authority granted to localities by Va. 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:

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

(Ord. of 5-29-90, § 1.1)

**Sec. 29-32. Applicability.**

These provisions shall apply to all lands within the jurisdiction of the Town of West Point and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the community by FEMA.

(Ord. of 5-29-90, § 1.2)

**Sec. 29-33. Compliance and liability.**

- (a) 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 article and any other applicable ordinances and regulations which apply to uses with the jurisdiction of this article.
- (b) The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodplain area, or that land used permitted within such area will be free from flooding or flood damage.
- (c) This article shall not create liability on the part of the Town of West Point or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made there under.
- (d) Records of actions associated with administering the ordinance from which this article derives shall be kept on file and maintained by the zoning administrator.

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(Ord. of 5-29-90, § 1.3; Ord. No. 05-09, 3-30-09)

**Sec. 29-34. Abrogation and greater restrictions.**

This article supersedes any ordinance currently in effect in flood-prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this article.

(Ord. of 5-29-90, § 1.4)

**Sec. 29-35. Severability.**

If any section, subsection, paragraph, sentence, clause, or phrase of this article shall be declared invalid for any reason whatever, such decision shall not affect remaining portions of this article. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this article are hereby declared to be severable.

(Ord. of 5-29-90, § 1.5)

**Sec. 29-36. Penalties.**

- (a) Any person who fails to comply with any of the requirements or provisions of this article or directions of the permit officer or any other authorized employee of the Town of West Point shall be guilty of a misdemeanor of the first class and subject to the penalties therefore.
- (b) The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of this ordinance of the Town of West Point are addressed in this section of the ordinance.
- (c) 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 to permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the town council to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

(Ord. of 5-29-90, § 1.6)

**Sec. 29-37. Definitions.**

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

*Appurtenant or accessory structure:* Accessory structures not to exceed 200 sq. ft.

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

*Base flood elevation:* The Federal Emergency Management Agency designated 100-year water surface elevation.

*Basement:* Any area of the building having its floor subgrade (below ground level) on all sides.

*Board of appeals:* The board appointed to review appeals made by individuals with regard to decisions of the administrator in the interpretation of this article.

*Coastal A Zone:* Flood hazard areas that have been delineated as subject to wave heights between 1.5 feet and 3 feet.

*Development:* Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures and other paving, utilities, and filling, grading, excavation, mining, dredging, drilling operations or storage of equipment or materials.

*Elevated building:* A nonbasement 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 infringements 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.

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*Existing construction:* Structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

*Flood or flooding:*

- (1) 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; or (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 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.
- (2) The collapse or subsistence 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 flash flood or an abnormal tidal surge, or by some similarly unusual and unanticipated force of nature such as 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.

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

*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.

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

*Floodproofing:* 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.

*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 a designated height.

*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 the construction next to the proposed walls of a structure.

*Historic structure:* Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or
  - b. Directly by the Secretary of the Interior in states without approved program.

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

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*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:

*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 meets and bounds or *structure* is not located in a *special flood hazard area*.

*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.

*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*.

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

*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 nonelevation design requirements of Federal Code 44 CFR, Section 60.3.

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

*Manufactured home park/subdivision:* A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

*Mean Sea Level:* 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.

*New construction:* For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM of June 18, 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.

*New manufactured home park/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 floodplain management regulations adopted by a community.

*Post-FIRM structures:* A structure for which construction or substantial improvement occurred after the initial FIRM date of June 18, 1990.

*Pre-FIRM structures:* A structure for which construction or substantial improvement occurred on or before the effective date of the initial FIRM date of June 18, 1990.

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

*Recreational vehicle:* A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and

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- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

*Repetitive loss structure:* A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions, in which the cost of the repair, on the average, equaled or exceeded 25 percent 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.

*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 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

*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 area:* The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in article 3, Section 3.2 of the ordinance from which this article derives.

*Start of construction:* The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of permit date. The actual start means either the first site placement of permanent construction of a structure on a site, such as 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 construction means the first alteration on any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

*Structure:* For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

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

- (1) 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
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".
- (3) 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.

*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, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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*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.

(Ord. of 5-29-90, art. II; Ord. No. 05-09, 3-30-09)

**Sec. 29-38. Administration.**

(a) Designation of the Floodplain Administrator

- (1) The Floodplain Administrator 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 Town Manager of the Town of West Point or his designee.
  - b. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
  - c. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

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(b) Duties and responsibilities of the Floodplain Administrator:

- (1) 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 Special Flood Hazard Areas (SFHA).
  - b. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
  - c. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
  - d. Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
  - e. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.
  - f. Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
  - g. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
  - h. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
  - i. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
  - j. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of West Point, 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 the 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 insurance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of the 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 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

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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 Town of West Point 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 governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
  - q. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
  - r. It is the duty of the 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).
- (c) Use and Interpretation of FIRMs
- (1) 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 as 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 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.

Adopted: August 10<sup>th</sup> 2015

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- 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 and used where no base flood elevations 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.

**Secs. 29-39—29-50. Reserved.**

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DIVISION 2. ESTABLISHMENT OF FLOODPLAIN AREAS

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Sec. 29-51. Description of areas.

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Sec. 29-51. Description of areas.

- (a) *Basis of districts.* The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the flood insurance study (FIS) and the flood insurance rate maps for the Town of West Point prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 2, 2015, as amended.

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 Town of West Point offices.

- (1) The special floodplain district shall be those areas identified as either an AE zone or A1-30 zone on the maps accompanying the flood insurance study for which base flood elevations for the one percent annual chance flood have been provided but for which no floodway has been delineated.
- (2) The approximated floodplain district shall be those areas identified as an A or A99 zone on the maps accompanying the flood insurance study. In these zones, no detailed flood profiles or elevations are provided, but the 100-year floodplain boundary has been approximated.
- (3) The shallow flooding district shall be those areas identified as zone AO or AH on the maps accompanying the flood insurance study.
- (4) 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:

Buildings and structures within this zone shall have the lowest floor elevated to or above the base flood elevation plus one foot of freeboard, and must comply with the provisions in Section 29-71A and Section 29-71B.

- (5) The VE or V Zones on FIRMs accompanying the FIS shall be those areas that are known as Coastal High Hazard areas, extending from offshore to the inland limit of a primary frontal dune along the open coast. For these areas, the following provisions shall apply:
  - a. All new construction and substantial improvements in Zones V and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:
    1. The bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated to or above the base flood level (recommended greater than or equal to one foot) if the lowest horizontal structural member is parallel to the direction of the wave approach or elevated at least one foot above the base flood level if the lowest horizontal structural member is perpendicular to the direction of the wave approach; and
    2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent change of being equaled or exceeded in any given year (one percent annual chance).
  - b. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with the accepted standards of practice for meeting the provisions of Section 29-51 (a)(5)a.
  - c. The Floodplain Administrator shall obtain the elevation, in relation to the mean sea level, of the bottom of the lowest structural member of the lowest floor, excluding the 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.

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- e. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of no less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot, either by design or when so required by local codes, may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - 1. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components, structural and nonstructural. Maximum wind and water loading values to be used in this determination shall each have a one percent change 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 nonstructural fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
- h. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.

(b) *Overlay concept.*

- (1) 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.
- (2) 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.
- (3) 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.

(Ord. of 5-29-90, § 3.1; Ord. No. 05-09, 3-30-09)

**Sec. 29-52. Official floodplain map.**

The boundaries of the special flood hazard area and floodplain districts are established as shown on the flood insurance map which is declared to be part of this article and which shall be kept on file at the Town of West Point offices.

(Ord. of 5-29-90, § 3.2; Ord. No. 05-09, 3-30-09)

**Sec. 29-53. Boundary changes.**

(1) Jurisdictional Boundary Changes

- (1) The Town floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption. Such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and

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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 the authority to adopt and enforce floodplain management regulations for a particular area.

(2) District Boundary Changes:

- (1) The delineation of the floodplain areas may be revised by the town council where natural or manmade 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 any individual documents needed for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

(Ord. of 5-29-90, § 3.3)

**Sec. 29-54. Interpretation of area boundaries.**

Initial interpretations of the boundaries of the floodplain areas shall be made by the permit officer. Should a dispute arise concerning the boundaries, the board of 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 technical evidence if he so desires.

(Ord. of 5-29-90, § 3.4)

**Sec. 29-55. Submitting technical data.**

A community's base flood elevation may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

**Sec. 29-56. Letters of Map Revision.**

When development in the floodplain will cause or causes a change in the flood base 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.

Example cases:

- (a) Any development that causes a rise in the base flood elevations within the floodway.
- (b) 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.
- (c) Alteration or relocation of a stream, including but not limited to installing culverts and bridges.

**Secs. 29-57—29-70. Reserved.**

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DIVISION 3. AREA PROVISIONS

***DIVISION 3. AREA PROVISIONS***

Sec. 29-71. Permit and application requirements.

Sec. 29-71A. General standards.

Sec. 29-71B. Specific standards.

Sec. 29-71C. Standards for approximated floodplain.

Sec. 29-71D. Standards for the special floodplain district.

Sec. 29-71E. Standards for the floodway.

Sec. 29-71F. Standards for the shallow flooding district.

Sec. 29-71G. Standards for subdivision proposals.

Secs. 29-72—29-80. Reserved.

Sec. 29-71. Permit and application requirements.

- (a) *Permit requirement.* All uses, activities and development occurring within the floodplain area shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, such as the Virginia Uniform State-wide Building Code. Prior to the issuance of any such permit, the permit officer shall require all applications to include compliance with all applicable state and federal laws. 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) *Alteration or relocation of watercourse.* Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within the town, an application must be submitted to the U.S. Corps of Engineers, the Virginia Marine Resources Commission and the Virginia Department of Environmental Quality (a joint permit application is available from any one of these organizations). Further notification of the proposal shall be given to all adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation) and the Federal Emergency Management Agency.
- (c) *Site plans and permit applications.* All applications for development in the floodplain areas and all building permits issued for the floodplain shall incorporate the following information:
- (1) The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
  - (2) For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.
  - (3) The elevation of the base flood at the site.
  - (4) Topographic information showing existing and proposed ground elevations.
- (Ord. of 5-29-90, § 4.1; Ord. No. 05-09, 3-30-09)

**Sec. 29-71A. General standards.**

In all special flood hazard areas the following provisions shall apply:

- (1) New construction and substantial improvements shall be done according to the Virginia Uniform State-wide Building Code and anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) 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 requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) 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.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

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- (7) New and replacement sanitary sewages systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of the ordinance from which this article derives, shall meet the requirements of "new construction" as contained in this article.
- (10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this article, shall be undertaken only if said nonconformity is not furthered, extended or replaced.
- (11) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.
- (12) The flood-carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
- (13) All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- (14) All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.
- (15) All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The town council may require a primarily underground system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- (16) All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- (17) Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage opening shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

(Ord. No. 05-09, 3-30-09)

**Sec. 29-71B. Specific standards.**

In all special flood hazard areas where base flood elevations have been provided in the flood insurance study or generated by a certified professional according to Section 29-51, the following provisions shall apply:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. See Section 29-51 (a)(4) and (a)(5) for Coastal A and VE zones.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. See Section 29-51 (a)(4) and (a)(5) for requirements for Coastal A and VE zones. Buildings located in all A1-30, AE, and AH zoned may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are watertight 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 floodproofed, shall be maintained by the Zoning Administrator.

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- (3) *Elevated buildings.* Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
- a. Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed areas 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, AO, AE and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
    1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
    2. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding.
    3. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
    4. The bottom of all required openings shall be no higher than one foot above the adjacent grade.
    5. Openings may be equipped with screens, louvers or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
    6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.
- (4) *Standards for manufactured homes and recreational vehicles.*
- a. In all designated Special Flood Hazard Areas, 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.
  - c. All recreational vehicles placed on sites must either:
    1. Be on the site for fewer than 180 consecutive days; and
    2. Be fully licensed and ready for highway use; or
    3. Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in subsection (4)a. above.

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.
- (6) *Coastal A Zones.* Buildings and structures within this zone shall have the lowest floor elevated to or above the base flood elevation plus one foot of freeboard, and must comply with the provisions in Section 29-71A and Section 29-71B.
- (7) *VE or V Zones.*
- a. All new construction and substantial improvements in Zones V and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:
    1. The bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated to or above the base flood level (recommended greater than or equal to one foot) if the lowest horizontal structural member is parallel to the direction of the wave approach or elevated at least one foot above the base flood level if the lowest horizontal structural member is perpendicular to the direction of the wave approach; and
    2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall

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each have a one percent change of being equaled or exceeded in any given year (one percent annual chance).

- b. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with the accepted standards of practice for meeting the provisions of Section 29-51 (a)(5)a.
- c. The Floodplain Administrator shall obtain the elevation, in relation to the mean sea level, of the bottom of the lowest structural member of the lowest floor, excluding the 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 non-supporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of no less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot, either by design or when so required by local codes, may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - 1. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components, structural and nonstructural. Maximum wind and water loading values to be used in this determination shall each have a one percent change 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 nonstructural fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
- h. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.

(Ord. No. 05-09, 3-30-09)

**Sec. 29-71C. Standards for approximated floodplain.**

The following provisions shall apply with the approximate floodplain district:

- (1) When base flood elevation data or floodway data have not been provided, the zoning administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or any other source, in order to administer the provisions of section 29-71. When such base flood elevation data is utilized, the zoning administrator shall obtain:
  - a. The elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and
  - b. If the structure has been floodproofed in accordance with the requirements of subsection 29-71B(2) of this article, the elevation in relation to the mean sea level to which the structure has been floodproofed.
- (2) When the data is not available from any source as in subsection (1) above, the lowest floor of the structure shall be elevated to no lower than one foot above the highest adjacent grade.

(Ord. No. 05-09, 3-30-09)

**Sec. 29-71D. Standards for the special floodplain district.**

The following provisions shall apply within the special floodplain district:

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- (1) 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 on the flood rate insurance map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the Town of West Point.
- (2) Development activated in zones A1-30, AE and AH, on the town's flood insurance rate map which increases the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies with the Town of West Point's endorsement for a conditional flood insurance rate map revision, and received the approval of the Federal Emergency Management Agency.

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

(Ord. No. 05-09, 3-30-09)

**Sec. 29-71E. Standards for the floodway.**

The following provisions shall apply within the floodway when it has been identified as in subsection 29-71C(1):

- (1) 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 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 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 the Town of West Point's endorsement for a Conditional Letter of Map Revision (CLOMR) and receives the approval of the Federal Emergency Management Agency.

- (2) If subsection (1) above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 29-71.
- (3) The placement of manufactured homes is prohibited, except in an existing manufactured homes park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation and encroachment standards are met.

(Ord. No. 05-09, 3-30-09)

**Sec. 29-71F. Standards for the shallow flooding district.**

The following provisions shall apply within the shallow flooding district:

- (1) 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 flood insurance rate map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than three feet above the highest adjacent grade.
- (2) All new construction and substantial improvements of nonresidential structures shall:
  - a. Have the lowest floor, including basement, elevated to or above the flood depth specified on the flood insurance rate map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade; or
  - b. Together with attendant utility and sanitary facilities be completely floodproofed 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.
- (3) Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

(Ord. No. 05-09, 3-30-09)

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**Sec. 29-71G. Standards for subdivision proposals.**

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five acres, whichever is the lesser.

(Ord. No. 05-09, 3-30-09)

**Secs. 29-72—29-80. Reserved.**

DIVISION 4. VARIANCES; FACTORS TO BE CONSIDERED

***DIVISION 4. VARIANCES; FACTORS TO BE CONSIDERED***

Sec. 29-81. Variances; factors to be considered.

Secs. 29-82—29-90. Reserved.

Sec. 29-81. Variances; factors to be considered.

- (a) Whenever any person is aggrieved by a decision of the permit officer with respect to the provisions of this article, it is the right of that person to appeal to the board of appeals for a variance. Such appeal must be filed, in writing, within 30 days after the determination by the permit officer. Upon receipt of such an appeal, the board of appeals shall set a time and place for the purpose of hearing the appeal, which shall be not less than ten, nor more than 30 days from the date of the receipt of appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties at the time they may appear and be heard. The determination by the board of appeals shall be final in all cases.

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

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of 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.

- (b) In passing upon applications for variances, the board of appeals shall satisfy all relevant factors and procedures specified in other sections of the management article and consider the following additional factors:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one percent chance flood elevation.
  - (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
  - (3) The proposed water supply and sanitation systems and ability of these systems to prevent disease, contamination and unsanitary conditions.
  - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - (5) The importance of the services provided by the proposed facility to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
  - (12) 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.
  - (13) Such other factors which are relevant to the purposes of this article.
- (c) The board of 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

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evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

- (d) Variances shall be issued only after the board of 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.
- (e) Variances shall be issued only after the board of appeals has determined that the variance will be the minimum required to provide relief from any hardship to the applicant.
- (f) The board of appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation:
  - (1) Increases the risks to life and property; and
  - (2) Will result in increased premium rates for flood insurance.
- (g) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

(Ord. of 5-29-90, art. V)

**Secs. 29-82—29-90. Reserved.**