

## **Article 17. General Provisions**

### **Sec. 22-17-1. Zoning permits.**

(a) Buildings or structures shall be started, reconstructed, or enlarged only after a zoning permit has been obtained from the administrator or his designated agent.

(b) Each application for a zoning permit shall be accompanied by a site plan which complies with the provisions of Article 23 of this chapter. In the case of any building, structure or use which is exempt from the provisions of Article 23, a sketch plan shall be submitted. Each such sketch plan shall show the property in such detail as the administrator may deem necessary to ensure compliance with this chapter. Except as may otherwise be required in a particular case, such sketch shall show the size and shape of the parcel of land on which the proposed building, structure or use is to be established, the nature of the proposed use of the building or land, and the size, shape and location of such building, structure or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land, including all setbacks and required yards as prescribed by this chapter and by all applicable deed restrictions known to the applicant. Any other information which the administrator may deem necessary for construction of the application may be required. If the proposed building, structure or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator.

(c) Activity for which a zoning permit was issued must commence within twenty-four months or such permit shall expire and be of no further effect.

### **Sec. 22-17-2. Reserved.<sup>11</sup>**

### **Sec. 22-17-3. Certificate of occupancy.**

Land or buildings may be used or occupied only after a certificate of occupancy has been issued by the administrator or his designated agent. Such a permit shall state that the building, or the proposed activity, or the use of the land, complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. The permit shall be issued within ten (10) days after the erection or structural alteration of such building or part has conformed with the provisions of this chapter.

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<sup>11</sup> Sec. 22-17-2 is inserted by the Editor as a reserved section to correct the omission of this section number in the Code.

**Sec. 22-17-4. Special use permits.**

A. When permitted by this chapter, special use permits may be authorized by the governing body upon the governing body's finding that the proposed use will not be detrimental to the character and development of the adjacent area.

B. The governing body may place conditions on the issuance of a special use permit.

C. All applications for a special use permit shall require notice and public hearing pursuant to Section 15.2-2204 of the Code of Virginia. A rezoning application and, when required, a special use permit, may be applied for simultaneously and the required public hearing and the required notice and the rezoning request and special use permit request may be held jointly.

D. In the governing body's consideration of a special use permit application, the governing body shall consider the following guidelines:

- (a) The proposed use shall not tend to change the character and established pattern of the area or community in which it proposes to locate.
- (b) The proposed use shall be compatible with the uses permitted by right in that zoning district and shall not adversely affect the use and/or value of neighboring property.
- (c) The applicant shall also submit with the application a current survey of the subject property and a sketch plan of all proposed improvements.

E. Applications for a special use permit shall be accompanied by a filing fee as determined by a fee schedule adopted by the governing body.

F. Any special use permit issued pursuant to this article may, after notice and hearing as provided in subsection C hereof, be revoked by the governing body upon a finding that (1) the use for which such permit was granted has been abandoned; or (2) that the holder of such permit has substantially breached the conditions of such permit. For purposes of this section, a special use permit may be deemed abandoned by the governing body if the approved use has not been initiated within two years from the date of approval.

G. In the event that any parcel which is subject to a special use permit issued pursuant to this article shall be rezoned to any other district, the effect of such rezoning on such permit shall be as follows:

- (a) If such use shall be a use by right in such other district, such permit shall be deemed to be repealed and the use shall be deemed a use by right;

(b) If such use shall be a use by special use permit only, such permit shall remain in full force and effect, subject to the provisions of this chapter;

(c) If such use shall not be a permitted use, such permit shall be deemed to have been repealed, and the use permitted thereby shall be deemed to be a non-conforming use in accordance with Article 16 of this chapter.

**Sec. 22-17-5. Uses not provided for.**

If in any district established under this chapter, a use is not specifically permitted and an application is made by a property owner to the administrator for such use, the administrator shall refer the application to the planning commission. Thereafter, the said application shall be treated as a resolution of the planning commission in accordance with section 22-20-1(c).

**Sec. 22-17-6. Widening of highways and streets.**

Whenever there shall be plans in existence a project in the Secondary or Primary Six Year Plan that has been approved by the Virginia Department of Transportation and the governing body for the widening of any street or highway, the administrator may require additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right of way, in order to preserve and protect the right of way for such proposed street or highway widening.

**Sec. 22-17-7. Reserved.**

**Sec. 22-17-8A. FLOOD PROTECTION.<sup>12</sup>**

**Sec. 22-17-8A.1. Purpose.**

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

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<sup>12</sup> Section 22-17-8 and all subsections (22-17-8.1 through 22-22-17-8.9, inclusive) were repealed and Section 22-17-8A, including subsections thereof, was adopted by 12-19-07 Ordinance.

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. (Ord. 12-19-07)

**Sec. 22-17-8A.2. Applicability.**

These provisions shall apply to all lands within the jurisdiction of Fluvanna County and identified as being in the 100-year floodplain by the Federal Insurance Administration, as more particularly set forth hereinafter, and as the same may be amended from time to time. (Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.3. Definitions.**

For purposes of this Section 22-17-8A, the following terms shall be defined as follows:

- A. Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
- B. Base flood elevation - The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation.
- C. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- D. 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.
- E. REPEALED (Ord. 5-7-08)
- F. 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.

- G. 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).
- H. 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.
- I. 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.
  2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as 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.
- J. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- K. 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.
- L. 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.

- M. 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 programs.
- N. 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 44CFR §60.3.
- O. 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 180 consecutive days.
- P. 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 Flood Insurance Rate Map on or after December 31, 1974, whichever is later, 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.

- Q. Recreational vehicle - A vehicle which is
1. built on a single chassis;
  2. 400 square feet or less when measured at the largest horizontal projection;
  3. designed to be self-propelled or permanently towable by a light duty truck; and,
  4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- R. REPEALED (Ord. 5-7-08)
- S. 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 Article 3, Section 3.2 of this ordinance.
- T. 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.
- U. 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.

- V. 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 structure's continued designation as a historic structure.
- W. 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. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.4. 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 ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. 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. 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 that land uses permitted within such district will be free from flooding or flood damages.
- C. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Zoning Administrator.
- D. This ordinance shall not create liability on the part of Fluvanna County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder. (Ord. 12-19-07)

**Sec. 22-17-8A.5. Abrogation and Greater Restrictions.**

This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance. (Ord. 12-19-07)

**Sec. 22-17-8A.6. 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 shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable. (Ord. 12-19-07)

**Sec. 22-17-8A .7. 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 (FIRM) for Fluvanna County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated as of May 16, 2008, as amended. (Ord. 5-7-08)

A. The Floodway District 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 hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map. (Ord. 5-7-08)

B. The Approximated Floodplain District shall be those areas identified as an A Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated. (Ord. 5-7-08)

C. REPEALED (Ord. 5-7-08)  
(Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.8. Overlay Concept.**

A. 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.

- B. 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.
- C. 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. 12-19-07)

**Sec. 22-17-8A.9. Official Flood Hazard Area and Floodplain Map.**

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Boundary and Floodway Map and/or Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Fluvanna County offices. (Ord. 12-19-07)

**Sec.22-17-8A.10. District Boundary Changes.**

The delineation of any of the Floodplain Districts may be revised by Fluvanna County 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 the Federal Insurance Administration. (Ord. 12-19-07)

**Sec. 22-17-8A.11. Interpretation of District Boundaries.**

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning 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. (Ord. 12-19-07; Ord. 5-7-08)

**Sec.22-17-8A.12. Permit and Application Requirements.**

All uses, activities, and development occurring within any floodplain district 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 Code, including, without limitation, this

Chapter and Chapter 19 (the Fluvanna County Subdivision Ordinance). Prior to the issuance of any such permit, the zoning administrator shall require all applications to include compliance with all applicable state and federal laws. No use, activity, and/or development will be permitted which would adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

A. 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:

1. For structures to be elevated, the elevation of the lowest floor (including basement).
2. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
3. The elevation of the one hundred (100)-year flood. (Ord. 12-19-07)

**Sec.22-17-8A.13. General Standards.**

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

- A. New construction and substantial improvements shall be according to the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse or lateral movement of the structure. (Ord. 5-7-08)
- 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 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.
- I. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.
- J. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- K. In riverine situations, adjacent communities and the Department of Conservation and Recreation (Floodplain Management) shall be notified prior to any alteration or relocation of a watercourse, and copies of such notifications shall be submitted to FEMA.
- L. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.  
(Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.14. Specific Standards.**

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according) 22-17-8A.14 the following provisions shall apply:

**A. 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.

## 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 no lower than one foot above the base flood elevation. 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 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.

## C. Elevated Buildings

Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall

1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. 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: (Ord. 5-7-08)
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
  - c. If a building has more than one enclosed area, each area must have openings to

allow floodwaters to automatically enter and exit.

- d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
- e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

#### D. Standards for Manufactured Homes and Recreational Vehicles

- 1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in 22-17-8A.12 (A) and (B), and 22-17-8A.13 (A).
- 2. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that
  - a. the lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation; or,
  - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the grade;
  - c. the manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement;
- 3. All recreational vehicles placed on sites must either
  - a. be on the site for fewer than 180 consecutive days;

b. 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,

c. meet all the requirements for manufactured homes in 22-17-8A.13.

(Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.15. Standards for Approximated Floodplain.**

The following provisions shall apply within the Approximate Floodplain District:

A. 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 this ordinance. When such base flood elevation data is utilized, the Zoning Administrator shall obtain: (Ord. 5-7-08)

1. the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and,
2. if the structure has been floodproofed in accordance with the requirements of 22-17-8A.13 (B) of this ordinance, the elevation in relation to the mean sea level to which the structure has been floodproofed.

B. When the data is not available from any source as in 22-17-8A.14 (A), the lowest floor of the structure shall be elevated to no lower than three feet above the highest adjacent grade. (Ord. 5-7-08)

(Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.16. REPEALED** (Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.17. Standards for the Floodway.**

The following provisions shall apply within the Floodway when it has been identified as in 22-17-8A.15 (A):

A. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a

registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood. (Ord. 5-7-08)

Development activities in which increase the water surface elevation of the base flood be allowed, provided that the applicant first applies – with Fluvanna County’s endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency. (Ord. 5-7-08)

B. If 22-17-8A.17(A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Ordinance.

C. Prohibited Uses:

1. Dwellings.
2. Manufactured homes, Mobile homes or trailers.

D. Permitted Uses:

The following uses may be permitted within the Floodway District in accordance with the requirements of this section and as specifically provided in the underlying zoning district:

1. General farming, agriculture, dairying and forestry.
2. Parks and playground.
3. Preserves and conservation areas.
4. Small boat docks (with repair).
5. Off-street parking as required by this ordinance.
6. Accessory uses, as defined.

E. By Special Use Permit:

The following uses shall be permitted only by special use permit approved by the governing body pursuant to Article 17 of this chapter:

1. Lodges, hunting clubs, boating clubs, camping facilities, and golf clubs.
2. Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities;  
public water and sewer transmission lines, treatment facilities, and pumping facilities; electrical power transmission lines and substation; oil and gas transmission lines and substation; oil and gas transmission pipelines and pumping stations; microwave transmission and relay towers and substations; unmanned telephone exchange centers.
3. Extraction of sand, gravel and other material (except no increase in level of flooding or velocity is caused thereby).

(Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.18.** REPEALED (Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.19. Standards for Subdivision Proposals.**

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser. (Ord. 12-19-07)

**Sec. 22-17-8A.20. Special Use Permit, waiver, modification and variance of regulations in floodway district.**

- A. When any development is permitted by Special Use Permit in the Floodway District, any adverse effect on flood heights shall be fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities as required.
- B. The applicant for a Special Use Permit shall be notified, in writing, that the issuance of a Special Use Permit to construct below the one hundred (100) year flood elevation (1) increases risks to life and property, and (2) will result in increased premium rates for flood insurance. A record of such notification as well as conditions of the Special Use Permit, including justification of their issuance, shall be maintained and shall be noted in the periodic report submitted to the Federal Insurance administration. (Ord. 5-7-08)
- C. A Special Use Permit may be issued only upon the determination that the Special Use Permit is the minimum relief from exceptional hardship. In the governing body's consideration of a Special Use Permit application in a Flood Plain District, the governing body shall consider the following factors: (Ord. 5-7-08)
  - 1) The showing of good and sufficient cause.

- 2) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
- 3) The danger that materials may be swept on to other lands or downstream to the injury of others.
- 4) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- 5) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- 6) The importance of the services provided by the proposed facility to the community.
- 7) The requirements of the facility for a waterfront location.
- 8) The availability of alternative locations not subject to flooding for the proposed use.
- 9) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- 10) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- 11) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- 12) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- 13) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- 14) Such other factors which are relevant to the purposes of this ordinance.

The Board of Supervisors 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.

Special Use Permits may be issued only after the Board of Supervisors 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.

Special Use Permits shall be issued only after the Board of Supervisors has determined that Special Use Permit will be the minimum required to provide relief from exceptional hardship to the applicant.

The Board of Supervisors shall notify the applicant for a Special Use Permit, in writing, that the issuance of a Special Use Permit to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all Special Use Permit actions, including justification for the issuance of the Special Use Permit. All Special Use Permits that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

(Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-9. Conditional rezoning.**

A. As part of a rezoning or amendment to the zoning map, the owner of any property subject to any application for such rezoning or amendment to the zoning map, may voluntarily proffer, in writing submitted to the zoning administrator prior to a public hearing before the governing body, reasonable conditions for such rezoning or amendment to the zoning map, in addition to the regulations provided for the zoning district by this chapter, provided that such proffered conditions comply in full with all provisions of Sections 15.2-2297 and 15.2-2298 of the Code of Virginia.

B. Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. No amendment or variation of conditions created pursuant to this

section shall take effect until after a public hearing before the governing body advertised in accordance with Section 15.2-2204 of the Code of Virginia. Except as the governing body may expressly provide in a particular case, each such condition shall be deemed to be integral to, and nonseverable from, the rezoning or amendment to the zoning map to which it applies.

C. No proffer for the dedication of real property or payment of cash shall be accepted unless the county has adopted a capital improvement program pursuant to Section 15.2-2239 of the Code of Virginia. No such dedication or cash payment shall be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program, provided that nothing herein shall prevent the county from accepting proffered conditions which are not normally included in such capital improvement program. If such proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.

D. In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

E. Nothing in this section shall be construed to affect or impair the authority of the governing body to:

(a) Accept proffered conditions which include provisions for timing or phasing of dedications, payments or improvements; or

(b) Accept or impose valid conditions pursuant to subsection (A)(3) of Section 15.2-2286 of the Code of Virginia or other provision of law.

F. The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone. The zoning administrator is vested with all necessary authority on behalf of the governing body and pursuant to Section 15.2-2299 of the Code of Virginia to administer and enforce conditions attached to a rezoning or

amendment to a zoning map, though all decisions made pursuant to this section are subject to appeal to the governing body according to the procedures described in Section 15.2-2301 of the Code of Virginia.

**Sec. 22-17-10. Sewerage system required.**

Every use, structure or building in which sanitary sewer facilities is required by the Uniform Statewide Building Code, or in which any such facility is proposed to be used, shall be served by a lawful public sewerage system or a private sewerage system approved by appropriate authority and designed in accordance with the regulations of the Virginia Department of Health. No administrative permit for any approval pursuant to this chapter shall be approved unless and until the applicant for such permit shall have established that such a system is available to the use, structure or building proposed. In the case of any septic disposal system, the applicant shall demonstrate, to the reasonable satisfaction of the Fluvanna County Health Department and to the zoning administrator, that the parcel of land to be used for such use, structure or building is capable of supporting a primary septic disposal system as well as a full backup system adequate to serve the use proposed. (Ord. 9-17-08)

**Sec. 22-17-11. Frontage and lot width requirements.**

A. Except as otherwise expressly provided in this chapter, every parcel of land shall abut a road dedicated to public use and maintained by the Virginia Department of Transportation. Except as specifically permitted in this section, frontage shall not be less than required by the regulations of the district in which the parcel is located.

(1) Frontage on a cul-de-sac may be reduced to not less than fifty feet, provided that driveway separation shall be in accordance with the standards of the Virginia Department of Transportation and no more than five (5) lots shall have frontage on any one cul-de-sac.

(2) For a lot located at the end of an access easement, frontage shall not be less than the full width of the easement.

(3) Minimum required lot width at the setback line shall be the same as the minimum frontage required by the regulations of the district in which the parcel is located and shall not be reduced under this section

**Sec. 22-17-12. Special provisions relating to open space.**

A. Open space defined: For purposes of this chapter, except as otherwise provided in this Chapter, "open space" shall mean land or water left in undisturbed natural condition and

unoccupied by building lots, structures, streets and roads and parking lots. The foregoing notwithstanding, the following shall be permitted in open space: (Ord. 9-17-08)

- (1) Agriculture, forestry and fisheries, including appurtenant, non-residential structures, including, but not limited to, barns, sheds, fences and the like;
- (2) Private, non-commercial recreational structures;
- (3) Public utilities otherwise permitted;
- (4) Wells and sewage disposal systems otherwise permitted;
- (5) Stormwater detention and flood control devices.

B. Designation and protection of open space: Open space shall be designated and shall be dedicated to public use or subject to easements in a form approved by the governing body and the county attorney as sufficient to restrict the land subject thereto as provided herein. Except as otherwise approved in a particular case, such easements shall be granted to the county or to the Commonwealth of Virginia. Any easement dedicated or granted in accordance with the terms of Chapter 10.1, Title 10.1 of the Code of Virginia (Sections 10.1-1009, ff.) or with the terms of Chapter 17, Title 10.1 of the Code of Virginia (Sections 10.1-1700, ff.) shall be deemed, prima facie, to be sufficient to satisfy this section. (Ord. 9-17-08)

**Sec. 22-17-13. Location of certain accessory buildings.**

Except as otherwise expressly provided in this chapter, in the A-1, R-1 and R-2 districts, no accessory building shall be located within 25 feet of any rear lot line or within 15 feet of any side lot line.

**Sec. 22-17-14. Height regulations applicable to certain structures.** [Repealed] (Ord. 9-21-11)<sup>13</sup>

**Sec. 22-17-14.1. Special provisions related to amateur radio antennas.** [Repealed] (Ord. 9-21-11)<sup>14</sup>

**Sec. 22-17-15. Special exception for placement of mobile home.**

The zoning administrator may approve placement of a mobile home in the event that a residence is destroyed or made unlivable by fire, flood, wind, or other natural causes, provided that placement shall be for a period not longer than 12 months from the date of

<sup>13</sup> Prior ordinance references: 8-2-06

<sup>14</sup> Prior ordinance references: 6-15-05

occurrence of the event, and also provided that written approval is obtained from the respective property owners association, if any.

**Sec. 22-17-16. Special use permit for power production plants.**

A. A power production plant may be constructed pursuant to Section 22-4-2.2 and section 22-17-4 of this chapter, upon showing by the applicant of the following:

(1) The proposed location for the power plant is supported by a clear dependence upon the confluence of utilities necessary for the operation of the power production plant and the transmission of the electricity the plant generates;

(2) The proposed power plant will not be of substantial detriment to adjacent property and the general character of the district will not be changed as a result of its operation. This shall be accomplished, in part, by meeting the following minimum criteria:

(a) The proposed site shall be a minimum of 300 acres and allow for at least 87% of the property to be left as open space;

(b) The proposed site features natural vegetation or topographical features that provide for ample perimeter screening and buffering to minimize any visual or other impacts on adjacent property;

(c) The proposed location has adequate access to the road system and shall not create or exacerbate traffic congestion;

(3) In addition to meeting the minimum site-related criteria listed in (a), (b) and (c) above, the design of the proposed electrical power production plant shall be subject in all respects to the provisions of this chapter except as listed in (a) through (e), below. These exceptions shall be deemed to be compatible with the general character of the district and provide further protection of adjacent property from potential adverse impacts:

(a) The height of any buildings or structures shall not exceed the lesser of 145 feet above ground level or the height of the tallest chimney as determined by paragraph (b) below;

(b) The height of any chimney shall not exceed the lesser of 145 feet above ground level or the height determined by "good engineering practice" as determined by the State Air Pollution Control Board or the Department of Environmental Quality pursuant to applicable regulations addressing stack heights;

(c) The amount of impervious surface coverage shall be thirteen per cent (13%) or less, provided that storm water detention ponds or reservoirs shall be considered pervious surface(s);

(d) Any buildings or structures over 12 feet in height, other than public utility structures subject to the provisions of Section 22-17-14 of this chapter, shall be located a minimum of 300 feet distant from adjoining property lines or edge of road rights-of-way;

(e) There shall be a minimum of 300-foot wide vegetated buffer around the development which, in all other respects, conforms to the County landscaping requirements to be reviewed and approved along with the other requirements of a site development plan;

(4) In addition to obtaining zoning approval from Fluvanna County, the proposed power plant also will obtain, and maintain, valid permits as required by all other regulatory bodies of the state and federal governments.

**Sec. 22-17-17. Public safety buildings exempt from certain requirements.**

Except as otherwise expressly provided hereinafter, any building used exclusively for the provision of public safety services shall be exempt from the acreage, frontage, setback and yard requirements of this ordinance. The foregoing notwithstanding, reasonable acreage, frontage, setbacks and yards may be required by the County, in the review of a site plan, in any case in which it shall be determined that particular requirements relating to acreage, frontage, setbacks and yards are necessary to protect the public safety. For purposes of this section, the term "public safety services" shall be deemed to include (a) the Sheriff of the County; (b) the Virginia State Police; (c) any other police agency established under the laws of the Commonwealth and certified by the Sheriff as providing public police services within the County; and (d) fire and/or emergency medical services companies and departments as defined in Virginia Code Section 27-8.1.

**22-17-18. Necessary subordinate uses.**

Notwithstanding any other provision of this Chapter, there shall be permitted in all districts all uses which are necessary, subordinate, incidental and essential to a lawful main use and which cannot reasonably be located entirely on the same parcel, or in the same district, as the main use. Such necessary subordinate uses shall include, but shall not necessarily be limited to, driveways and other means of physical access; utility facilities, including sewerage and water supply systems; required off-street parking; surface water drainage and stormwater management facilities and structures. (Ord. 03-15-06)