

## Chapter 8.5 FLOODPLAIN MANAGEMENT\*

---

**\*Editor's note:** An ordinance adopted July 7, 1987, amended the Code by adding provisions designated as Chapter 8.5 by the editor. Titles and classification of articles and sections herein have also been designated by the editor, as authorized by the ordinance.

**Cross references:** Erosion and sediment control, Ch. 7.5; drainage and flood control in subdivisions, § 15-13; site plans, Ch. 15.5; wetlands zoning, Ch. 20; zoning, App. B.

### ARTICLE I. IN GENERAL

#### Sec. 8.5-1. Title.

This chapter shall be known and may be cited as the Floodplain Management Ordinance of Gloucester County, Virginia.

(Ord. of 7-7-87, § 1-1)

#### Sec. 8.5-2. Definitions.

For the purposes of this chapter:

*Base flood elevation (BFE)* means the Federal Emergency Management Agency designated one-hundred-year water surface elevation plus one (1) more foot for new construction only.

*Base flood/one hundred-year flood* means a flood that, on the average, is likely to occur once every one hundred (100) years, or that has a one (1) percent chance of occurring each year, although the flood may occur in any year.

*Basement* means any area of a building having its floor subgrade (below ground level) on all sides.

*Board of contractor appeals* means the board appointed to review appeals made by individuals with regard to decisions of the building official in the interpretation of this chapter, as defined by section 5-35, et seq., of this Code.

*Breakaway wall* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

*Buffer modification* means an approved reduction of the one-hundred-foot resource protection area buffer, as defined by section 5.5-3 of this Code.

*Chesapeake Bay Preservation Ordinance Administrative Board* means a group of five (5) county employees appointed by the county administrator that evaluates buffer modification and reserve drainfield waiver requests, pursuant to Chapter 5.5 of the Gloucester County Code.

*Critical facility* means those structures or facilities which produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials; hospitals, nursing homes and housing which are likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood event; police stations, vehicle and equipment storage facilities and emergency operations centers which are needed for flood response activities before, during and after a flood event; and public and private utility facilities which are vital to maintaining or restoring normal services to flooded areas before, during and after a flood event. Structures used solely for private residential purposes are excluded from this definition.

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

*Development* means any 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.

*Flood* means a temporary inundation of normally dry land areas.

*Flood-related erosion* means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

*Flood-related erosion area* or *flood-related erosion prone area* means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

*Floodplain* means (1) a relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

*Floodproofing* means any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

*Floodway fringe* means the area between the floodway and one hundred-year floodplain boundaries. The floodway fringe encompasses the portion of the floodplain that could be completely obstructed without increasing the water surface elevation of the one hundred-year flood by more than one (1.0) foot at any point (shown on FIRM).

*Freeboard* means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Land development* means (i) the improvement of one (1) lot, or two (2) or more contiguous lots, tracts, or parcels of land for any purpose involving (a) a group of two (2) or more buildings, or (b) the division or allocation of land or space between or among two (2) or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features; (ii) a subdivision of land.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

*Mean sea level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevation shown on a community's flood insurance rate map are referenced.

*New construction* means structures for which the start of construction as herein defined commenced on or after the effective date of this chapter. This term does not apply to any work on a structure existing before the effective date of this chapter.

*Nonconforming structures* means a structure or use of a structure or premises which lawfully existed before the enactment of these provisions.

*Principally above ground* means where at least fifty-one (51) percent of the actual cash value of a structure, less land value, is above ground.

*Recreational vehicle* means a vehicle which is built on a single chassis; contains four hundred feet (400) square feet, or less, when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

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

*Resource protection area (RPA)* means lands at or near the shoreline that have an intrinsic value to water quality due to the ecological and biological processes they perform, or are sensitive to impacts which may result in significant degradation to the quality of state waters. This definition includes tidal wetlands, tidal shores, non-tidal wetlands adjacent to tidal wetlands, and a one hundred (100) foot buffer area adjacent to and landward of the components listed above, and along both sides of any perennial stream, all as defined in section 5.5-3 of this Code.

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

*Subdivision* means the division or redivision of lots, tracts, or parcels of land by any means into two (2) or more lots, tracts, parcels, or other divisions of land, including a change in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership, or building, or lot development.

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

*Substantial improvement* means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

*Variance* means a grant of relief by a community from the terms of a floodplain management regulation.

*Water dependent use or facility* means a development of land that cannot exist outside of the resource protection area (RPA) and must be located on the shoreline because of the intrinsic nature of its operation. These facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers, as well as marinas, boat docking structures, beaches and other public water orientated recreation areas, and fisheries and other marine resource facilities.

(Ord. of 7-7-87, Art. II; Ord. of 9-6-94)

### **Sec. 8.5-3. Statement of intent.**

These regulations shall apply to all property located within an area identified as being subject to inundation by water of the one hundred-year flood event, and as such shall supplement the regulations of the zoning district within which such property is located. These regulations are intended to ensure the health, safety and general welfare of the public by ensuring that inhabitants and property within a designated floodplain area are safe from damage to flooding and will not endanger others. This chapter complies with the requirements of the National Flood Insurance Program (42 U.S.C. 4001--4128) of the Federal Insurance Administration. These regulations are necessary in order for all property owners within the county to be eligible for the National Flood Insurance Program and thereby purchase such insurance at nominal rates. Where these regulations are at variance with the general regulations of the county, it is intended that these regulations shall apply.

(Ord. of 7-7-87, § 1-2)

### **Sec. 8.5-4. Authority.**

This chapter is adopted pursuant to the authority granted by Title 62.1, Chapter 3.5, sections 62.1-44.108 through 62.1-44.112 of the Code of Virginia, 1950, as amended.

(Ord. of 7-7-87, § 1-3)

**Sec. 8.5-5. Purpose.**

The purpose of these provisions is to prevent the loss of property and life, 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, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies;
- (2) Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding;
- (3) Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage;
- (4) Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

(Ord. of 7-7-87, § 1-4)

**Sec. 8.5-6. Applicability.**

These provisions shall apply to all lands within the jurisdiction of Gloucester County, Virginia, and identified as areas subject to inundation by water of the one hundred-year flood event.

(Ord. of 7-7-87, § 1-5)

**Sec. 8.5-7. Compliance.**

No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this chapter and any other applicable ordinances and regulations.

(Ord. of 7-7-87, § 1-6)

**Sec. 8.5-8. Abrogation and greater restrictions.**

This chapter 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 those provisions are more restrictive.

(Ord. of 7-7-87, § 1-7)

**Sec. 8.5-9. Existing structures in floodplain district.**

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:

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

(Ord. of 7-7-87, Art. VIII)

**Sec. 8.5-10. Penalties.**

Any person who fails to comply with any or all of the requirements or provisions of this chapter or direction of the building official or any other authorized employee of the county shall be guilty of an offense and, upon conviction, shall pay a fine to the County of Gloucester, Virginia, of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00). Each day during which any violation of this chapter continues

shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance or permit it to continue; and all such person[s] 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 chapter may be declared by the board of supervisors to be a public nuisance and abatable as such.

(Ord. of 7-7-87, Art. VII)

**Sec. 8.5-11. Warning and disclaimer of liability.**

The degree of flood protection required by the floodplain management ordinance of Gloucester County, Virginia, is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter and the districts established hereby shall not create liability on the part of the county or any officer, agency or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. of 7-7-87, Art. IX)

**Sec. 8.5-12. Severability.**

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

(Ord. of 9-6-94)

Secs. 8.5-13--8.5-20. Reserved.

**Sec. 8.5-21. Basis of districts.**

The various floodplain districts shall include areas subject to inundation by waters of the one hundred-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) for Gloucester County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated August 4, 1987, as amended.

(1) The floodway district (AE zones) is delineated, for purposes of this chapter, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred-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 5 of the above-referenced flood insurance [study] and shown on the accompanying flood insurance rate map.

(2) The flood-fringe district (AE zones) shall be that area of the one hundred-year floodplain not included in the floodway district. The basis for the outermost boundary of the district shall be the one hundred-year flood elevations contained in the flood profiles of the above-referenced flood insurance study and as shown on the accompanying flood insurance rate map.

(3) The approximated floodplain district (A zones) shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the flood insurance study. For these areas, the one hundred-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred-year flood evaluation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analysis shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods

used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by Gloucester County Office of Community Development and Codes Compliance.

(4) Coastal high-hazard areas district (V and VE zones) shall be those portions of land within the coastal floodplain subject to inundation by high velocity waters and wave action.

(Ord. of 7-7-87, § 3-1; Ord. of 9-6-94)

**Sec. 8.5-22. Official floodplain map.**

The boundaries of the floodplain districts are established as shown on the flood insurance rate maps which are declared to be a part of this chapter and which shall be kept on file at the county office of community development and codes compliance.

(Ord. of 7-7-87, § 3-2)

**Sec. 8.5-23. District boundary changes.**

The delineation of any of the floodplain districts may be revised by the board of supervisors where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency or individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

(Ord. of 7-7-87, § 3-3)

**Sec. 8.5-24. Interpretation of district boundaries.**

Initial interpretation of the boundaries of the floodplain districts shall be made by the director of community development and codes compliance. Should a dispute arise concerning the boundaries of any of the districts, the board of contractor 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 of contractor appeals and to submit his own technical evidence if he so desires.

(Ord. of 7-7-87, § 3-4; Ord. of 9-6-94)

**Sec. 8.5-25. Designated official.**

The director of community development and codes compliance is designated to coordinate the implementation of this article and to submit an annual report to the administrator of the National Flood Insurance Program concerning such implementation.

(Ord. of 7-7-87, § 3-5)

Secs. 8.5-26--8.5-35. Reserved.

**Sec. 8.5-36. General requirements.**

(a) All uses, activities and development occurring within any floodplain district shall be undertaken only upon the issuance of a building permit. Such development shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances such as the Gloucester County Zoning Ordinance, the Gloucester County Wetlands Zoning Ordinance [Chapter 20], the Gloucester County Soil and Erosion Sedimentation Control Ordinance [Chapter 7.5], the Gloucester County Site Plan Ordinance [Chapter 15.5], the Gloucester County Subdivision Ordinance [Chapter 15], the Gloucester County Chesapeake Bay Preservation Ordinance [Chapter 5.5], and the Virginia Uniform Statewide Building Code [Chapter 5, Article 1]. Prior to the issuance of any such permit, the building official shall require all applications to include compliance with all applicable state and federal laws.

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

(c) Prior to any proposed alteration or relocation of any channels or of any water course, stream, etc., within this jurisdiction an approved permit shall be obtained from the U.S. Army Corps of Engineers, the Virginia

Department of Environmental Quality (DEQ), and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations or from the Office of Community Development and Codes Compliance). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Soil and Water Conservation) and the Federal Insurance Administration.

(d) All proposals for the subdivision of land and/or new development shall include a plan drawing showing the location of all existing and proposed public and private utilities, facilities and drainage structures. If the one hundred-year flood elevation has been determined by the flood insurance study or other reliable source approved by the County of Gloucester, Virginia, such flood elevation shall be delineated on the proposed plan, provided that the more stringent elevation data shall control. In addition, within the approximated floodplain district, flood and floodway information from federal, state, or other acceptable sources shall be used when available. If the proposal is greater than fifty (50) lots or greater than five (5) acres, whichever is the lesser, and the one hundred-year flood elevation has not been determined for the land area, the developer shall determine the one hundred-year flood elevation and delineate such flood elevation on the proposed plan. All plans shall be certified by a registered professional engineer and shall be reviewed by the subdivision agent to assure that:

(1) All such proposals are consistent with the need to minimize flood damage.

(2) All necessary permits have been received from the State of Virginia and appropriate federal agencies.

(3) All public and private utilities and facilities (including sewer, water, telephone, electric, gas, etc.) are located and constructed to minimize or eliminate flood damage.

(4) Adequate drainage is provided to reduce exposure to flood hazard. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

(5) Adequate measures have been taken to minimize the adverse environmental impacts of the proposed development.

(e) Recreational vehicles placed on sites either: (1) be on the site for fewer than one hundred eighty (180) consecutive days, be fully licensed and ready for highway use, or (2) meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes as contained in the Uniform State Building Code. 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.

(f) All new buildings must be constructed on properly designed and compacted fill (ASTM D-698 or equivalent) that extends beyond the building walls before dropping below the base flood elevation and has appropriate protection from erosion and scour. The design of the fill or the fill standard must be approved by a registered engineer.

(g) Where a nonresidential structure is intended to be made watertight below the base flood level, (i) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this chapter, and (ii) a record of certificate which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the director of community development and codes compliance.

(Ord. of 7-7-87, § 4-1; Ord. of 9-6-94)

### **Sec. 8.5-37. Floodway district (AE zones).**

In the floodway district no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred-year flood evaluation.

(Ord. of 7-7-87, § 4-2; Ord. of 9-6-94)

**Sec. 8.5-38. Flood-fringe and approximated floodplain districts (AE and A zones).**

In the flood-fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying area provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

Within the approximated floodplain district, the applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the one hundred-year flood elevation more than one (1) foot at any one (1) point. The engineering principle--equal reduction of conveyance--shall be used to make the determination of increased flood heights.

Within the floodway area delineated by the applicant, the provisions of section 8.5-37 shall apply.

(Ord. of 7-7-87, § 4-3; Ord. of 9-6-94)

**Sec. 8.5-39. Coastal high hazard district (V and VE zones).**

In the coastal high hazard area district (V and VE zones), the following regulations shall apply in addition to the regulations cited in sections 8.5-36 through 8.5-38:

(1) No land below the level of the one hundred-year flood event may be developed unless the new construction or substantial improvement is located outside the resource protection area (RPA) (measured landward one hundred (100) feet from the mean high tide or associated tidal wetlands) or a buffer modification to the RPA requirement has been granted by the Chesapeake Bay Preservation Ordinance Administrative Board. This one hundred-foot buffer requirement excludes water dependent uses as defined;

(2) All manufactured homes to be placed or substantially improved within V or VE zones shall comply with the same standards as set forth for conventional housing in V or VE zones.

(3) There shall be no fill used as structural support.

(4) Existing nonconforming uses and/or structures located on land below the level of the one hundred-year flood event shall not be expanded.

(5) Within V zones on the flood insurance rate map, obtain and record the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement on permit applications.

(Ord. of 7-7-87, § 4-4; Ord. of 9-6-94)

**Sec. 8.5-40. Critical facilities.**

The building of critical facilities in the five hundred-year floodplain is prohibited.

(Ord. of 9-6-94)

Secs. 8.5-41--8.5-50. Reserved.

**Sec. 8.5-51. Permit requirements.**

A permit is required for all development (including, but not limited to, the subdivision of land, construction of buildings and structures, placement of manufactured homes, fill or any combination of these) in the floodplain district and shall be granted only after necessary permits from all applicable local, state and federal agencies have been obtained.

(1) The application for a building permit shall contain information including, but not limited to, the following:

- a. Name and address of applicant. The applicant must be the owner or any authorized agent of the owner.
- b. Name and address of owner of land on which construction is proposed.
- c. Name and address of contractor.
- d. Site location.

- e. A plan of the site showing the size and location of the proposed construction as well as any existing buildings or structures.
- f. Summary description of proposed work and estimate cost.
- g. Topographic information showing existing and proposed ground elevations.
- h. Depending on the type of structure involved, the following information shall also be included in the application:

For the structures to be elevated above the one hundred-year flood elevation, the plans shall show:

- 1. The size of the proposed structure(s) and its relation to the lot where it is to be constructed.
- 2. The elevations of the proposed final grading and lowest floor, and the existing ground and one hundred-year flood elevation as certified by a registered professional engineer, surveyor or architect.
- 3. The method of elevating the proposed structure, including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. These plans shall be prepared by a registered professional engineer or architect.

(2) Upon completion of construction and prior to the issuance of the occupancy permit, the elevation certificate shall be completed and submitted to the building official who shall ensure that construction is in accordance with this chapter. If the structure has been floodproofed, the elevation to which the structure has been floodproofed shall also be supplied.

(Ord. of 7-7-87, § 5-1; Ord. of 9-6-94)

#### **Sec. 8.5-52. Variances.**

(a) *Appeal procedure.* Whenever any person is aggrieved by a decision of the building official with respect to the provisions of this chapter, it is the right of that person to appeal to the board of contractor appeals for a variance. Such appeal must be filed, in writing, within thirty (30) days after the determination by the building official. Upon receipt of such an appeal, the board of contractor appeals shall set a time and place for the purpose of hearing the appeal, which shall be not less than ten (10) nor more than thirty (30) days from the date of receipt of the appeal. Notice of the time and place of the hearing if the appeal shall be given to all parties at which time they may appear and be heard. The determination by the board of contractor appeals shall be final in all cases.

(b) *Consideration and issuance of variances.*

(1) In passing upon applications for variances, the board of contractor appeals shall satisfy the following factors:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any floodway area that will cause an increase in the one hundred-year flood elevation.
- b. The danger that materials may be swept on to other lands or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- e. The importance of the services provided by the proposed facility to the community.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- j. The safety of access to the property in time of flood of ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

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

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

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

(3) Variances shall only be issued after the board of contractor 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, (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

(4) Variances shall only be issued after the board of contractor appeals has determined that the variance will be the minimum relief to any hardship.

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

(6) A record of the above notification as well as all variable actions, including justification for their issuance, shall be maintained in the office of community development and codes compliance, and a record of all variances which are issued shall be noted in the annual report submitted to the Federal Insurance Administrator.

(Ord. of 7-7-87, §§ 6-1, 6-2; Ord. of 9-6-94)