

DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

STAFF REPORT

- PROPOSED COUNTY CODE AMENDMENT
- PROPOSED PFM AMENDMENT
- APPEAL OF DECISION
- WAIVER REQUEST

Proposed amendments to Chapter 112 (Zoning Ordinance) and Appendix A of The Code of the County of Fairfax, Virginia, and the Public Facilities Manual RE: National Flood Insurance Program

Authorization to Advertise	<u>June 8, 2010</u>
Planning Commission Hearing	<u>June 30, 2010</u>
Board of Supervisors Hearing	<u>July 27, 2010</u>
Prepared by:	<u>Code Analysis Division JAF (703) 324-1720</u>
	June 8, 2010

STAFF REPORT

A. Issues:

Proposed amendments to Chapter 112 (Zoning Ordinance) and Appendix A of *The Code of the County of Fairfax, Virginia* (County Code), and the Public Facilities Manual (PFM). The proposed amendments address issues related to the County's participation in the National Flood Insurance Program (NFIP) and the consistency of the County's floodplain regulations with the requirements of the NFIP.

B. Recommended Action:

Staff recommends that the Board of Supervisors adopt the proposed amendments to Chapter 112 (Zoning Ordinance) and Appendix A of *The Code of the County of Fairfax, Virginia* (County Code), and the Public Facilities Manual (PFM).

C. Timing:

Board of Supervisors authorization to advertise – June 8, 2010

Planning Commission Public Hearing – June 30, 2010

Board of Supervisors Public Hearing – July 27, 2010

Effective Date – September 17, 2010

D. Source:

Department of Public Works and Environmental Services

E. Coordination:

The proposed amendments have been prepared by the Department of Public Works and Environmental Services (DPWES) and coordinated with the Department of Planning and Zoning and the Office of the County Attorney. The proposed amendment to the PFM has been recommended for approval by the Engineering Standards Review Committee.

F. Background:

The County has participated in the NFIP, administered by the Federal Emergency Management Agency (FEMA), since January 8, 1972, when the initial County Flood Insurance Study (FIS) became effective. The NFIP makes flood insurance available to County property owners and the County must meet certain minimum floodplain

management criteria to participate in the NFIP. Because flood insurance is not otherwise available from insurance companies, property owners would not have access to flood insurance without the NFIP. The County also participates in the NFIP Community Rating System (CRS) under which the County has received a Class 7 rating, the highest in Virginia, for its floodplain management program. The Class 7 rating qualifies policy holders for a fifteen percent discount in the premium cost of flood insurance. Flood insurance is required for any building that has a federally-backed mortgage located in a flood hazard area depicted on the County's Flood Insurance Rate Map (FIRM). Federally-backed mortgages include mortgages from banks where deposits are insured by the Federal Deposit Insurance Corporation. As a result, virtually all buildings with mortgages in flood hazard areas require flood insurance. Under the NFIP, flood insurance is also available for structures located outside of identified flood hazard areas at reduced rates.

The current FIS and FIRM have been in effect since March 5, 1990. On August 4, 2003, the Board authorized the County Executive, on behalf of the County, to sign a Cooperating Technical Partners (CTP) agreement with FEMA to partner in updating the County's FIRM. Since then, County staff have worked with FEMA to update the County's FIS and associated FIRM. The updated FIS and FIRM have been completed and will become effective on September 17, 2010. As a condition of continued eligibility in the NFIP, the County is required to adopt or show evidence of adoption of floodplain management regulations that meet NFIP requirements prior to the effective date. The next step in the process is for the County to formally adopt the new FIS and FIRM by incorporating a specific reference to them in the County Zoning Ordinance along with the other proposed amendments. Once the amendments to the Zoning Ordinance and PFM have been adopted, they will be forwarded to the State Floodplain Coordinator and FEMA. The County eventually will receive an acknowledgement from FEMA that the County's Floodplain Management Program is in compliance with the requirements of the NFIP. A copy of the draft amendments and existing County floodplain regulations were provided to the State Floodplain Coordinator for a preliminary review to identify any additional changes that might be needed to fully comply with the NFIP requirements in 44 CFR § 60.3(c). Based on that review, staff believes that all the requirements of 44 CFR § 60.3(c) will have been satisfactorily addressed by provisions in the Virginia Uniform Statewide Building Code (USBC), the Zoning Ordinance, or the PFM upon adoption of the proposed amendments.

The revised FIS includes new hydrologic and hydraulic analyses of Cameron Run from its confluence with the Potomac River to 5,600 feet upstream of the confluence of Pike Branch and a storm surge study of the tidal portions of the Potomac River (both provided by United States Army Corps of Engineers). For consistency with the restudies, several of the sheets delineating floodplains along Cameron Run, Hunting Creek, and the Potomac River contained in Appendix A of the County Code previously adopted by the Board are proposed to be deleted. In addition, the FIRM database has been digitized to create a Digital Flood Insurance Rate Map (DFIRM) which provides a more accurate representation of the horizontal location of flood boundaries and can be incorporated into the County's Geographic Information

System. As a result of these changes, the status of some properties and buildings with respect to being located in or out of the floodplain also will change and some properties currently in the floodplain will be subject to increased flood depths.

Owners of property in or near flood hazard areas depicted on the currently effective FIRM were first notified by letter, in September 2008, of pending changes to the extent of flood hazard areas. A preliminary FIS report and FIRM were released on May 31, 2006. County staff provided initial comments to FEMA on the proposed changes and a revised preliminary FIS and FIRM were released on June 5, 2009. County staff provided a second set of comments to FEMA and the preliminary FIS and FIRM were finalized. Notice of the flood elevations was published in the Federal Register on September 8, 2009, and in the Washington Post on October 2, 2009, and October 9, 2009. Upon expiration of a statutory 90 day appeal period, the County received the Letter of Final Determination dated March 17, 2010, advising that the FIS and FIRM would become effective on September 17, 2010.

G. Proposed Amendments:

The proposed amendments to the Zoning Ordinance include provisions that:

- Specify certain administrative responsibilities of the Director with respect to the NFIP.
- When permitted by the floodplain regulations, increases in water surface elevation of more than one foot in a floodplain designated by FEMA must be approved by the Federal Insurance Administrator prior to the approval of construction by the County.
- Incorporate requirements for notification of FEMA, the Department of Conservation and Recreation, and adjacent communities of changes in base flood elevations as appropriate.
- Clarify the requirements for elevation of new and substantially improved dwellings and additions for consistency with FEMA regulations.
- Require that Elevation Certificates, when required, be completed and submitted to the County upon placement of the lowest floor, including basement, and prior to further vertical construction.
- Incorporate explicit requirements that the construction of buildings and structures conform to the requirements of the USBC and that all necessary Federal or State permits be received.
- Incorporate explicit requirements for recreational vehicles located in floodplains.
- Incorporate a specific reference to the new FIS and FIRM in the floodplain definition and also define major floodplain.
- Incorporate definitions specific to NFIP requirements. Where these definitions conflict with existing Zoning Ordinance definitions, clarifications have been added to the existing definitions to identify the circumstances where each applies.

The proposed amendment to the PFM:

- Replaces a reference to the Virginia Department of Environmental Quality in the PFM with a reference to DCR and clarifies that notification to FEMA and DCR of major alterations of natural channels is required for FEMA designated floodplains only.

The proposed amendments to Appendix A of the County Code:

- Delete references to certain sheets in the 1966 USGS floodplain study for segments of the adopted floodplains in Cameron Run that have been superseded by newer information in the FIS and FIRM.

H. REGULATORY IMPACT:

The proposed amendments are required for the County's continued eligibility in the NFIP and clarify several provisions of the County's floodplain regulations that are necessary to meet FEMA requirements. The regulatory impact is principally the result of changes to the areal extent of the floodplains and/or flood elevations in the new FIS and FIRM and not because of the changes to the regulations. The impact on new construction is minimal because by-right construction of buildings in floodplains is generally prohibited except for additions to existing dwellings constructed prior to July 1, 1978, that are valued at less than 50 percent of the market value of the existing dwelling (non-substantial additions). New buildings and substantial additions to existing dwellings in major floodplains require approval of a special exception by the Board. The primary impact of the new FIS and FIRM is related to the requirement for homeowners with federally backed mortgages to purchase flood insurance. Some properties that currently are not in the floodplain will now be in the floodplain with the converse also being true. As noted in the background section above, affected property owners were alerted to the pending changes to the FIS and FIRM. A final mailing will be made to notify everyone whose status has changed approximately 60 days before the FIRM becomes effective.

Insurance premiums will increase for some existing owners when they refinance their mortgages or for new owners because insurance premiums are based on the depth of flooding of the building. Where flood elevations have increased, owners with current flood insurance policies will keep their current rates as long as those policies remain in-force. In addition, owners of buildings in areas where the floodplain limits have been expanded to include them will now have to purchase flood insurance. The cost of flood insurance for a home in the floodplain that is not elevated above the base flood elevation is in the range of \$1,500 - \$2,000 per year for the maximum available coverage of \$250,000. The same coverage for a home elevated 1 - 2 feet above the base flood elevation will be about \$400 - \$600 per year. Insurance for the home's contents is additional and is not required. Because the purchase of flood insurance is not optional for building owners with federally backed mortgages, the costs are unavoidable.

H. Attached Documents:

Attachment IIa - Proposed amendments to the Zoning Ordinance

Attachment IIb - Proposed amendments to Appendix A of the County Code

Attachment IIc - Proposed amendments to the Public Facilities Manual