SPECIAL
COUNCIL MEETING
June 7, 1978

A special meeting of the Elkton Town Council was held June 7, 1978 in the council chambers with the Mayor, Maurice W. Lough presiding. The following councilmen were present: C. E. Dean, R. R. Dean, H. D. Flory, B. B. Holt and H. W. Leap. Councilman R. J. Lough was absent. Gerald Monger, Superintendent and R. Bruce Wiles, Attorney were also present.

Councilman R. R. Dean opened the meeting with prayer.

Mayor Lough read various communications regarding the National Flood Insurance Program. Mayor Lough reported that the Planning Commission has recommended the passing of the amendments by a 3-0 vote, with the Chairman refraining from voting but expressing his opposition to the amendments.

Councilman B. B. Holt moved, seconded by Councilman C. E. Dean to adopt on Second Reading the following ordinance amending the Subdivision Ordinance of the Town of Elkton, Rockingham County, Virginia, by Defining Certain Terms, by Providing for Certain Minimum Standards for Development, and by Providing Factors and Conditions for Special Exceptions:

AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE OF THE TOWN OF ELKTON, ROCKINGHAM COUNTY, VIRGINIA, BY DEFINING CERTAIN TERMS, BY PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR DEVELOPMENT, AND BY PROVIDING FACTORS AND CONDITIONS FOR SPECIAL EXCEPTIONS.

BE IT ENACTED AND ORDAINED BY THE Town Council of the Town of Elkton, Rockingham County, Virginia, as follows:

ARTICLE I: Section 2 is amended to include the following definitions:

Development - any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling grading, excavation, mining, dredging, or drilling operations.

Flood - A general and temporary inundation of normally dry land areas,

Flood Plain - (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.

One Hundred Year Flood - a flood that, on the average, is likely to occur once every 100 year (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

ARTICLE II: A new Section, Section 5-7, is added to read as follows:

5-7. FLOOD PLAIN DISTRICTS

5-7-1. Purpose

The specific purpose of these special provisions is:

A. to regulate the subdivision and/or development of land within any designated flood plain district in order to promote the general health, welfare, and safety of the community;

B. to require that each subdivision lot in floodprone areas be provided with a safe building site with adequate access; and that public facilities which serve such uses be designed and installed to preclude flood at the time of initial construction;

C. to protect individuals from buying lands which are unsuitable for use because of flood by prohibiting the improper subdivision and/or development of unprotected lands within the designated flood plain districts.

5-7-2. Abrogation and Greater Restrictions

This ordinance supersedes any ordinances currently in effect in flood areas. However, any other applicable ordinances shall remain in full force and effect to the extent that those provisions are more restrictive.

5-7-3. Municipal Liability

The grant of a permit or approval of a plan for any proposed subdivision and/or land development to be located within any designated flood plain district shall not constitute a representative, quarantee, or warranty of any kind by the municipality or by an official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the municipality, its official or employees.

5-7-4. Additional Provisions to be Satisfied in the Flood Plain District as Delineated in Section 21(5) of the Zoning Ordinance:

5-7-4-1. The preliminary plat shall include a map showing the location of the proposed subdivision and/or land development with respect to any designated Flood Plain District, including, but not limited to, the elevation of the one-hundred (100) year flood, boundaries of the Flood Plain District, proposed lots and sites, fills, flood or erosion protective facilities, and areas subject to special deed restrictions.

5-7-4-2. Storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from buildings and onsite waste disposal sites.

5-7-4-3. All water systems located in any designated flood plain districts, whether public or private, shall be flood-proofed up to the 100 Year Flood Elevation.

5-7-4-4. All sanitary sewer systems located in any designated flood plain district, whether public or private, shall be floodproofed up to the 100 Year Flood Elevation.

5-7-4-5. All other public and/or private utilities and facilities including gas, oil, and electric shall be elevated or floodproofed up to the 100 Year Flood Elevation.

5-7-4-6. No exception or variance will be granted in the floodway if it would cause any increase in the water surface elevation of the 100 year flood.

5-7-5. 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 which shall in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

ARTICLE III: ENACTMENT

ENACTED AND ORDAINED THIS 7th DAY of June 1978. This ordinance shall become effective upon passage.

The vote was recorded as follows:

C. Dean	- yea	B. Holt	- yea
R. Dean	- yea	H. Leap	- yea
D. Flory	- nay		

Councilman B. B. Holt moved, seconded by Councilman C. E. Dean to adopt on Second Reading an Ordinance Amending the Zoning Ordinance of the Town of Elkton, Rockingham County, Virginia, By Establishing Flood Plain Districts, By Defining Certain Terms, By Requiring the Issuance of Permits for Development, By Providing for Certain minimum standards for Development, and by Providing Factors and Conditions for Variances to the Terms of the Ordinance with the following change from the First Reading in Article III, Paragraph (6) (A) to read in its entirety:

A. Floodway District

In the Floodway District no development shall be permitted except where the effect of such development is fully offset by accompanying improvements which have been approved by all appropriate local and/or State authorities as required above and would not cause any increase in flood levels within the community during the occurrence of the base flood discharge. All uses, activities, and structural developments shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and ordinances. The placement of any mobile home, except in an existing mobile home park or subdivision, within the Floodway District is specifically prohibited.

The ordinance reads as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWN OF ELKTON, ROCKINGHAM COUNTY, VIRGINIA, BY ESTABLISHING FLOOD PLAIN DISTRICTS, BY DEFINING CERTAIN TERMS, BY REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, BY PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR DEVELOPMENT, AND BY PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCE.

BE IT ENACTED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ELKTON, ROCKINGHAM COUNTY, VIRGINIA, AS FOLLOWS:

ARTICLE I: Section 1 is amended to read as follows:

Section 1. DIVISION INTO DISTRICTS

For the purpose of this Ordinance the Town of Elkton is hereby divided into five (5) classes of districts as follows:

A-1 - RESIDENCE DISTRICTS
A-2 - RESIDENCE DISTRICTS
B-1 - BUSINESS DISTRICTS
B-2 - BUSINESS, MANUFACTURING AND INDUSTRIAL DISTRICTS
FP - FLOOD PLAIN DISTRICT

The boundaries of the A-1, A-2, B-1, B-2 districts are hereby established as shown on the map entitled "BUILDING ZONE MAP OF ELKTON, VIRGINIA, " dated September 11, 1947, signed by the Mayor J. S. Workman and Zoning Commission, as amended, which accompanies and is hereby declared to be a part of this Ordinance. These district boundary lines are intended to follow street or lot lines as they exist at the time of the passage of this Ordinance, unless such district boundary lines are references to some street line by dimension shown on the Building Zone Map. The boundaries of the Flood Plain Districts are established as shown on the Flood Boundary and Floodway Map which is also declared to be a part of this ordinance and which shall be kept on file at the Town's offices. In case a district boundary line is not thus referenced or there is a doubt in a particular instance as to what line is determining, the question of such determination shall be adjudicated by the Board of Zoning Appeals. The said map, and all notations, references and designations shown thereon shall be as much a part of this Ordinance as if the same were all fully described herein.

ARTICLE II: Section 2 is amended to include the following definitions:

(27) DEVELOPMENT - any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.

(28) FLOOD - a general and temporary inundation of normally dry land areas.

(29) FLOOD PLAIN - (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.

(30) MOBILE HOME - a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis, and designed to be used with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

(31) MOBIL HOME PARK/SUBDIVISION, EXISTING - a parcel (or contiguous parcels) of land divided into two or more lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this ordinance.

(32) ONE HUNDRED YEAR FLOOD - a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

ARTICLE III: A new Section, Section 21, is added to read as follows:

Section 21. FLOOD PLAIN DISTRICT.

(1) - 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:

A. 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.

B. restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.

C. requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.

D. protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

(2) - Applicability

These provisions shall apply to all lands within the jurisdiction of the Town of Elkton and identified as being flood prone as stipulated in this ordinance.

(3) - 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 ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

(4) - Abrogation and Greater Restrictions

This ordinance supercedes 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.

(5) - Description of Districts

A. Basis of Districts

The various flood plain districts shall include areas subject to inundation by waters of the one hundred (100) year flood. The basis for the delineation of these districts shall be the Flood Insurance Study for Town of Elkton prepared by the U. S. Department of Housing and Urban Development, Federal Insurance Administration. Any changes in the delineation of these districts are subject to the approval of the Federal Insurance Administrator.

1. The Floodway District is delineated for purposes of this Ordinance using the criteria that a certain area within the flood plain 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. These areas included in this District are specifically defined in Table Two (2) of the above referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map.

2. The Flood-Fringe District shall be that area of the 100-year flood plain not included in the Floodway District. The basis for the outermost boundary of this District shall be the one hundred (100) year flood elevations contained in the flood profiles of the above referenced Flood Insurance Study and as shown on the accompanying Flood Boundary and Floodway Map.

3. The Approximated Flood Plain District shall be that flood plain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100) year flood plain boundary has been approximated. Such areas are shown on the Flood Boundary and Floodway Map. In determining the necessary elevations for the purposes of this ordinance, other sources of data may be used such as:

   a. Corps. of Engineers - Flood Plain Information Reports.

   b. U. S. Geological Survey - Flood Prone Quadrangles.

   c. U.S.D.A., Soil Conservation Service - Flood Hazard Analyses.

   d. Known Highwater Marks from Past Floods.

   e. Tennessee Valley Authority Flood Reports.

   f. Other sources.

B. Overlay Concept.

1. The Flood Plain Districts described above shall be overlays to the existing underlying districts as shown on the Building Zone Map, and as such, the provisions for the flood plain districts shall serve as a supplement to the underlying district provisions.

2. Where there happens to be any conflict between the provisions or requirements of any of the Flood Plain Districts and those of any underlying district the more restrictive provisions and/or those pertaining to the flood plain districts shall apply.

3. In the event any provision concerning a Flood Plain District is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying district provisions shall remain applicable.

(6) - District Provisions

All uses, activities, and development occurring within any flood plain district shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of this ordinance and with all other applicable codes and ordinances such as the Virginia Uniform Statewide Building Code and the Town's Subdivision Regulations. Prior to the issuance of any such permit, the Town Engineer shall require all applications to include compliance with all applicable State and Federal laws.

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

Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, stream, etc., within a municipality, approval shall be obtained from the State Water Control Board. Further, notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the State Water Control Board, the State Department of Intergovernmental Affairs, and the Federal Insurance Administration.

A. Floodway District

In the Floodway District no development shall be permitted except where the effect of such development if fully offset by accompanying improvements which have been approved by

all appropriate local and/or State authorities as required above and would not cause any increase in flood levels within the community during the occurrence of the base flood discharge. All uses, activities, and structural developments shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and ordinances. The placement of any mobile home, except in an existing mobile home park or subdivision, within the Floodway District is specifically prohibited.

B. Flood Fringe and Approximated Flood Plain Districts

In the Flood-Fringe and Approximated Flood Plain Districts the development and/or use of land shall be permitted in accordance with the regulations of the underlying district 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.

(7) - Variances - Additional Factors to be Satisfied

In passing upon applications for Variances the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the Zoning Ordinance and the following factors:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within the Floodway District that will cause any increase in flood levels during the one hundred (100) year flood.

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

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

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

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

6. The requirements of the facility for a water front location.

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

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

9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

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

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

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

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency

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

Variances shall only be issued after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense, (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall only be issued after the Board of Zoning Appeals has determined that the variance will be the minimum relief to any hardship.

The Board of Zoning Appeals shall notify the applicant for a variance to construct a structure below the one hundred (100) year flood elevation (a) increase risks to life and property, and (b) will result in increased premium rates for flood insurance.

A record of the above notification as well as all variance actions, including justification for their issuance, shall be maintained and any variances which are issued shall be noted in the annual report submitted to the Federal Insurance Administrator.

(8) - Existing Structures in Flood Plain Districts

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

1. Existing structures and/or uses located in the Floodway District shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvement).

2. Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any flood plain district to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

3. The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use regardless of its location in a flood plain 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.

4. Uses of adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

(9) - 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 which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

(10) - Municipal Liability

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 areas outside the flood plain districts, or that land uses permitted within such districts will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Town of Elkton or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administration decision lawfully made thereunder.

ARTICLE IV: ENACTMENT

ENACTED AND ORDAINED THIS 7th. DAY OF June, 1978. This ordinance shall become effective upon passage.

The vote was recorded as follows:

C. Dean	- yea	B. Holt	- yea
R. Dean	- yea	H. Leap	- yea
D. Flory	- nay		

Councilman B. B. Holt moved, seconded by Councilman C. E. Dean to approve the following resolution:

R E S O L U T I O N

WHEREAS, in order to remain eligible for participation in the National Flood Insurance Program a community must comply with certain regulations and requirements of the United States Department of Housing and Urban Development; and

WHEREAS, the Town of Elkton, Virginia, desires to participate in the National Flood Insurance Program;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF ELKTON, VIRGINIA, AS FOLLOWS:

1. Any variance to the floodproofing requirements set out in Section 872.6 of the Uniform Statewide Building Code will be the minimum necessary, considering the flood hazard, to afford relief.

2. The Town will notify applicants for variances in writing that (a) the issuance of a variance to construct a structure below the 100 year flood level will result in increased premium rates as high as $25 per $100 of insurance, and (b) such construction below the flood level increases risks to life and property.

3. A record of all variance actions, including their justification, will be maintained.

4. The Clerk of the Elkton Town Council is directed to certify copies of this Resolution to the Board of Zoning Appeals for the Town of Elkton, the Elkton Planning Commission, the Town Superintendent, the Rockingham County Building Official, and the United States Department of Housing and Urban Development, ATTN: Walter P. Pierson, Regional Director, Federal Insurance Administration, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

The vote was recorded as follows:

C. Dean	- yea	B. Holt	- yea
R. Dean	- yea	H. Leap	- yea
D. Flory	- nay		

Councilman B. B. Holt moved, seconded by Councilman R. R. Dean to approve the second resolution which was presented.

Councilman B. B. Holt moved, seconded by R. R. Dean to approve the second resolution which was presented.

Councilman B. B. Holt moved, seconded by R. R. Dean and carried to amend Section 2 of the Resolution by adding after the words "building permits" the words (indesignated flood hazard areas).

The resolution reads as follows:

RESOLUTION

WHEREAS, by the Acts of Assembly, 1972, chapter 829 (Chapter 6 of Title 36 of the Code of Virginia, 1950, as amended, §§ 36-97 et seq.) the State Board of Housing was directed and empowered to adopt and promulgate a Uniform Statewide Building Code (USBC) superceding the building codes and regulations of counties, municipalities, and State agencies; and

WHEREAS, a Uniform Statewide Building Code has been adopted and is applicable within the Town of Elkton, Virginia; and

WHEREAS, under the terms of an agreement between the Town of Elkton and the County of Rockingham, pursuant to Section 36-105 of the Code of Virginia, 1950, as amended, responsibility for enforcement of the Building Code in the Town of Elkton is delegated to the Rockingham County Building Official; and

WHEREAS, Section 872.6 of the USBC requires information regarding the lowest floor elevation, including basement, for all buildings and structures; and

WHEREAS, Section 113.2 of the USBC gives the building official discretion as to the form of the building permit;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF ELKTON, VIRGINIA, AS FOLLOWS:

1. It is recognized and declared that the Uniform Statewide Building Code adopted by the State Board of Housing applies to all construction of buildings and structures within the Town of Elkton, Virginia, and is adhered to in said Town.

2. The Town Superintendent of the Town of Elkton is directed to require applicants for building permits in designated flood hazard areas to indicate as a part of all applications the lowest floor elevation, including basement, for the building or structure planned, or for non-residential structures the elevation to which the structure will be floodproofed, and the Rockingham County Building Official shall enforce this requirement.

3. The Clerk of the Elkton Town Council is directed to certify copies of this Resolution to the Town Superintendent, the Rockingham County Building Official, the Elkton Planning Commission, and the United States Department of Housing and Urban Development, ATTN: Walter P. Pierson, Regional Director, Federal Insurance Administration, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

The vote was recorded as follows:

C. Dean	- yea	B. Holt	- yea
R. Dean	- yea	H. Leap	- yea
D. Flory	- nay		

The Fire Department invited the council members to ride in their parade June 16, 1978 at 7:00 P.M.

Mayor Lough reported that VEPCO is seeking a 22% increase by July 31, 1978.

The regular council meeting for the month of June was changed to June 13, 1978 at 8:00 P.M.

As there was no further business, the meeting adjourned.

MAYOR: M. W. Lough
Maurice W. Lough, Mayor

RECORDER: C. E. Dean
C. E. Dean, Acting Clerk