



## Legislation Text

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**File #:** 18-0227, **Version:** 1

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Ordinance to Amend and Reenact the Zoning Ordinance of the City of Hampton, Virginia by Amending Chapter 9 Article IV Entitled “O-FZ District - Flood Zone Overlay” Pertaining to Permit and Application Requirements in Flood Zones and Definitions

### **Background Statement:**

The City of Hampton underwent a FEMA Community Assistance Visit in November of 2015. FEMA noted a “serious finding” as a result of the visit, stating that Hampton needed to “enforce permitting requirements for all development in the Special Flood Hazard area”. This would have required a permit for small projects such as painting a wall in a house or replacing a light switch or installing a mailbox. Following this determination, which Hampton took great exception to, we worked along with the Hampton Roads Planning District Commission (HRPDC) and our 16 neighboring jurisdictions to develop a reasonable approach to the permitting issue. Approval of this amendment would allow the review, in advance, of small projects so as to not require individual permits; the addition of the definition would clarify a previously undefined term.

Out of many months of discussion and back-and-forth among all of the stakeholders, a RAD (Review, Assess, Document) process was created which listed those aspects of development that required a permit, and which we currently require permits for, and those that are considered compliant and do not require an individual permit (these are the same items that are also exempt from the state building code, which we do not require permits for). FEMA accepted this solution and this ordinance change codifies the agreed upon RAD process.

We do, however, state in the ordinance that if these “small projects” constitute a substantial improvement (those in excess of 50% of the assessed value or market value of the structure), then obtaining a permit is required.

The additional definition of “regulatory flood protection elevation” is a housekeeping change that clarifies a term that appears in the ordinance but was undefined. The definition herein defines this to be our design flood elevation which is a defined term and is the definition that FEMA suggests.

### **Recommendations:**

Staff Recommendation:

Approve

Planning Commission Recommendation:

Approve

**WHEREAS**, the public necessity, convenience, general welfare, and good zoning practice so require;

**BE IT ORDAINED** by the City Council of the City of Hampton, Virginia, that section 9-34 and 9-37 of the zoning ordinance of the City of Hampton, Virginia be amended to read as follows:

**CHAPTER 9 - OVERLAY DISTRICTS**

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**ARTICLE IV - O-FZ DISTRICT- FLOOD ZONE OVERLAY**

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**Sec. 9-34. - District provisions.**

(1) *Permit and application requirements.*

(a) *Permit requirement.* All uses, activities, and development occurring within any special flood hazard area and other flood areas, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit, land disturbance permit, or building permit when such a permit is required. Such development shall be undertaken only in strict compliance with the provisions of this article, all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC). Prior to the issuance of any such permit, the floodplain administrator shall require all applications to include compliance with all applicable state and federal laws.

(b) *Site plans and building permit applications.* All site plan and building permit applications within any special flood hazard area or other flood areas shall incorporate the following information:

- (i) The elevation of the base flood at the site, or the elevation of the highest adjacent grade in other flood areas where no base flood elevation is provided.
- (ii) The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
- (iii) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
- (iv) Topographic information showing existing and proposed ground elevations.

(c) *Small projects considered compliant with flood zone requirements.*

- (i) Individual permits shall not be required for activities, uses, and development (collectively “Small Projects”) which have been reviewed, assessed, and documented by the City of Hampton and approved by FEMA in accordance with federal regulations as having low-to-no impact on the flood plain. A list of Small Projects meeting this criteria entitled, “City Review of Development in Flood Zones - Permit Requirements,” is hereby adopted by reference as part of this article as if fully set forth herein, shall be kept on file in the office of the department of community development, and may be administratively amended as deemed necessary by the floodplain administrator in accordance with all federal requirements.
- (ii) Notwithstanding the foregoing section 9-34(c)(i), Small Projects which constitute a substantial improvement as defined in this article shall require submission of a zoning permit or building permit, as applicable, prior to commencement of construction or land disturbance. The floodplain administrator may require submittal of all plans, documents, and information deemed necessary to determine whether the Small Project is a substantial improvement and otherwise complies with this article.

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**Sec. 9-37. - Definitions.**

To the extent that the following definitions conflict with chapter 2 of the zoning ordinance, they will prevail.

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*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.

*Regulatory flood protection elevation* - an elevation equivalent to the design flood elevation.

*Repetitive Loss Structure* - A building covered by a contract for flood insurance that has incurred flood -related damages on two occasions in a 10-year period, in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

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