

RESILIENCY & RELIEF:

Exploring Floodplain Ordinance Exemptions for Historic Structures and Community Resiliency

Presenters:

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Keeping History Above Water 2022
Tuesday, May 17
2:45pm-3:45pm



Historic Structures and the NFIP



Historic Structures and the NFIP

"The National Flood Insurance Program (NFIP) gives special consideration to the unique value of one of our Nation's most significant resources — its historic buildings, landmarks, and sites. It does so in two ways.

First, the NFIP floodplain management regulations provide significant relief to historic structures. **Historic structures do not have to meet the floodplain management requirements of the program as long as they maintain their historic structure designation.**

Secondly, **a designated historic structure can obtain the benefit of subsidized flood insurance** through the NFIP even if it has been substantially improved or substantially damaged so long as the building maintains its historic designation."



National Flood Insurance Program (NFIP)

Floodplain Management Bulletin
Historic Structures

FEMA P-467-2

May 2008



FEMA

Two options — Pick one*

Variance

- Case-by-case
- Process

Exception

- Uniformly applied
- Administrative

Substantial Improvement/Substantial Damage *Exception*

DEFINITIONS

- *Substantial improvement* means 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”.

[Title 44, Chapter I, Subchapter B, Part 59, Subpart A, §59.1](#)

Substantial Improvement/Substantial Damage *Exception*



National Flood Insurance Program (NFIP)

Floodplain Management Requirements

A Study Guide and Desk Reference for Local Officials -

FEMA 480

February 2005



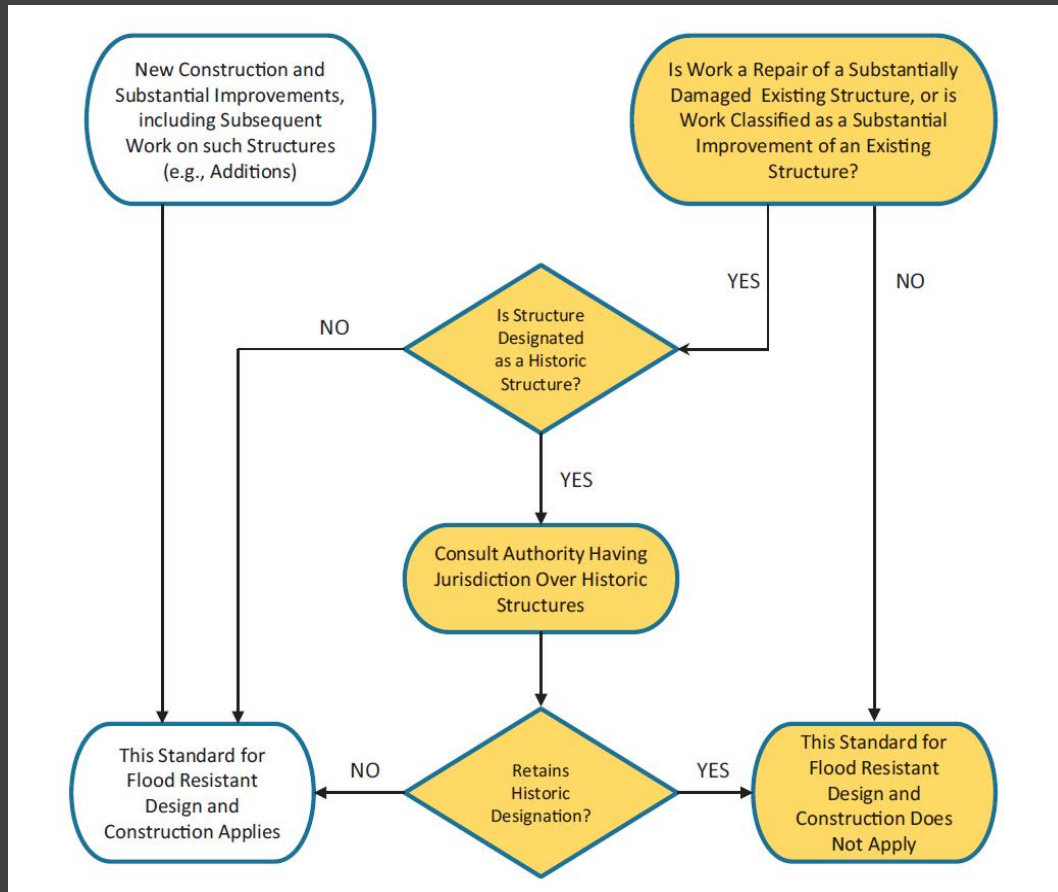
NFIP Floodplain Management Requirements - FEMA 480

1. The building must be a bona-fide "historic structure"
2. The project must maintain the historic status of the structure
3. Take all possible flood damage reduction measures

*Even though the exemption to the substantial improvement rule means the building does not have to be elevated to or above BFE, or be renovated with flood-resistant materials that are not historically sensitive, **many things can and should be done** to reduce the flood damage potential.*

FEMA 480, Floodplain Management Requirements

Substantial Improvement/Substantial Damage *Exception*



- NFIP — Code of Federal Regulations, Title 44, Subchapter B
- [FEMA Floodplain Management Requirements — FEMA 480](#)
- [FEMA P-758 — Substantial Improvement/Substantial Damage Desk Reference](#)
- [FEMA 213 — Answers to Questions About Substantially Improved/Substantially Damaged Buildings](#)
- [FEMA P-467 — Floodplain Management Bulletin, Historic Structures](#)
- International Building Code
- Virginia Construction Code
- ASCE 24-14 Flood Resistant Design and Construction

Historic Structure *Variance*

“Variances may be issued for 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.”

[Title 44, Chapter I, Subchapter B, Part 60, Subpart A, §60.6 \(a\)](#)

Historic Structure *Variance*

- Many local and state ordinances
- International Building Code
- Virginia Construction Code

Requires submission of application for variance to established Appeals Boards. This may be multiple boards depending on how the community handles building code and zoning appeals.

Two options — Pick one*

Variance

- Case-by-case
- Application Process

SI/SD Exception

- Uniformly applied
- Administrative

"Communities should adopt only one option to address “historic structures.” Some communities have chosen to adopt an ordinance that requires variances for improvements or repairs to “historic structures” and do not exclude such improvements from the substantial improvement definition in their ordinance. Other communities include the “historic structures” exemption as part of their “substantial improvement” definition. In either case, “historic structures” can be excluded from the NFIP elevation and floodproofing requirements."

FEMA P-467-2 Floodplain Management Bulletin:
Historic Structures

*Two options — Explain how and when to use each

Variance

- Particular cases
 - Application Process
- The community is free to include both options in order to better address expected applications within that community.
 - The code should include specific guidance on when each procedure is intended to be applied.
 - Exception and variance are both applicable irrespective of building use

SI/SD Exception

- Uniformly applied, unless variance is required
- Administrative

Get out of Jail Free Card

SI/SD Exception

- Included in NFIP
- Intent is to provide *relief* to the owners of historic structures and to *encourage* the registration and continued use of historic structures
- Targeted, calculated tool for historic preservation



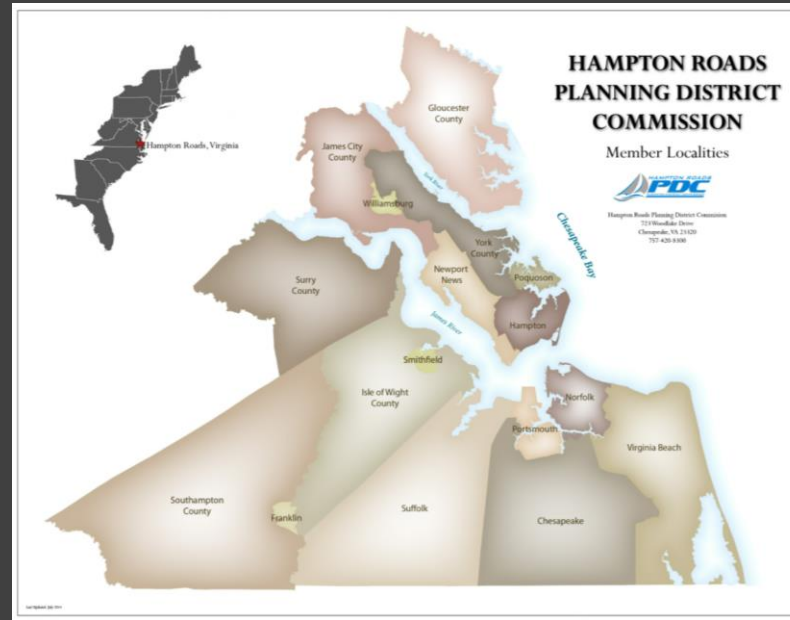
Virginia Model Floodplain Ordinance

Substantial Improvement Definition Exception states:

"Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the state inventory of historic places must be obtained from the Secretary of the Interior or the State Historic Preservation officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure."

Coastal Virginia

- Hampton Roads PDC
- Middle Peninsula PDC
- Accomack-Northampton County PDC



<https://www.hrpdcva.gov/uploads/images/localities.jpg>



<https://www.mppdc.com/>



<http://www.virginiaplaces.org/regions/eshore.html>

Relief Language in Local Floodplain Ordinances

1. Substantial Improvement Definition Exemption (FEMA)
2. Substantial Improvement Definition Exemption plus additional requirement language (VDCR)
3. Variance Language (FEMA)
4. Existing Structures in Floodplain Areas Exception (VDCR)

Relief Language in Coastal Virginia's Local Ordinances

Localities using language provided by FEMA — **White**

- Substantial Improvement Exemption: 100%
- Variance Language: 92.31%

Localities using language from VDCR MFPO — **Dark Blue**

- Substantial Improvement Exemption, with additional requirements: 76.92%
- Existing Structures Exception: 19.23%

Locality	Type of Relief Language for Historic Structures in Floodplain Ordinances			
	Substantial Improvement Exemption?	Added to Substantial Improvement Definition?	Variance Language?	Existing Structures Exception?
Accomack	Yes	Yes	Yes	No
Cape Charles	Yes	No	Yes	No
Chesapeake	Yes	Yes	Yes	No
Chincoteague	Yes	No	Yes	No
Essex	Yes	Yes	Yes	No
Franklin	Yes	Yes	Yes	Yes
Gloucester	Yes	No	Yes	No
Hampton	Yes	Yes	Yes	Yes
Isle of Wight	Yes	Yes	Yes	No
James City	Yes	Yes	Yes	No
King and Queen	Yes	Yes	Yes	Yes
King William	Yes	Yes	Yes	No
Mathews	Yes	Yes	Yes	No
Middlesex	Yes	Yes	Yes	No
Newport News	Yes	Yes	No	No
Norfolk	Yes	No	Yes	No
Northampton	Yes	No	Yes	No
Poquoson	Yes	Yes	Yes	No
Portsmouth	Yes	Yes	Yes	No
Southampton	Yes	Yes	Yes	Yes
Suffolk	Yes	Yes	Yes	No
Surry	Yes	Yes	Yes	No
Virginia Beach	Yes	Yes	Yes	No
West Point	Yes	No	Yes	No
Williamsburg	Yes	Yes	Yes	Yes
York	Yes	Yes	No	No
Percent of Localities with this language	100.00%	76.92%	92.31%	19.23%

Data as of May 4, 2022. Data gathered by CPG from online, publicly accessible data sources (such as Municode and Locality Websites).

Where to look...

Within the ordinance

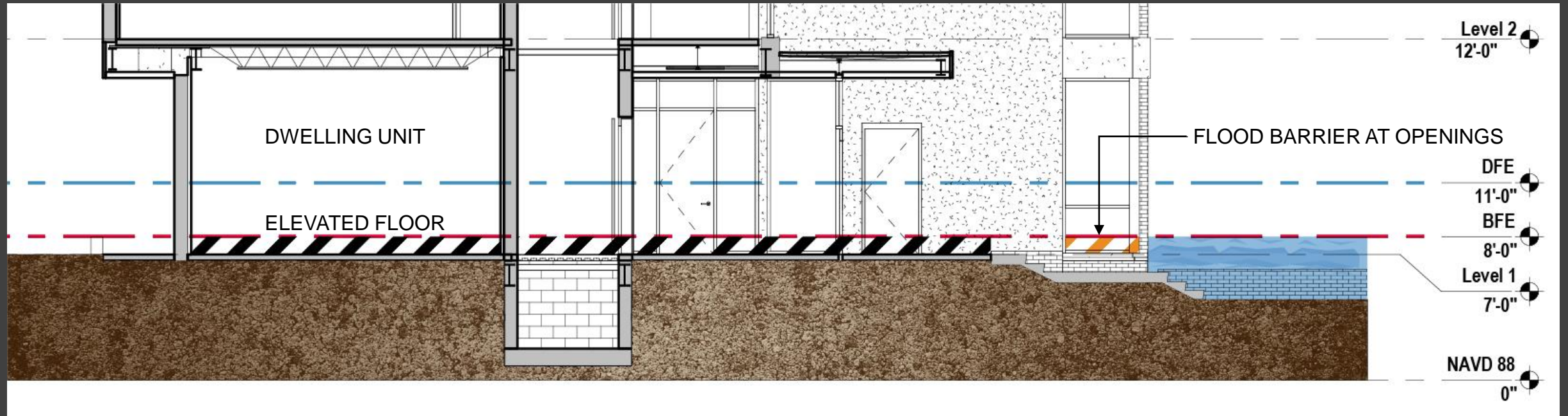
- Definitions > Substantial Improvement
- Existing Structures in Floodplain Areas
- Variances > Factors to be considered

Or, contact the local floodplain administrator

Coastal Virginia Floodplain Administrator Contact Information				
Locality	Floodplain Administrator	Title	Phone	Email
Accomack	Tom Brockenbrough	GIS Coordinator, Flood Program Manager, and Enterprise Zone Program Manager	757-787-5797	tbrockenbrough@co.accomack.va.us
Cape Charles	Jeb Brady	Code Official	757-331-2176	codeofficial@capecharles.org
Chesapeake	Jay B Tate	Director of Development & Permits	757-382-6263	jtate@cityofchesapeake.net
Chincoteague	Kenny Lewis	Building and Zoning Administrator	757-336-6519	
Essex	Robert Hodges	Planning and Zoning Administrator		rhodges@essex-virginia.org
Franklin	Lee Copeland	Deputy Building Official	757-562-8580	lcopeland@franklinva.com
Gloucester	Brent Payne	Director of Engineering Services (Interim Floodplain Administrator)	804-693-5480	bpayne@gloucesterva.info
Hampton	Terry O'Neill	Community Development Director and Acting Zoning Administrator	757-727-6140	toneill@hampton.gov
Isle of Wight	Jeryl Phillips	Assistant Director of Planning and Zoning	757-365-6276	jphillips@iwus.net
James City	Mike Woolson	Senior Watershed Planner	757-253-6671	michael.woolson@jamestowncountyva.gov
King and Queen	Donna Sprouse	Assistant Zoning Administrator	804-785-5975	dsprouse@kingandqueenco.net
King William	Sherry Graham	Zoning Administrator	804-769-4978	sgraham@kingwilliamcounty.us
Mathews	Kevin Zoll	Building Official	804-725-7171	kzoll@mathewscountyva.gov
Middlesex	G. David Selph	Building Inspector	804-758-4305	dselph@co.middlesex.va.us
Newport News	Hai Tran	Floodplain Manager/Engineer	757-926-8264	tranhn@nnva.gov
Norfolk	Tristan Mackinnon-Barnes	Principal Planner/Floodplain Administrator	757-618-4968	tristan.barnes@norfolk.gov
Northampton	Susan McGhee	Director of Planning & Enforcement	757-658-0443	smcghee@co.northampton.va.us
Poquoson	Ken Somerset	Building Official	757-868-30365	kenneth.somerset@poquoson-va.gov
Portsmouth	Debra Rose	Environmental Manager	757-393-8836x4203	rosed@portsmouthva.gov
Southampton	Donald Goodwin	Director of Community Development	757-562-8580	dgoodwin@franklinva.com
Suffolk	David Hainley	Director of Planning and Community Development	757-514-4005	dhainley@suffolkva.us
Surry	Horace Wade III	Director of Planning & Community Development	757-294-5271	
Virginia Beach	Whitney McNamara	Environmental Planner	757-385-4621	wmcnamar@vb.gov
West Point	Holly McGowan	Director of Community Development	804-843-3563	hmcgowan@west-point.va.us
Williamsburg	Heather Markle	Zoning Administrator	757-220-6131	hmarkle@williamsburgva.gov
York	Joe Brogan	Chief of Stormwater Programs	757-890-3831	broganj@yorkcounty.gov

Data as of May 4, 2022. Data gathered by CPG from locality websites and the VDCR Floodplain Contacts webpage (<https://www.dcr.virginia.gov/dam-safety-and-floodplains/floodplain-directory>).

A Hard Left Turn

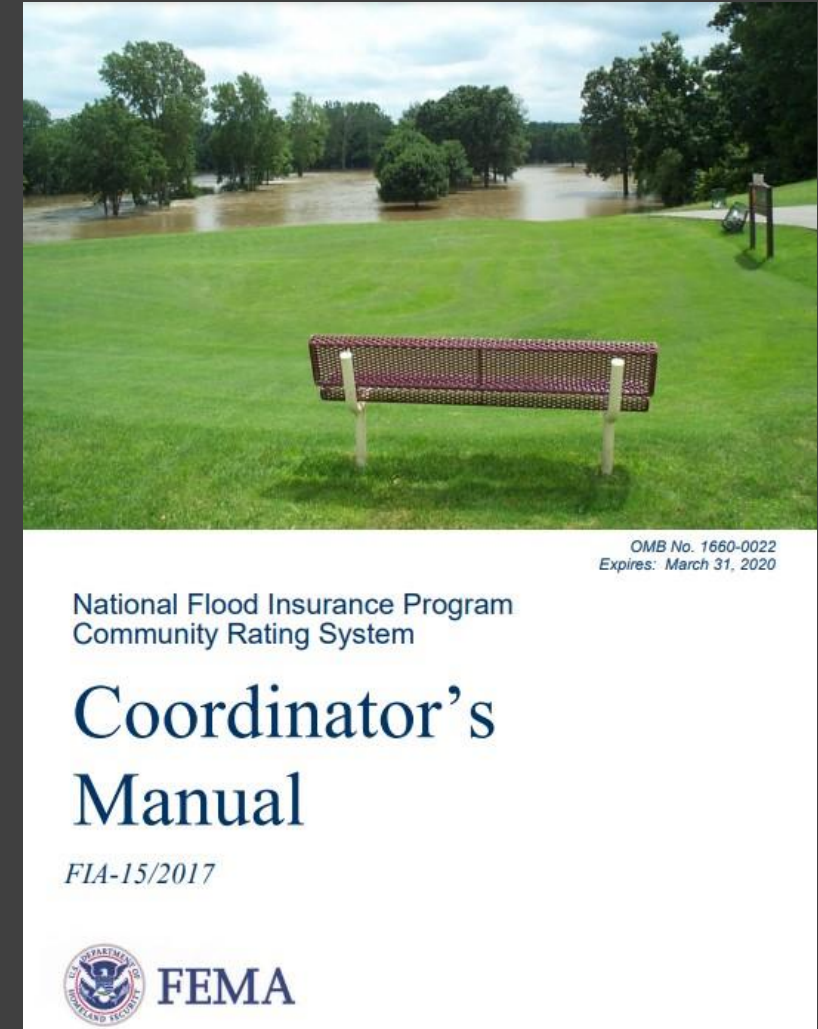


Community Rating System and Historic Structures

The Community Rating System (CRS)

- Voluntary incentive program for localities
- Awards communities points for exceeding the NFIP minimum requirements
- 3 Goals of the Program:
 - Reduce and avoid flood damage to insurable property
 - Strengthen & support insurance aspects of the NFIP
 - Foster comprehensive floodplain management
- Participation can lower flood insurance premiums

Visit <https://www.fema.gov/floodplain-management/community-rating-system> or your State Floodplain Administrator's website for additional details about the CRS program



Community Rating System and Historic Structures

Response from FEMA

- CRS scores are *not* impacted by historic structure exemptions
 - Historic structures are removed when counting the number of repetitive loss properties in a community
- A CRS community can allow for modifications to historic structures in the SFHA without it specifically impacting the CRS verification results
- Our conversation about this is ongoing

Challenges

The VDCR Substantial Improvement definition states that the exemption request must be approved by Virginia Department of Historic Resources or the Office of the United States Secretary of the Interior

- Both entities have said they would not provide this

Many local floodplain administrators have not experienced working with this exemption or do not interpret it consistently

Unclear guidance, confusing language, and differing interpretations make consistent application difficult for preservationists and design professionals

- We struggle with it on each project and we do this every day. It is significantly more difficult for property owners and citizens to understand what is expected of them

Moving Forward

Developing a form to standardize applications for
Historic Structure exemptions with the City of Norfolk



Moving Forward

- Be mindful of community-wide impacts
- Be thoughtful in the development of solutions that promote resilience
- Keep in mind that there are multiple types of resilience
 - Social
 - Economic
 - Environmental

Historic Structures are:

- Socially Resilient
 - Important landmarks to communities
 - Community identity
- Economically Resilient
 - Help to keep wealth in the community
- Environmental
 - Lower carbon footprint by not disposing of significant material resources

Q & A