

BOARD OF SUPERVISORS MINUTES**MARCH 8, 2022**

At a Regular Meeting of the Orange County Board of Supervisors held on Tuesday, March 8, 2022, beginning at 5:00 p.m., in the Meeting Room of the Public Safety Building, 11282 Government Center Drive, Orange, Virginia. Present: R. Mark Johnson, Chairman; James P. Crozier, Vice Chairman; James K. White; and Lee H. Frame. Absent: Keith F. Marshall. Also present: Theodore L. Voorhees, County Administrator; Thomas E. Lacheney, County Attorney; and Alyson A. Simpson, Chief Deputy Clerk.

RE: ADOPTION OF AGENDA

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, with Mr. Marshall being absent, the Board adopted the agenda, as modified. Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Marshall.

RE: SPECIAL PRESENTATIONS AND APPEARANCES**RE: BUSINESS SPOTLIGHT**

Daniel and Samantha Martynowski, Owners of Mad Tack, appeared before the Board to spotlight their business.

The Board thanked Mr. and Mrs. Martynowski for their presentation.

RE: CONSENT AGENDA

On the motion of Mr. Frame, seconded by Mr. Crozier, which carried by a vote of 4-0, with Mr. Marshall being absent, the Board adopted the Consent Agenda, as presented.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Marshall.

RE: FY22 BUDGET AMENDMENTS (SUPPLEMENTALS AND TRANSFERS)

As part of the Consent Agenda, the Board approved the following budget amendments, as presented:

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUS BUDGET	BUDGET CHANGE	AMENDED BUDGET
30052001-39900	Appropriated Fund Balance	\$ (4,071,278.63)	\$ (35,000.00)	\$ (4,106,278.63)
41221501-43100	Litigation Expenses	60,834.01	35,000.00	95,834.01
30030006-33500	Donations - Animal Shelter	(15,548.00)	(905.00)	(16,453.00)
43520003-43115	Prof. Serv. - Emergency Vet	159,559.00	905.00	160,464.00
30045066-35825	State Miscellaneous	0.00	(20,050.00)	(20,050.00)
48155001-47737	To EDA Fund	138,922.00	20,050.00	158,972.00
TOTALS		\$ (3,727,511.62)	\$ 0.00	\$ (3,727,511.62)

RE: FY22 BUDGET AMENDMENTS FOR ORANGE COUNTY PUBLIC SCHOOLS

As part of the Consent Agenda, the Board approved a supplemental appropriation and budget amendment for FY22 for Orange County Public Schools in the amount of \$157,025.59 in the School Operating Fund and \$973,343.47 in the ESSER Fund, which represented additional State and Federal grant revenue that had been awarded, as presented.

RE: AMENDMENTS TO PERSONNEL POLICIES REGARDING PAID LEAVE
This item was moved to Old Business.

RE: ADOPTION OF THE FEBRUARY 22, 2022 WORKSESSION MINUTES
As part of the Consent Agenda, the Board adopted the February 22, 2022 Worksession minutes, as presented.

RE: ADOPTION OF THE FEBRUARY 22, 2022 REGULAR MEETING MINUTES
As part of the Consent Agenda, the Board adopted the February 22, 2022 Regular Meeting minutes, as presented.

RE: NEW BUSINESS

RE: LEASE-PURCHASE OF A NEW MEDIC UNIT FOR FIRE AND EMS

Amanda Amos, Contract and Procurement Specialist, explained that, as a strategy to contain costs, a re-chassis program was put in place for the County's medic units. The concept was to swap out the cab and chassis of higher mileage units with a new cab and chassis, while retaining the unit's transport body (the "box"). In theory, the box would last longer than a single cab and chassis so the County could save money over buying entirely new medic units.

Ms. Amos stated that in 2020, Fire and EMS had an International chassis medic unit that went through the re-chassis process with Horton (the box manufacturer) and the unit was back in service. However, since the re-chassis, the unit has had ongoing maintenance issues with the *I4G* proprietary touchscreen software that controls many electronic functions and has been sent back to Horton for repairs on multiple occasions.

Ms. Amos further stated that a second International chassis medic unit was approved for re-chassis in last year's CIP. After pandemic and supply-chain related delays, the unit went to assembly about two weeks ago. She noted, however, that the County was not expected to receive the unit back from Horton for another three months. Ms. Amos also indicated that this unit featured the *I4G* proprietary software that could lead to ongoing maintenance issues as well.

Ms. Amos explained that while Fire and EMS leadership was considering the re-chassis process for the last of the International chassis medic units owned by the County, which was currently budgeted in the CIP, Goodman Specialized Vehicles, LTD presented a new demonstrator unit with very competitive pricing. She stated the new unit could be purchased for slightly less than the cost to re-chassis the current unit. Not only would this be better financially, but the unit would be deliverable within a few weeks, versus a lengthy re-chassis process. Furthermore, the new unit did not utilize the proprietary *I4G* touchscreen control system that had proven problematic. Ms. Amos indicated that, following this purchase, the current International chassis medic unit could be disposed as surplus as it was not a candidate for a reserve unit due to engine reliability concerns.

Ms. Amos noted that funding for the re-chassis, in the amount of \$270,000, had been budgeted in the Capital Improvements Plan via lease-purchase and the total cost to purchase the new medic unit was quoted at \$268,243. Additionally, she expressed that while staff supported the intent of the re-chassis program, staff would be fiscally responsible by shopping around each year in order to present the best value to the Board.

Discussion ensued among the Board regarding: whether the box would be retained by the County, or if the entire unit would be disposed; involvement with the County Attorney in discussions with Horton to address the ongoing maintenance issues; and whether an adjustment would be necessary for staff with the different in unit configurations.

On the motion of Mr. Frame, seconded by Mr. Crozier, which carried by a vote of 4-0, with Mr. Marshall being absent, the Board approved the lease-purchase of a PL Custom Classic 170" medic unit, mounted on a 2021 Dodge Ram D5500 chassis, from Goodman Specialized Vehicles, LTD, through Cooperative Contract No. AM10-20 with Houston-Galveston Area Council (HGAC), contingent upon approved bank financing, and authorized the surplus disposition of the International medic unit in accordance with the Board-adopted Surplus Disposition Policy, as presented.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Marshall.

RE: RECRUITMENT AND RETENTION COMPENSATION RECOMMENDATIONS; FIRE AND EMS AND CHILDCARE

Jenny Carpenter, Human Resources Director, explained that the County had struggled with recruitment and retention issues since the COVID-19 Pandemic began, with the issues recently becoming critical in Fire and EMS and the Office on Youth childcare programs. She indicated that in order to address the staffing issues faced by these departments, staff recommended two new initiatives to improve recruitment and retention.

Ms. Carpenter stated that staff was seeking approval of a policy for Fire and EMS employees to allow additional compensation of \$400 per occurrence for a second "holdover" in a working tour and \$550 for each additional "holdover" within the same tour. She indicated that once staffing levels had stabilized, the need for holdovers were expected to be minimal.

Additionally, Ms. Carpenter noted that an increase in hourly wages was recommended for childcare staff. The recommendation was to increase part-time hourly wages by \$2/hour and full-time hourly wages by \$1/hour. She indicated this increase would bring the starting hourly wage for childcare employees to \$13/hour, which was intended to improve recruitment and retention efforts as there had been recent turnover in staff and a lack of applications for available positions.

Ms. Carpenter summarized that funding for the Fire and EMS holdover policy for FY22 would come from the COVID-19 Response Fund, but would be absorbed by vacancy savings in future fiscal years. She noted that funding for the increase in hourly wages for childcare for FY22 would also come from the COVID-19 Response Fund and the goal was to incorporate the change in the operating budget for future fiscal years.

Discussion ensued among the Board regarding: the definition of a working tour and a holdover; and the delegation of authority to require holdovers.

On the motion of Mr. Crozier, seconded by Mr. Frame, which carried by a vote of 4-0, with Mr. Marshall being absent, the Board approved the recruitment and retention compensation recommendations for Fire and EMS and Childcare, as presented and outlined below:

1. Fire and EMS: Payment of additional compensation in the amount of \$400 per occurrence for a second holdover in a working tour and \$550 for each additional holdover within the same tour.
2. Childcare: An increase in part-time hourly wages by \$2/hour and full-time hourly wages by \$1/hour, bringing the starting hourly wage for childcare employees to \$13/hour.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Marshall.

RE: RESOLUTION TO APPOINT THE ZONING ADMINISTRATOR AND SUBDIVISION AGENT FOR ORANGE COUNTY

Theodore L. Voorhees, County Administrator, presented a resolution to the Board for its consideration. He explained the resolution would appoint and delegate the County Administrator, by position, as the Zoning Administrator and Subdivision Agent. From there, the County

Administrator could choose to either retain or delegate one or both of the responsibilities to an appropriate, qualified individual. Mr. Voorhees added that this resolution would remain in place until such time subsequent appointments were made by resolution of the Board.

Discussion ensued among the Board regarding: whether this appointment was aligned with State Code or if certain requirements had to be met.

On the motion of Mr. Crozier, seconded by Mr. White, which carried by a vote of 4-0, with Mr. Marshall being absent, the Board adopted the following resolution, as presented:

**RESOLUTION TO APPOINT THE ZONING ADMINISTRATOR AND SUBDIVISION AGENT
FOR ORANGE COUNTY, VIRGINIA**

WHEREAS, Section 70-36 of the Orange County Code of Ordinances requires that the Board of Supervisors appoint the Zoning Administrator; and

WHEREAS, Section 54-16 of the Orange County Code of Ordinances delegates certain authorities and powers to the Subdivision Agent, and the Board of Supervisors has the ability to formally designate said Subdivision Agent; and

WHEREAS, the Board of Supervisors desires that qualified individuals serve in these roles which are important to the development of the economy and the enforcement of Orange County's land use ordinances and policies;

NOW, THEREFORE, BE IT RESOLVED, on this 8th day of March, 2022, that the Orange County Board of Supervisors hereby appoints and designates, respectively, the County Administrator, or his designee, as Zoning Administrator and Subdivision Agent until such time a subsequent appointment is made by resolution of the Board; and

BE IT FURTHER RESOLVED, that this appointment shall be effective immediately, and shall replace and supersede any previous appointments as Zoning Administrator and/or Subdivision Agent; and

BE IT YET FURTHER RESOLVED, that the County Administrator may determine it best to either retain or delegate one or both of these responsibilities.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Marshall.

RE: OLD BUSINESS

RE: AMENDMENTS TO PERSONNEL POLICIES REGARDING PAID LEAVE

Chairman Johnson explained that this item had been removed from the Consent Agenda for discussion and he understood that Supervisor Marshall had requested that no action be taken in his absence.

Discussion ensued among the Board regarding: a summary of the fiscal impact as a result of the requested policy changes; the reporting of end of employment leave payouts as a liability; and the understanding these changes had a modest impact in terms of County finances.

By consensus, the Board requested that staff bring this matter back as an Old Business item at the Regular Meeting on March 22, 2022.

RE: DEPARTMENT DIRECTOR / CONSTITUTIONAL OFFICER REPORTS

There were no Department Director or Constitutional Officer Reports at this time.

RE: COUNTY ATTORNEY'S REPORT

The County Attorney had nothing to report on at this time.

RE: COUNTY ADMINISTRATOR'S REPORT

Theodore L. Voorhees, County Administrator, noted that the Board had previously taken action to extend the due date for supplemental tax bills for new construction. However, the Commissioner's Office was still experiencing delays from the assessment firm and another extension may be necessary. He indicated if that was the case, the matter would be presented for Board action at a future meeting.

RE: BOARD COMMENT

Supervisor Frame congratulated Jack Kelley, a member of Lake of the Woods Fire and Rescue, on his recent achievement of 30 years of volunteer service.

RE: INFORMATIONAL ITEMS

The Board received the following correspondence for its information:

- Finance Quarterly Report
- Economic Development Annual Report

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

There were no appointments at this time.

RE: CALENDAR

The Board received copies of its calendar of meetings for the months of March 2022, April 2022, and May 2022.

RE: SCHEDULE A PUBLIC HEARING FOR STA 21-01 (AMENDMENT TO PRIVATE ROAD STANDARDS)

By consensus, the Board authorized staff to advertise for and schedule a Public Hearing for STA 21-01 (Amendment to Private Road Standards) on Tuesday, April 12, 2022, as presented.

RE: PUBLIC HEARING #1; ZTA 22-01

Eric Bittner, Planner, presented the staff report regarding proposed amendments to the Orange County Zoning Ordinance to move the floodplain management ordinance from Chapter 34 to Chapter 70, which was an ordinance required by FEMA. He reviewed the proposed language and history of the amendment, indicating that the Planning Commission's vote resulted in a recommendation of approval with one minor change.

Discussion ensued among the Board regarding: a summary of the comments received from DCR.

At 5:39 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

ZTA 22-01

The Board of Supervisors will consider an amendment to Chapter 70 (Zoning) of the Orange County Code of Ordinances regarding floodplain management. Said amendment would remove the existing Chapter 34 (Flood Hazard Reduction) in its entirety and replace the new floodplain overlay districts within Chapter 70. The updates to the floodplain management ordinance are necessary for Orange County to comply with the requirements of the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) regulations.

There being no speakers, Chairman Johnson closed the Public Hearing at 5:39 p.m.

On the motion of Mr. Crozier, seconded by Mr. Frame, which carried by a roll call vote of 4-0, with Mr. Marshall being absent, the Board adopted the following ordinance, as presented:

**ORDINANCE APPROVING AMENDMENTS TO SECTION 34 (FLOOD HAZARD REDUCTION) AND
TO ARTICLE IV (DISTRICT REGULATIONS), SECTION 70 (ZONING), OF THE ORANGE COUNTY
CODE OF ORDINANCES CONCERNING FLOODPLAIN OVERLAY DISTRICTS**

WHEREAS, Planning Commission action was previously initiated on amendments to Article IV (District Regulations), Section 70 (Zoning), of the Orange County Code of Ordinances concerning floodplain overlay districts; and

WHEREAS, the recommended language for the text amendments was prepared, which was presented to the Planning Commission for consideration; and

WHEREAS, the Planning Commission advertised and conducted a Public Hearing on the proposed text amendments on March 3, 2022; and

WHEREAS, after discussing the proposed text amendments, the Planning Commission recommended approval of the proposed text amendments to the Board of Supervisors, as modified during its meeting; and

WHEREAS, the Board of Supervisors advertised and conducted a Public Hearing on the proposed text amendments to Section 70 (Zoning), in addition to the repeal of Section 34 (Flood Hazard Reduction), on March 8, 2022; and

WHEREAS, following discussion at the Public Hearing, the Board of Supervisors hereby supports the proposed text amendments, as presented during its meeting; and

WHEREAS, public necessity, convenience, general welfare, and/or good zoning practice also support approval of the proposed text amendments;

NOW, THEREFORE, BE IT ORDAINED, on this 8th day of March, 2022, that the Orange County Board of Supervisors hereby approves the proposed amendments to Section 34 (Flood Hazard Reduction) and to Article IV (District Regulations), Section 70 (Zoning), of the Orange County Code of Ordinances concerning floodplain overlay districts, as presented and shown below.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Marshall.

Amendments to the Orange County Code of Ordinances

**As adopted in Ord. No. 220308 – PH1
by the Orange County Board of Supervisors
on March 8, 2022**

Note: The current language contained in Chapter 34 (Flood Hazard Reduction) of the Orange County Code of Ordinances is hereby repealed in its entirety.

Chapter 34 - Flood Hazard Reduction

Repealed.

Note: All the text contained below is to be added as new text.

Chapter 70 - Zoning

Article IV - District Regulations

Division 15 - Floodplain Overlay Districts

SUBDIVISION 1 – GENERAL PROVISIONS

Sec. 70-570. - Statutory Authorization and Purpose

Virginia Code §15.2-2283 specifies that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of §15.2-2200, which encourages localities to improve the public health, safety, convenience, and welfare of their citizens. To these ends, flood ordinances shall be designed to provide for safety from flood, to facilitate the provision of flood protection, and to protect against loss of life, health, or property from flood.

In accordance with these directed provisions, this division is specifically adopted pursuant to the authority granted to localities by Virginia Code §15.2-2280.

The purpose of these provisions is to prevent: the loss of life, health, or property; 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, 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 districts subject to flooding;
- c. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage; and
- d. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Sec. 70-570A. - Applicability

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of Orange County and identified as areas of special flood hazard by the County or as shown on the flood insurance rate map (FIRM) or as included in the flood insurance study (FIS) that are provided to the County of Orange by FEMA.

Sec. 70-570B. - Compliance and Liability

1. 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 division and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this division.
2. The degree of flood protection sought by the provisions of this division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. 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 division does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
3. This division shall not create liability on the part of Orange County or any officer or employee thereof for any flood damages that result from reliance on this division or any administrative decision lawfully made thereunder.

Sec. 70-570C. - Records

Records of actions associated with administering this division shall be kept on file and maintained by or under the direction of the Floodplain Administrator in perpetuity.

Sec. 70-570D. - Abrogation and Greater Restrictions

To the extent that the provisions are more restrictive, this division supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict, it shall remain in full force and effect.

These regulations are not intended to repeal or abrogate any existing ordinances, including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

Sec. 70-570E. - Severability

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

Sec. 70-570F. - Penalty for Violations

Any person who fails to comply with any of the requirements or provisions of this subdivision or directions of the Zoning Administrator or any authorized employee of the County of Orange shall be guilty of the appropriate violation and subject to the penalties thereof.

The Virginia Uniform Statewide Building Code addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the Orange County Zoning Ordinance are addressed in Section 70-37 of the ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this subdivision. The imposition of a fine or penalty for any violation of, or noncompliance with, this subdivision shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this subdivision may be declared by the County of Orange to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this subdivision.

SUBDIVISION 2 – ADMINISTRATION**Sec. 70-571. - Designation of the Floodplain Administrator**

The Floodplain Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

1. Do the work himself. In the absence of a designated Floodplain Administrator, the duties are conducted by the Orange County Administrator.
2. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
3. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the County of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

Sec. 70-571A. - Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator include but are not limited to:

1. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
2. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
3. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

4. Review applications to determine whether all necessary permits have been obtained from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
5. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE), and have submitted copies of such notifications to FEMA.
6. Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
7. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
8. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
9. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
10. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the County of Orange, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
11. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - a. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps), and Letters of Map Change; and
 - b. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
12. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
13. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
14. Administer the requirements related to proposed work on existing buildings:
 - a. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - b. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
15. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
16. Notify the Federal Emergency Management Agency when the corporate boundaries of the County of Orange have been modified and:

- a. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - b. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
17. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
18. It is the duty of the County Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the County, whether or not those hazards have been specifically delineated geographically (e.g., via mapping or surveying).

Sec. 70-571B. - Use and Interpretation of FIRMs

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

- 1. Where field surveyed topography indicates that adjacent ground elevations:
 - a. Are below the base flood elevation in riverine SFHAs, or below the 1% storm surge elevation in coastal SFHAs, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
 - b. Are above the base flood elevation and the area is labelled as a SFHA on the FIRM, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
- 2. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- 3. Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- 4. Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- 5. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
 - a. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - b. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 70-572, Subsection A(3) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - c. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Sec. 70-571C. - Jurisdictional Boundary Changes

This division, in effect on the date of annexation by a municipality, shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with

existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, the governing body shall prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22(a)(9)(v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the County have been modified by annexation or the County has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the County's boundaries, a copy of a map of the County suitable for reproduction, clearly delineating the new corporate limits or new area for which the County has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Sec. 70-571D. - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the County of Orange where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A completed LOMR is a record of this approval.

Sec. 70-571E. - Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning 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 and to submit his own technical evidence if he so desires.

Sec. 70-571F. - Submitting Model Backed Technical Data

The County's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the County shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The County may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

Sec. 70-571G. - Letters of Map Revision

When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

Sec. 70-571H. - Appeal of Decisions of the Floodplain Administrator

Appeals of decisions of the Floodplain Manager shall be to the Board of Zoning Appeals and shall follow the process established in Orange County Code Section 70-68 (Appeals from decisions of the zoning administrator).

SUBDIVISION 3 – ESTABLISHMENT OF ZONING DISTRICTS

Sec. 70-572. - Description of Special Flood Hazard Districts

A. Basis of Districts

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for Orange County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated May 3, 2022, and any subsequent revisions or amendments thereto.

The County of Orange may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks, or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this division and which shall be kept on file at the County of Orange offices.

1. The Floodway District is in an AE Zone and is delineated, for purposes of this division, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance 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 2 of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the Floodway District of an AE zone [44 CFR 60.3(d)]:

- a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the County during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses 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 the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the County of Orange endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If Section 70-572, Subsection A(1)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Subdivision 4.

- b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.
2. The AE on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE zone [44 CFR 60.3(c)] where FEMA has provided base flood elevations:
 - a. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 or AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the County of Orange.

Development activities in Zones A1-30 or AE on the Orange County FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the County of Orange’s endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

3. The A Zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:
 - a. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one percent annual chance floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from Federal, State, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation 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 base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted practices, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level plus eighteen (18) inches.

During the permitting process, the Floodplain Administrator shall obtain:

- i. The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and
- ii. If the structure has been floodproofed in accordance with the requirements of this subdivision, the elevation (in relation to mean sea level) to which the structure has been floodproofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

4. The mapped floodplain includes all of the above regions and also the regions designated as having a 0.2 percent annual chance of flooding on any flood map or flood insurance study. In this area no emergency service, medical service, or governmental records storage shall be allowed except by special exception using the variance process.

Sec. 70-572A. - Overlay Concept

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any

legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

SUBDIVISION 4 – DISTRICT PROVISIONS

Sec. 70-573. - Permit and Application Requirements

A. Permit Requirement

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of this division and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Orange County Subdivision Ordinance. 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 and shall review all sites to assure they are reasonably safe from flooding. 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.

B. Site Plans and Permit Applications

All applications for development within any floodplain district and all permits issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood at the site.
2. For structures to be elevated, the elevation of the lowest floor (including basement).
3. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
4. Topographic information showing existing and proposed ground elevations.

Sec. 70-573A. - General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be built according to this division and the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to paragraphs A - H above, in all special flood hazard areas, the additional paragraphs shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas,

notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.

- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Sec. 70-573B. - Elevation and Construction Standards

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Section 572, Subsection A(3) the following provisions shall apply:

1. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones AE and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus eighteen (18) inches.

2. Non-Residential Construction

- a. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level plus eighteen (18) inches.

- b. Non-residential buildings located in all AE zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus two feet are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the County Administrator.

3. Space Below the Lowest Floor

In zones A and AE, fully enclosed areas of new construction or substantially improved structures, which are below the regulatory flood protection elevation, shall:

- a. Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
- b. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation.
- c. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - i. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - ii. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - iii. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - iv. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - vi. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

4. Accessory Structures

- a. Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of Sec. 70-573B, Subsection 2, or, if not elevated or dry floodproofed, shall:
 - i. Not be used for human habitation;
 - ii. Be limited to no more than 600 square feet in total floor area;
 - iii. Be useable only for parking of vehicles or limited storage;
 - iv. Be constructed with flood damage-resistant materials below the base flood elevation;
 - v. Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
 - vi. Be anchored to prevent flotation;
 - vii. Have electrical service and mechanical equipment elevated to or above the base flood elevation;
 - viii. Shall be provided with flood openings which shall meet the following criteria:
 - (1) There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
 - (2) The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
 - (3) The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
 - (4) Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

5. Standards for Manufactured Homes and Recreational Vehicles

- a. In zones A and AE, all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Secs. 70-573A and 70-573B.
- b. All recreational vehicles placed on sites must either:
 - i. Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (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); or
 - ii. Meet all the requirements for manufactured homes in Section 70-573B, Subsection 5a.

Sec. 70-573C. - Standards for Subdivision Proposals

- 1. All subdivision proposals shall be consistent with the need to minimize flood damage;
- 2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- 3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- 4. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

SUBDIVISION 5 – MISCELLANEOUS PROVISIONS

Sec. 70-574. - Existing Structures in Floodplain Areas

Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved unless one of the following exceptions is established before the change is made:

- A. The Floodplain Administrator has determined that:

1. Change is not a substantial repair or substantial improvement (for example: replacing roofing or siding is not a substantial repair); and
 2. Any new structure to be built in the floodplain is compliant; and
 3. No new structure is being built in the floodway; and
 4. The change complies with this division and the Virginia Uniform Statewide Building Code.
- B. The changes are required to comply with a citation for a health or safety violation.
- C. The structure is a historic structure and the change required would impair the historic nature of the structure.

Sec. 70-574A. - Variances: Factors to be Considered

Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this Section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this Section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

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 consider the following additional 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 District that will cause any increase in the one percent (1%) chance 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 by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted 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. No variance shall be granted for an accessory structure exceeding 600 square feet.
- N. Such other factors which are relevant to the purposes of this division.

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 flood protection and other related matters.

Variances shall be issued only 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; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

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

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one percent (1%) chance flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

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

Sec. 70-575B. - Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

1. Appurtenant or accessory structure - A non-residential structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures are not to exceed 600 square feet.
2. Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
3. Base flood elevation - The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the County's Flood Insurance Rate Map. For the purposes of this division, the base flood is the 1% annual chance flood.
4. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
5. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this division.
6. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, temporary structures, mining, dredging, filling, grading, paving, excavation, drilling or other land-disturbing activities or permanent or temporary storage of equipment or materials.
7. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).
8. Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
9. Existing construction - For the purposes of the insurance program, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures" and "pre-FIRM."
10. Flood or flooding -
 - a. A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - i. The overflow of inland or tidal waters; or,
 - ii. The unusual and rapid accumulation or runoff of surface waters from any source.
 - iii. Mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this

definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or 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 flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
- 11. Flood Insurance Rate Map (FIRM) - an official map of the County, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
 - 12. Flood Insurance Study (FIS) - a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
 - 13. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
 - 14. Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
 - 15. Floodway - 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 one foot at any point within the County.
 - 16. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.
 - 17. Functionally dependent use - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This 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.
 - 18. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
 - 19. Historic structure - Any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior; or,
 - ii. Directly by the Secretary of the Interior in states without approved programs.
 - 20. Hydrologic and Hydraulic Engineering Analysis - Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.
 - 21. Letters of Map Change (LOMC) - A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:
 - 22. Letter of Map Amendment (LOMA) - An amendment based on technical data showing that a

property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by meets and bounds or structure is not located in a special flood hazard area.

23. Letter of Map Revision (LOMR) - A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the County's floodplain management regulations.
24. Conditional Letter of Map Revision (CLOMR) - A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.
25. Lowest adjacent grade - the lowest natural elevation of the ground surface next to the walls of a structure.
26. Lowest floor - 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 non-elevation design requirements of Federal Code 44CFR §60.3.
27. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
28. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
29. Mean Sea Level - for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 to which base flood elevations shown on a community's FIRM are referenced.
30. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after October 12, 1997, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
31. Post-FIRM structures - A structure for which construction or substantial improvement occurred on or after October 12, 1997.
32. Pre-FIRM structures - A structure for which construction or substantial improvement occurred before October 12, 1997.
33. Recreational vehicle - A vehicle which is:
 - a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light duty truck; and,
 - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
34. 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.
35. Severe repetitive loss structure - a structure that: (a) Is covered under a contract for flood insurance made available under the NFIP; and (b) Has incurred flood related damage - (i) For which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) For which at least 2 separate claims payments have been made under

such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

36. Shallow flooding area - A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
37. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section 70-572 of this division.
38. Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. - 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
39. Structure - for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
40. Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Flood-related damages sustained by a structure on two occasions in a 10-year period, in which the cost of the repair, on the average, equals or exceeds 25 percent of the market value of the structure at the time of each such flood event.
41. Substantial improvement - 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. The term does not, however, include either:
 - a. 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
 - b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
 - c. 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.
42. Violation - the failure of a structure or other development to be fully compliant with the County's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
43. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Section 70-575C. - Enactment

Enacted and ordained this 8th day of March, 2022. This ordinance shall become effective upon passage.

RE: CLOSED MEETING

At 5:41 p.m., Mr. Lacheney read the following motion authorizing Closed Meeting:

WHEREAS, the Orange County Board of Supervisors desired to discuss in Closed Meeting the following matters:

- Consultation with legal counsel pertaining to actual or probable litigation, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the public body concerning threatened erosion and sediment control litigation and the Rapidan Service Authority (RSA) litigation. - §2.2-3711(A)(7) of the Code of Virginia
- Consultation with legal counsel employed or retained by the public body regarding specific legal matters requiring the provision of legal advice by such counsel concerning utilities, specifically Rapidan Service Authority (RSA). - §2.2-3711(A)(8) of the Code of Virginia

WHEREAS, pursuant to §§2.2-3711 (A)(7) and (A)(8) of the Code of Virginia, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby authorized discussion of the aforestated matters in Closed Meeting.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, with Mr. Marshall being absent, the Board adopted the resolution authorizing Closed Meeting, as presented. Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Marshall.

RE: CERTIFICATION OF CLOSED MEETING

At 7:32 p.m., Ms. Simpson read the following resolution certifying Closed Meeting:

WHEREAS, the Orange County Board of Supervisors has, this day, adjourned into Closed Meeting in accordance with a formal vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Freedom of Information Act requires certification that such Closed Meeting was conducted in conformity with the law;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby certified that, to the best of each member's knowledge, i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the Closed Meeting to which this certification applied, and ii) only such public business matters as were identified in the motion by which the said Closed Meeting was convened were heard, discussed or considered by it.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Marshall.

RE: ADJOURN

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, with Mr. Marshall being absent, the Board adjourned the meeting at 7:32 p.m. Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Marshall.

R. Mark Johnson, Chairman

Theodore L. Voorhees, County Administrator