

MEETING #25 May 7

At a Joint Meeting of the Madison County Board of Supervisors and the Madison County Planning Commission on May 7, 2014 at 7:00 p.m. in the Administrative Center Auditorium located at 414 N. Main Street:

PRESENT: Doris G. Lackey, Chair
R. Clay Jackson, Vice-Chair
Jonathon Weakley, Member
Robert W. Campbell, Member
R. Clay Jackson, Member
Kevin McGhee, Member
V. R. Shackelford, III, County Attorney
Ernest C. Hoch, County Administrator
Betty Grayson, Zoning Administrator

ABSENT: Jacqueline S. Frye, Deputy Clerk

Planning Commission:

1. Call to Order

Carlton Yowell, Commission Chair, called tonight's meeting to order.

2. Pledge of Allegiance & Moment of Silence

The Board of Supervisors and the Madison County Planning commenced the meeting with the Pledge of Allegiance and a moment of silence.

3. Determine Presence of a Quorum

Mr. Yowell, Commission Chair, noted a Quorum was present.

4. Approval of Minutes

The minutes of the April 2, 2014 Joint Meeting were approved with one correction.

Mr. Yowell provided an overview of tonight's meeting process; representatives will be asked to approach the podium to provide their name and any information pertinent to tonight's case; questions will be entertained by the Commission members, the public, and then recommended onto the Madison County Board of Supervisors either for approval or tabling.

Mr. Yowell, Chair, advised the Commission will recess and return to the meeting forum after the Board acts on tonight's cases, in order to move forward with the Public Hearing on the Flood Plain Ordinance.

5. Action Items:

- a. **Case No. SP-04-14-10:** Request by Katherine L. Estes, et. als. for a site plan request for the construction of a commercial retail building for Yoder's Country Market. This property is located off Route 29 Northbound Lane near Oak Hill, zoned Business, B-1. A letter of approval was received today from Anthony Hurlock, VDOT. An email was received from Dwayne Dixon, Sanitarian, of the Madison Health Department advising of no objections to the approval of tonight's request. A letter was received from Lyn Clements of the Rapidan Service Authority on May 6, 2014 stating approval of the plan. Brian Daniel, Erosion & Sedimentation Technician, received an email from Richard Jacobs (Culpeper Soil & Water Conservation District, at 4:41 p.m. today to denote they had a few minor concerns that will need to be changed, and suggested conditional approval be awarded.

Lee Baines, Civil Engineer, was present on behalf of the applicant; he advised the recommended changes by the Culpeper Soil & Water Conservation District weren't anything of significant concern; the storm water management plan and type of piping to be used will be finalized at the time of construction.

Betty Grayson, Zoning Administrator, advised the Board will need to establish a bond amount.

After discussion, the Madison County Planning commission recommended that Case No. SP-04-14-10 be recommended onto the Madison County Board of Supervisors for approval, with the conditions that:

- A soil and erosion bond of \$55,661.88 be set
- A final letter of approval is received from Richard Jacobs of the Culpeper Soil and Water Conservation District

- b. **Case No. S-05-14-12:** Request by Adrian Jay or Amanda Marie Yoder for a plat of a subdivision of land to create two (2) lots with residue on Routes 607 and 230 (Elly Road and Orange Road) at Aroda, zoned A-1. (Pending a variance request for setbacks of existing accessory structures on Parcel B.) The final plat has been approved by the Madison Health Department and VDOT, pending a variance which will be heard on May 19, 2014.

Adrian Yoder was present to answer questions pertaining to tonight's request.

After discussion, the Madison County Planning commission recommended that Case No. S-05-14-12 be referred to the Madison County Board of Supervisors for approval, pending approval of a variance.

- c. **Case No. Z-05-14-13:** Request by L S Industries, Inc. to rezone 3.980 acres (total tract of land is 4.982 acres) from Residential, R-1 to Industrial, M-2. (The 1.002 acres of TM 48-50B is currently zoned Industrial, M-2.) This property is located on Route 687 (140 Fairground Road) at Pratts, zoned Residential, R-1 and Industrial, M-2. A letter was received from VDOT to advise dated April 29, 2014 to advise there are no objections to the proposed request.

Ronnie Lambrich was present to answer any questions pertaining to tonight's request.

After discussion, the Madison County Planning commission recommended that Case No. Z-05-14-13 be referred onto the Madison County Board of Supervisors for approval.

- d. **Case No. S-05-14-14:** Request by Johnny Sisk & Sons Incorporated for a plat of a subdivision of land to create one (1) lot with residue off Route 631 (Leon Road) near Leon, zoned A-1. The lot will be served by a new 50 foot right-of-way across TM 42-9 owned by Virgil Lee Sisk. The final plat has been approved by the Madison Health Department and VDOT.

Virgil Sisk was present to answer any questions pertaining to tonight's request.

After discussion, the Madison County Planning Commission recommended that Case No. S-05-14-14 be referred to the Madison County Board of Supervisor for approval.

- e. **Case No. S-05-14-15:** Request by 6483 South Seminole Trail LLC for a subdivision plat to relocate part of the existing 50 foot right-of-way serving TM 55-32 and 32B. This property is located off Route 29 Northbound Lane near Shelby, zoned Conditional Industrial, M-1. The final plat has been approved by VDOT for the relocation of the right-of-way so the existing structure will meet setback requirements.

Bill Gimbel, Surveyor, was present on behalf of the applicant to answer any questions pertaining to tonight's request.

After discussion, the Madison County Planning Commission recommended that Case No. S-04-14-15 be referred to the Madison County Board of Supervisor for approval

- f. **Case No. SP-05-14-16:** Request by 6483 South Seminole Trail LLC for a site plan to construct an addition to the existing building currently used to make gutter guards. This property is located off Route 29 Northbound Lane near Shelby, zoned Conditional Industrial, M-1. (Pending the above subdivision plat request to relocate part of the existing 50 foot right-of-way.) The final plan has been approved by Dwayne Dixon, Sanitarian,

Madison Health Department via email dated May 2, 2014 to approve the site plan request. A letter was also received from VDOT dated April 28, 2014 stating there are no objections to the proposed site plan request.

After discussion, the Madison County Planning Commission recommended that Case No. SP-05-14-16 be referred to the Madison County Board of Supervisors for approval, pending the above site plan request.

6. Planning Commission to adjourn until the Joint Public Hearing on the Flood Plain Ordinance.

Mr. Yowell advised the Commission's will suspend its remaining portion of tonight's meeting until the Madison County Board of Supervisors' session is complete, at which time, the Flood Plain Ordinance will be discussed.

6. Adjournment:

With no further action being required, Mr. Yowell, Chair, adjourned the Madison County Planning Commission's portion of tonight's meeting.

Board of Supervisors

1. Call to Order

Chairman Lackey called the Madison County Board of Supervisor's portion of tonight's meeting to order.

2. Determine Presence of a Quorum

Chairman Lackey advised a quorum was present.

3. Adoption of Agenda

Supervisor Jackson moved tonight's agenda be approved, seconded by Supervisor Weakley, with the following vote recorded:

Doris G. Lackey	Aye
R. Clay Jackson	Aye
Jonathon Weakley	Aye
Robert Campbell	Aye
Kevin McGhee	Aye

4. Action Items:

a. **Case No. SP-04-14-10: Request by Katherine L. Estes, et. als...**

Chairman Lackey questioned the fact that the letter submitted by Mr. Richard Jacobs of the Culpeper Soil & Water Conservation District lists three (3) items.

Mr. Baines advised that further discussion was held with Mr. Jacobs today regarding the minor concerns noted in his letter, although it wasn't clarified whether the items noted would require any significant changes. He also advised that further discussions will transpire with Brian Daniel, Erosion & Sedimentation Technician, Mr. Jacobs and the contractor who will be responsible to determining the best strategy to comply with assessed issues (i.e. design, form, discharge, specifications, etc.).

Supervisor Jackson moved that Case No. SP-04-14-10 be approved, with compliance of the letter submitted by Mr. Richard Jacobs (Culpeper Soil & Water Conservation District), seconded by Supervisor McGhee, with the following vote recorded:

Doris G. Lackey	Aye
R. Clay Jackson	Aye
Jonathon Weakley	Aye
Robert Campbell	Aye
Kevin McGhee	Aye

Supervisor Weakley moved the bond be set at \$55,700.00 for Case No. SP-04-14-10, seconded by Supervisor McGhee, with the following vote recorded:

Doris G. Lackey	Aye
R. Clay Jackson	Aye
Jonathon Weakley	Aye
Robert Campbell	Aye
Kevin McGhee	Aye

b. **Case No. S-04-14-12: Request by Adrian Jay or Amanda Marie Yoder....**

Supervisor Campbell questioned how many tracts of land would be involved, to which Mr. Yoder advised would total thirty (30) acres.

Supervisor Campbell moved the Board approve Case No. S-04-14-12, seconded Supervisor Jackson, with the following vote recorded:

Doris G. Lackey	Aye
R. Clay Jackson	Aye
Jonathon Weakley	Aye
Robert Campbell	Aye
Kevin McGhee	Aye

c. Case No. Z-05-14-13: Request LS Industries, Inc....

Chairman Lackey called for any questions from the Board members pertaining to tonight's request.

Supervisor Jackson moved the Board approve Case Z-05-14-13, as recommended by the Madison County Planning Commission, seconded by Supervisor McGhee, with the following vote recorded:

Doris G. Lackey	Aye
R. Clay Jackson	Aye
Jonathon Weakley	Aye
Robert Campbell	Aye
Kevin McGhee	Aye

d. Case No. S-05-14-14: Request by Johnny Sisk & Sons.....

Chairman Lackey called for any questions from the Board members pertaining to tonight's request.

Supervisor Campbell questioned how many acres will be involved, to which the applicant advised about 275 acres.

Supervisor McGhee moved the Board approve Case No. S-05-14-14 as recommended by the Madison County Planning Commission, seconded by Supervisor Weakley, with the following vote recorded:

Doris G. Lackey	Aye
R. Clay Jackson	Aye
Jonathon Weakley	Aye
Robert Campbell	Aye
Kevin McGhee	Aye

e. Case No. S-04-14-15 Request by 6483 South Seminole Trail LLC.....

Chairman Lackey called for any questions from the Board pertaining to tonight's request.

Supervisor Campbell moved the Board approve Case No. S-04-14-15 as recommended by the Madison County Planning Commission, seconded by

Supervisor Jackson with the following vote recorded:

Doris G. Lackey	Aye
R. Clay Jackson	Aye
Jonathon Weakley	Aye
Robert Campbell	Aye
Kevin McGhee	Aye

f. Case No. SP-05-14-16: Request by 6483 South Seminole Trail LLC....

Chairman Lackey called for any questions from the Board pertaining to tonight's request.

Supervisor Weakley moved the Board approve Case No. SP-05-14-16 as recommended by the Madison County Planning Commission, seconded by Supervisor Jackson, with the following vote recorded:

Doris G. Lackey	Aye
R. Clay Jackson	Aye
Jonathon Weakley	Aye
Robert Campbell	Aye
Kevin McGhee	Aye

5. Joint Public Hearing – Madison Flood Plain Ordinance

The Madison County Planning Commission re-entered the meeting process to continue with the public hearing on the Flood Plain Ordinance.

Mr. Yowell, Chair, advised the Flood Plain Ordinance was assigned to a sub-committee and was compared against the existing document.

Betty Grayson, Zoning Administrator, provided an overview of the specifics contained in the Flood Plain Ordinance; representatives from DCR generally visit the County every six (6) to seven (7) years to assess the County's Flood Plain Ordinance and review any permits issued. Overall, the County issues very few permits in this area. A report is completed (by DCR) to include suggestions to be incorporated into the County's Ordinance in accordance with State updates/guidelines. If the County's Ordinance doesn't coincide with the State's model Ordinance, local property owners here with flood insurance will be denied the right to file a claim following an incident of flooding.

The County Attorney advised the Ordinance being proposed is in conjunction with the State's model Ordinance; he advised of some concern about the maps and in what areas within the County are designated as being situated in a flood plain, as he doesn't feel the information is accurate for some areas.

Ms. Grayson advised the last set of maps done were implemented during a visit in January 2007; she did call to inquire as to whether updated maps would be presented during the recent visit, and was advised there wouldn't be any new maps provided (by FEMA) for the County.

Garold Stephenson, Commission member advised the FEMA website doesn't contain any mapping information on Madison County; he also verbalized concerns regarding penalties for any flood plain violations.

Ms. Grayson advised that mapping information for the County can be found on the County's website under GIS.

The County Attorney advised the County's Ordinance does contain a clause about misdemeanors, which is something he'd like the Board and Planning Commission to revisit at some point in time, as there are implications for enforcement (i.e. different standards for handling misdemeanors). Additionally, he advised that most County Ordinances do contain a penalty for misdemeanors; however, there is a 'civil type remedy' in place, and a Class I misdemeanor does carry a jail sentence. He further explained there are three types of misdemeanors (i.e. Class I, Class II, Class III), which is something he feels the County should also consider.

Concerns were also verbalized regarding:

- a) Properties that may be a part of the land use program (situated within a flood plain)
- b) Whether someone would be allowed to construct a pavilion in a flood plain

The County Attorney advised the County's existing Zoning Ordinance will still need to be enforced and property owners will be required to attain all proper permits.

Ms. Grayson advised there is a guideline that will require any structure to be 'closed in' if it's situated in a flood plain, and must be erected above the designated flood elevation level (as per the building code requirements).

Lloyd Williams, Commission member, questioned the portion of today's Ordinance regarding the "Flood Plain Administrator" (Section 1.4) and guidelines pertaining to the section regarding specific and additional provisions (Article 4).

The County Attorney advised the area specified should include verbiage to include "buildings located in all "A" and "A-E" Zones."

After discussion, the Madison County Planning Commission properly moved and seconded that Ordinance #2014-2 [Flood Plain Ordinance] (as provided and presented by Betty Grayson, Zoning Administrator, and V. R. Shackelford, County Attorney), be recommended to the Madison County Board of Supervisors for

approval.

With no further action being required on the part of the Madison County Planning Commission, it was properly moved and seconded to adjourn their portion of tonight's public hearing session.

Chairman Lackey questioned whether the Board members had any questions or concerns pertaining to tonight's proposed Flood Plain Ordinance.

Supervisor Jackson moved the approval of Ordinance #2014-2 [Flood Plain Ordinance], as recommended by the Madison County Planning Commission, seconded by Supervisor McGhee, with the following vote recorded:

Doris G. Lackey	Aye
R. Clay Jackson	Aye
Jonathon Weakley	Aye
Robert Campbell	Aye
Kevin McGhee	Aye

6. Information/Correspondence (if any)

Give Local Piedmont Day:

Chairman Lackey asked Mr. Yowell to provide input on yesterday's "Give Local Piedmont Day" event.

Mr. Yowell advised that yesterday's day of giving was a success with \$675,000.00 being donated among the localities involved; several non-profit representatives set up a station at the fire house – there are plans to hold this type of event annually and continue to raise awareness. In closing, once numbers have been composed for our locality, a report will be provided for review.

Economic Tourism Meeting:

The County Administrator advised a meeting will be scheduled next Thursday at the fire house at 5:30 p.m. He stressed the importance of understanding demographics of the region and how these changes may affect tourism and lifestyle.

Madison Early Learning Center:

Supervisor Campbell advised there have been citizen concerns that the County plans to lease the facility from the Culpeper Regional Hospital, and that several non-profit organizations and the Christian School have also inquired about the facility.

The County Administrator advised that MESA submitted a letter to the Board to request funding support; they've tentatively made an agreement with the Culpeper Regional Hospital regarding possibly leasing the building. In closing, he advised the County hasn't committed to anything at this point, and there have been no further discussions since the last workshop session.

It was also reported that MESA hasn't signed a contract, but are seeking to use the building to provide childcare, space for other community organizations, and possibly allow Parks & Recreation to hold summer camps at the facility.

Sealed Bids:

The County Administrator forwarded information to all members on the law enforcement vehicles that will be offered by sealed bids.

Madison Transfer Station:

The County Administrator advised the new procedures (i.e. weigh in/weight out) at the transfer station will begin shortly and will be fully implemented by July 1st; a story will be published in the local newspaper for public information.

Noise/Nuisance Issues:

The County Administrator advised there will be discussions at the May workshop regarding model Ordinances pertaining to noise/nuisance. In closing, he advised it'll be difficult to control this issue if the County moves toward assessing decibel levels, as this will be difficult to enforce. In closing, he suggested the County propose something simple and easy to enforce.

7. Adjournment

With no further action being required, on motion of Supervisor Jackson, seconded by Supervisor McGhee, Chairman Lackey adjourned the meeting, with the following vote recorded:

Doris G. Lackey	Aye
R. Clay Jackson	Aye
Jonathon Weakley	Aye
Robert Campbell	Aye
Kevin McGhee	Aye

Doris G. Lackey, Chairman
Madison County Board of Supervisors

Clerk of the Board of the Madison County Board of Supervisors

Adopted on: June 10, 2014

Copies to: Doris G. Lackey, R. Clay Jackson, Jonathon Weakley, Robert Campbell; Kevin McGhee, V. R. Shackelford, Constitutional Officers

Ordinance(s) Approved on May 7, 2014

- 1. Ordinance #2014-2 (Amending Zoning Ordinance of Madison County, Virginia to Establish Flood Plain Districts*

ORDINANCE #2014-2

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF **MADISON COUNTY, VIRGINIA**, TO ESTABLISH FLOODPLAIN DISTRICTS, TO REQUIRE THE ISSUANCE OF PERMITS FOR DEVELOPMENT, AND TO PROVIDE FACTORS AND CONDITIONS FOR VARIANCES.

BE IT ENACTED AND ORDAINED BY THE **Board of Supervisors of Madison County**, Virginia (“the County”), as follows:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 – Statutory Authorization and Purpose [44 CFR 59.22(a)(2)]

This ordinance is adopted pursuant to the authority granted to localities by Va. **Code § 15.2 - 2280**.

The purpose of these provisions is to prevent: the loss of life and 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 flood-proofed against flooding and flood damage; and,
- D. protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 - Applicability

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of **the County**, and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to **the County**, by FEMA.

Section 1.3 - Compliance and Liability

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, 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 ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
- C. This ordinance shall not create liability on the part of **the County**, or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 1.4 – Records [44 CFR 59.22(a) (9) (iii)]

Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator.

Section 1.5 - Abrogation [44 CFR 60.1(b)]

This ordinance supersedes any ordinance currently in effect in flood-prone districts. This ordinance shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

Section 1.6 - Severability

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

Section 1.7 - Penalty for Violations [44 CFR 60.2(e)]

Any person who fails to comply with any of the requirements or provisions of this Ordinance or directions of the **Floodplain Administrator** shall be guilty of the appropriate violation and subject to the penalties therefore.

The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the Zoning Ordinance of **Madison County, Virginia**, are addressed in Section 19.3 of the Zoning

Ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article 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 article may be declared by the **County**, to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

ARTICLE II - ADMINISTRATION

Section 2.1 - Designation of the Floodplain Administrator [44 CFR 59.22(b)]

The Madison County Zoning Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

Section 2.2 - Duties and Responsibilities of the Floodplain Administrator [44 CFR 60.3]

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

- (A) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- (B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (C) 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.
- (D) 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.
- (E) 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.

(F) 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.

(G) 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.

(H) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(I) 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**, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(J) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

(1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

(2) 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, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(K) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(L) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance and prepare a staff report.

(M) Administer the requirements related to proposed work on existing buildings:

- 1) 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.
- 2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and 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.

(N) 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.

(O) Notify the Federal Emergency Management Agency when the corporate boundaries of the County have been modified and:

(1) 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

(2) 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.

(P) 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.

(Q) It is the duty of the 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 Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

(R) Jurisdiction for this ordinance is the County of Madison. Any change in the boundary for the County of Madison would require action that is not governed by

this ordinance. Furthermore, any change in the boundary of Madison County is extremely unlikely to occur.

Section 2.3 - Use and Interpretation of FIRMs [44 CFR 60.3]

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:

(A) Where field surveyed topography indicates that adjacent ground elevations:

(1) Are below the base flood elevation, 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;

(2) Are above the base flood elevation, 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.

(B) 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.

(C) 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.

(D) 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.

(E) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

(1) 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.

(2) 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 3.1.A.3. and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(3) 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.

Section 2.4 - Jurisdictional Boundary Changes [44 CFR 59.22, 65.3]

The County floodplain ordinance in effect on the date of annexation 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, 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 Emergency Management Agency and optionally the Virginia Department of Conservation and Recreation – Division of Dam Safety and Floodplain Management in writing whenever the boundaries of the community have been modified by annexation or the community 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 community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Section 2.5 - District Boundary Changes

Jurisdiction for this ordinance is the County of Madison. Any change in the boundary for the County of Madison would require action that is not governed by this ordinance. Furthermore, any change in the boundary of Madison County is extremely unlikely to occur.

Section 2.6 - Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Floodplain 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.

Section 2.7 – Submitting Technical Data [44 CFR 65.3]

A community'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, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

Section 2.8 – 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.

Example cases:

- Any development that causes a rise in the base flood elevations within the floodway.
- Any development occurring in Zones A and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges) *44 Code of Federal Regulations §65.3 and §65.6(a)(12)*

ARTICLE III - ESTABLISHMENT OF SPECIAL FLOOD HAZARD DISTRICTS

Section 3.1 - Description of Special Flood Hazard Districts (SFHA) [44 CFR 59.1, 60.3]

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 the **County**, prepared by the Federal Emergency Management Agency, Federal Emergency Management Agency, dated **January 5, 2007**, and any subsequent revisions or amendments thereto.

The County 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 ordinance and which shall be kept on file at the office of the Floodplain Administrator.

1. The **Floodway District** is in an **AE Zone** and is delineated, for purposes of this ordinance, 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 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 community 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 endorsement of the County – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If Article III Section 3.1 A 1 a is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 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)*]:

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 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**.

Development activities in AE, on the 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 **endorsement of the County** – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

* The requirement in 63.3(c) (10) only applies along rivers, streams, and other watercourses where FEMA has provided base flood elevations. The requirement does not apply along lakes, bays and estuaries, and the ocean coast.

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)]:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year 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 non-detailed technical concepts, 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 no less than one (1) foot above the base flood level.

During the permitting process, the Floodplain Administrator shall obtain:

- 1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- 2) if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

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.

Section 3.2 - Overlay Concept

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Madison County 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.

ARTICLE IV - DISTRICT PROVISIONS [44 CFR 59.22, 60.2, 60.3]

Section 4.1 – 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 zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and

Madison County Subdivision Regulations. 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. Permit Applications

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

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

Section 4.2 - General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to Section 3.1 of this ordinance and the VA USBC, 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 provisions A – H above, in all special flood hazard areas, the additional provisions 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.

Section 4.3 - Elevation and Construction Standards [44 CFR 60.3]

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 3.1 A 3, the following provisions shall apply:

A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A and AE with detailed base flood elevations shall have the lowest floor, including basement, elevated to no less than one (1) foot above the base flood level.

B. Non-Residential Construction

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 no less than one (1) foot above the base flood level. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below

the elevation corresponding to the BFE plus one foot 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 Floodplain Administrator.

C. 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:

1. not be designed or used for human habitation, but shall only be used 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).
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. 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.
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - b. 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.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - f. 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.

D. Standards for Manufactured Homes and Recreational Vehicles

1. 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 Article 4, section 4.2 and section 4.3.

2. All recreational vehicles placed on sites must either
 - a. 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
 - b. meet all the requirements for manufactured homes in Article 4.3(D)(1).

Section 4.4 - Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. 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.

ARTICLE V – EXISTING STRUCTURES IN FLOODPLAIN AREAS

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

- A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC and the appropriate provisions of this ordinance.

- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

ARTICLE VI - VARIANCES: FACTORS TO BE CONSIDERED [44 CFR 60.6]

Variations 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.

Variations 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 variations, 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 hundred (100)-year 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. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for 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 hundred (100)-year 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.

GLOSSARY [44 CFR 59.1]

- A. Appurtenant or accessory structure - Accessory structures not to exceed 200 sq. ft.
- B. Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
- C. 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 community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.
- D. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- E. 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 ordinance.
- F. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- G. 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).
- H. 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.
- I. Existing construction - structures for which the "start of construction" commenced before the effective date of the FIRM or before April 3, 1989 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
- J. Flood or flooding -
 - 1. A general or temporary condition of partial or complete inundation of normally dry land areas from
 - a. the overflow of inland or tidal waters; or,
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
 - c. 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.

2. 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.
- K. Flood Insurance Rate Map (FIRM) - an official map of a community, 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).
- L. 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.
- M. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- N. Flood proofing - 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.
- O. 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.
- P. 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. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.
- Q. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- R. Historic structure - Any structure that is

1. 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;
 2. 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;
 3. 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,
 4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
 - a. by an approved state program as determined by the Secretary of the Interior; or,
 - b. directly by the Secretary of the Interior in states without approved programs.
- S. 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.
- T. 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:
- 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*.
- 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 plan metric 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 *community's* floodplain management regulations.

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*.

- U. Lowest adjacent grade - the lowest natural elevation of the ground surface next to the walls of a structure.
- V. 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.
- W. 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, but does not include a recreational vehicle.
- X. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after April 3, 1989, whichever is later], 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.
- Y. Post-FIRM structures - A structure for which construction or substantial improvement occurred on or after April 3, 1989.
- Z. Pre-FIRM structures - A structure for which construction or substantial improvement occurred on or before April 3, 1989.
- AA. Recreational vehicle - A vehicle which is
 1. built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;

3. designed to be self-propelled or permanently towable by a light duty truck; and,
 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- BB. Repetitive Loss Structure – A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions, 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.
- CC. 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.
- DD. 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.
- EE. 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 Article 3, Section 3.1 of this ordinance.
- FF. 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.

GG. Structure - for floodplain management purposes, a walled and roofed building or a manufactured home.

HH. Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

II. 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. This term includes structures which have incurred *repetitive loss* or *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*.
3. 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.

JJ. Violation - the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 3.7 B 11, Section 4.3 B, Section 4.4 A, Section 4.5, and section 4.8 is presumed to be in violation until such time as that documentation is provided.

KK. 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.

ARTICLE VII – ENACTMENT

ENACTED AND ORDAINED THIS 7th DAY OF May, 2014. This ordinance shall become effective upon passage, on motion of Supervisor Jackson, seconded by Supervisor McGhee.

Madison County Board of Supervisors

By: _____
Doris G. Lackey, Chair

	Aye	Nay	Abstain	Absent
Doris G. Lackey	<u> x </u>	_____	_____	_____
R. Clay Jackson	<u> x </u>	_____	_____	_____
Jonathon Weakley	<u> x </u>	_____	_____	_____
Robert Campbell	<u> x </u>	_____	_____	_____
Kevin McGhee	<u> x </u>	_____	_____	_____



Agenda
"Joint Meeting
Madison County Board of Supervisors
Wednesday, April 2, 2014 at 7:00 p.m.
County Administration Building, Auditorium
414 N Main Street, Madison, Virginia 22727



Planning Commission

- 1. Call to Order**
- 2. *Pledge of Allegiance & Moment of Silence***
- 3. Determine Presence of a Quorum**
- 4. Approval of Minutes**
- 5. Action Items:**
 - a. Case No. SP-04-14-10: Request by Katherine L. Estes, et. als. for a site plan request for the construction of a commercial**

retail building for Yoder's Country Market. This property is located off Route 29 Northbound Lane near Oak Hill, zoned Business, B-1.

- b. **Case No. S-05-14-12:** Request by Adrian Jay or Amanda Marie Yoder for a plat of a subdivision of land to create two (2) lots with residue on Routes 607 and 230 (Elly Road and Orange Road) at Aroda, zoned A-1. (Pending a variance request for setbacks of existing accessory structures on Parcel B.)
 - c. **Case No. Z-05-14-13:** Request by L S Industries, Inc. to rezone 3.980 acres (total tract of land is 4.982 acres) from Residential, R-1 to Industrial, M-2. (The 1.002 acres of TM 48-50B is currently zoned Industrial, M-2.) This property is located on Route 687 (140 Fairground Road) at Pratts, zoned Residential, R-1 and Industrial, M-2.
 - d. **Case No. S-05-14-14:** Request by Johnny Sisk & Sons Incorporated for a plat of a subdivision of land to create one (1) lot with residue off Route 631 (Leon Road) near Leon, zoned A-1. The lot will be served by a new 50 foot right-of-way across TM 42-9 owned by Virgil Lee Sisk.
 - e. **Case No. S-05-14-15:** Request by 6483 South Seminole Trail LLC for a subdivision plat to relocate part of the existing 50 foot right-of-way serving TM 55-32 and 32B. This property is located off Route 29 Northbound Lane near Shelby, zoned Conditional Industrial, M-1.
 - f. **Case No. SP-05-14-16:** Request by 6483 South Seminole Trail LLC for a site plan to construct an addition to the existing building currently used to make gutter guards. This property is located off Route 29 Northbound Lane near Shelby, zoned Conditional Industrial, M-1. (Pending the above subdivision plat request to relocate part of the existing 50 foot right-of-way.)
6. **Planning Commission to adjourn until the Joint Public Hearing on the Flood Plain Ordinance.**

Board of Supervisors

- 1. Call to Order**
- 2. Determine Presence of a Quorum**
- 3. Adoption of Agenda**
- 4. Action Items:**
 - a. **Case No. SP-04-14-10:** Request by Katherine L. Estes, et. als....
 - b. **Case No. S-05-14-12:** Request by Adrian Jay or Amanda Marie Yoder...
 - c. **Case No. Z-05-14-13:** Request by L S Industries, Inc...
 - d. **Case No. S-05-14-14:** Request by Johnny Sisk & Sons...
 - e. **Case No. S-05-14-15:** Request by 6483 South Seminole Trail LLC...
 - f. **Case No. SP-05-14-16:** Request by 6483 South Seminole Trail LLC...
- 5. Joint Public Hearing – Madison Flood Plain Ordinance**
- 6. Information/Correspondence (if any)**
- 7. Adjournment**