

**MINUTES  
KING WILLIAM COUNTY  
BOARD OF SUPERVISORS  
MEETING OF APRIL 27, 2015**

A regular meeting of the Board of Supervisors of King William County, Virginia, was held on the 27<sup>th</sup> day of April, 2015, beginning at 7:00 p.m. in the Conference Room of the County Administration Building, with the following present:

Terry S. Stone, Chairman  
Stephen K. Greenwood, Vice-Chairman  
C. Thomas Redd III  
Travis J. Moskalski  
Otto O. Williams

K. Charles Griffin, County Administrator  
Daniel M. Stuck, County Attorney and Interim County Administrator

**RE: CALL TO ORDER**

The Chairman called the Board of Supervisors meeting to order at 7:00 p.m. and asked for a roll call vote.

C. T. Redd III	Aye
T. J. Moskalski	Aye
S. K. Greenwood	Aye
O. O. Williams	Aye
T. S. Stone	Aye

**RE: REVIEW OF MEETING AGENDA**

There was general discussion of the meeting agenda items.

The Board recessed and moved to the Board Meeting Room of the County Administration Building to continue the meeting.

The Chairman called the meeting back to order at 7:25 p.m.

**RE: ADOPTION OF MEETING AGENDA**

C. T. Redd III moved for the adoption of the agenda for this meeting as presented by the Interim County Administrator with the following changes under Old Business: item 10a consideration of proposed Ordinance 15-02 was changed and now becomes proposed Ordinance 15-02(R); item 10c consideration of proposed Ordinance 15-03 was changed and now becomes proposed Ordinance 15-03(R); and lastly item 10d consideration of Resolution 15-13 was added; motion was seconded by T. J. Moskalski and approved by the following roll call vote:

T. J. Moskalski	Aye
S. K. Greenwood	Aye
O. O. Williams	Aye
C. T. Redd III	Aye

T. S. Stone            Aye

**RE: PUBLIC COMMENT PERIOD – SPEAKERS: ONE OPPORTUNITY OF  
3 MINUTES PER INDIVIDUAL OR 5 MINUTES PER GROUP ON NON-PUBLIC  
HEARING MATTERS**

Chair Stone opened the Public Comment Period.

1.     Ann Todd, property owner in the 2<sup>nd</sup> District, spoke of the land use program offered by the County and suggested stricter guidelines be followed for participants in this program. She noted that the land she owns in King William County is currently in the land use program. She urged the Board to look into this matter, preferably this year, with the goal of developing a standard that will prevent the abuse of this program going forward.

2.     Mr. Kim McManus, Vice President of Finance with Rappahannock Community College, thanked the Board for the continued support received from King William County. He gave some statistics on the number of citizens of King William County that are employed by the college and also the number of residents enrolled in classes. He said the college is very excited about the 256 participants taking advantage of the dual enrollment program offered at King William High School.

3.     Bob Ehrhart, of the 5<sup>th</sup> District, submitted written comments by email opposing any tax increases.

There being no other persons to appear before the Board Chair Stone closed the Public Comment Period.

**RE: CONSENT AGENDA**

T. J. Moskalski moved for approval of the following items on the Consent Agenda, motion was seconded by S. K. Greenwood and approved by the following roll call vote:

S. K. Greenwood	Aye
O. O. Williams	Aye
C. T. Redd III	Aye
T. J. Moskalski	Aye
T. S. Stone	Aye

a.     Minutes:

- i.     Work Session of March 9, 2015
- ii.    Regular Meeting of March 23, 2015

b. Claims against the County for the month of April, 2015, in the amount of \$1,298,358.80 as follows:

(1) General Fund Warrants #80781-80884 in the amount of \$134,450.08, and General Fund Warrants #80737-80780 in the amount of \$29,203.03; ACH Direct Payments #6285-6340 in the amount of \$446,452.77, and ACH Direct Payments #6235-3284 in the amount of \$246,750.89; Direct Deposits #20580-20680 in the amount of \$194,482.65; and Electronic Tax Payment in the amount of \$121,888.65.

(2) For informational purposes, Social Services expenditures for the month of April, 2015, Warrants #310491-310500 in the amount of \$4,901.00, and Warrants #310501-310520 in the amount of \$18,573.48 ACH Direct Payments #1443-1466 in the amount of \$12,529.50; Direct Deposits #3464-3486 in the amount of \$30,810.13; and Electronic Tax Payment in the amount of \$18,063.92.

(3) For informational purposes, Comprehensive Services Act Fund expenditures for the month of April, 2015, Warrants #80885-80886 in the amount of \$5,280.70; and ACH Direct Payments #6341-6343 in the amount of \$34,972.00.

(4) There were no tax refunds for the month of April, 2015.

**RE: PRESENTATIONS TO THE BOARD**

There were no presentations to the Board

**RE: OLD BUSINESS**

a. Consideration of Proposed Ordinance 15-02(R) (TXT 01-15 Pet Crematory) – An ordinance to amend Chapter 86 – Zoning of the King William County Code to amend Sections 86-5 “Definitions” and 86-171 “Permitted use table established” and 86-456 “Specific guides and standards” of Chapter 86 “Zoning” of the Code of the County of King William to include Pet Crematory –

Director of Community Development, Bret Schardein, noted a public hearing was conducted by the Board of Supervisors at their March 23, 2015 regular meeting on this matter. The Board tabled action, requesting staff revise the draft ordinance to include some minimum acreage and setback requirements. During the public hearing two persons spoke and stated the need for additional restrictions on the use in residential areas. Staff has since reviewed revisions to the ordinance with both of

those persons; one stated their concerns were addressed by the revisions, while the other made no specific comment for or against. Staff has also discussed the revisions with the applicant, who stated no concerns with the changes.

Continuing, he said the ordinance revision as drafted permits the use in the B-1 Local Business, B-2 General Business and M Industrial zoning districts by-right and in the A-C Agricultural Conservation and R-R Rural Residential districts by conditional use permit, to allow the use to be considered on a case-by-case basis and specific conditions placed on the use. Based on Board and public comments, staff revised the ordinance to include a minimum lot size and a minimum setback. Staff included other conditions to mitigate potential impacts of the use in residential or agricultural areas. Staff recommends approval of the revised ordinance as drafted.

Chair Stone called for any discussion.

Mr. Williams asked for clarification of the recent advertisement of an application for this type of business.

Mr. Schardein explained that staff followed the guidance given by the Board in its March meeting on this matter. He stated that in anticipation of approval of the proposed ordinance tonight staff pre-advertised a public hearing for the Planning Commission to consider in their April meeting. He further stated that if the proposed ordinance is not adopted tonight the advertised public hearing will be cancelled.

Mr. Williams asked for clarification if proper notice of the public hearing has been given to adjacent property owners.

Mr. Schardein clarified staff is meeting all requirements of proper notification of public hearings.

Mr. Greenwood stated that he is fine with requiring five acres instead of ten acres for the minimum lot size.

Mr. Moskalski still feels there is no need to place too many restrictions on this amendment. He also feels the most important thing is for this process not to hold up the applicant.

Mr. Redd stated he does not have a problem with the minimum lot size to be five acres.

Chair Stone said she prefers the minimum lot size to be ten acres.

Mr. Williams agrees with Chair Stone.

C. T. Redd III moved for approval of Ordinance 15-02(R) as presented; motion was seconded by T. J. Moskalski.

There being no other discussions the following Ordinance 15-02(R) was adopted by the following roll call vote:

O. O. Williams	Aye
C. T. Redd III	Aye
T. J. Moskalski	Aye
S. K. Greenwood	Nay
T. S. Stone	Aye

ORDINANCE 15-02(R)  
ZONING TEXT AMENDMENT ORD 15-01

An Ordinance to Amend Chapter 86 – Zoning of the King William County Code to amend Sections 86-5 “Definitions,” 86-171 “Permitted use table established” and 86-456 “Specific guides and standards” of Chapter 86 “Zoning” of the Code of the County of King William to Include Pet Crematory

WHEREAS, King William County is permitted to regulate orderly development through its zoning ordinance by the authority granted in the State Code of Virginia Section § 15.2-2280; and

WHEREAS, the King William County Board of Supervisors voted unanimously on January 26<sup>th</sup> 2015 to request the Planning Commission hold a public hearing and make a recommendation on a code amendment to permit the use “pet crematory”; and

WHEREAS, the King William County Planning Commission conducted a public hearing on March 3<sup>rd</sup>, 2015 on the zoning text amendment, and voted unanimously, with one member absent, to recommend the Board of Supervisors approve the amendment; and

WHEREAS, the King William County Board of Supervisors conducted a public hearing on March 23<sup>rd</sup>, 2015 on the zoning text amendment, and voted unanimously to table action on the ordinance, requesting that staff revise the ordinance to include specific conditions for the use in the A-C Agricultural-Conservation and R-R Rural-Residential zoning districts, including minimum acreage and minimum setback distances from property lines; and

WHEREAS, the Board believes it appropriate to amend the King William County Code Chapter 86, with specific conditions in addition to the version of the ordinance as recommended by the Planning Commission,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, that the Board of Supervisors of King William County, Virginia, does this 27<sup>th</sup> day of April, 2015, amend and reenact the following sections of Chapter 86, of the King William County Code to add the following definition, specific guides and standards, and use table to read as follows:

ARTICLE I. IN GENERAL

Sec. 86-5. Definitions.

*“Pet crematory means an establishment where deceased household pets are consumed by incineration and the ashes of the deceased are collected for storage in urns or burial off-site. For the purpose of defining this use, household companion pets shall not include livestock, wild animals, poultry, horses or other animals larger than 300 lbs.*

Article X. Conditional Uses.

Sec. 86-456. Specific guides and standards.

(g) Pet crematories

- 1) The minimum lot size is 10 contiguous acres.
- 2) The minimum setback to existing off-site dwellings not owned by the subject property owner shall be 200’.
- 3) The minimum setback to property lines and/or rights of way not owned by the subject property owner shall be 100’.
- 4) The unit may not be used for disposal of waste, household trash or garbage.
- 5) Only one animal may be cremated at a time.
- 6) The unit shall either be fully concealed within a building to appear as a garage, shed, barn or other permitted residential or agricultural accessory structure or shall be fully screened from view from adjacent properties not owned by the subject property owner and any public roads, right of ways or easements, by either an opaque fence, new evergreen plantings, existing vegetation or natural topography, which must be maintained or replaced as needed to screen the unit.
- 7) The unit shall be located or constructed so that pets delivered and picked up for cremation shall not be at any time visible from adjacent properties not owned by the subject property owner and any public roads, right of ways or easements.
- 8) Animals not cremated immediately upon delivery shall be kept in refrigerated storage to prevent decomposition.
- 9) There shall be no on-site burials of pets.
- 10) No on-site advertising signage shall be permitted for the use.
- 11) The use shall not produce hazardous, objectionable or offensive conditions at or beyond property line boundaries by reasons of dust, odor, lint, smoke, cinders, fumes, noise, vibration, heat, glare, solid and liquid wastes, and
- 12) The use shall comply with all local, state and federal requirements, including, but not limited to, EPA and DEQ standards for air quality emissions.”

ARTICLE V. PERMITTED USES IN PRINCIPAL ZONING DISTRICTS

Sec. 86-171. Permitted use table established.

TABLE OF PERMITTED USES IN ZONING DISTRICTS

Description of Uses	A-C	R-R	R-1	B-1	B-2	M	R-C
COMMERCIAL, BUSINESS AND SERVICE							
<i>Pet crematory</i>	C	C		R	R	R	

b. Consideration of Proposed Resolution 15-11 – A Resolution Approving the Fiscal Year Budget beginning July 1, 2015 and ending June 30, 2016 for King William County, Virginia –

Mr. Stuck explained after the Board of Supervisors work session on April 17, 2015, staff made changes requested by the Board to the budget document. He noted the budget presented tonight for consideration, along with the revised summary pages, shows the total budget dropped by approximately \$85,000 and the revenues were reduced because the Board determined to apply undesignated fund balance that is above the 15% level to maintain for financial purposes. He noted community agencies

are level funded and the contingency fund has been reduced as part of the final findings of the Board of Equalization. He feels this budget, in terms of revenues, reflects very closely the impact of what the BOE has done.

He said the proposed resolution for Board approval is slightly different from what the Board is familiar with and has adopted in the past. The proposed resolution has more information about the school board and refers to the source of funds to the schools. The Board's approval of the schools budget is contingent on the receipt of funds from the various sources.

In closing, he said an appropriations resolution will be prepared, for Board consideration, which grants spending authority in conjunction with the approved budget and must be adopted before July 1, 2015. He explained specific language will be included in the appropriations resolution that spells out the source of funding and spending controls.

Chair Stone called for any discussion.

Mr. Williams asked for clarification of the exact difference of the total budget of FY15 and FY16.

Mr. Stuck gave a brief explanation of some of the projected figures which sums up in a total of an increase of approximately 2%.

Mr. Moskalski feels staff and this Board has done an exceptional job on this budget over the last several months in order to come up with something all can agree is a good budget to get through this year.

Mr. Greenwood read a statement he previously prepared. He is not happy with the budget proposal and feels no cuts have been made to make a difference. In his opinion, all that has been done is robbing Peter to pay Paul by moving reserve money around. He wonders what will happen next year when there is no reserve funds to pull from. He said nothing has been done to make it easier for businesses to come to King William. He said there is a reason to cut, even the smallest amounts, because eventually all those thousands of dollars will add up and make a big difference. He has said many times level funding is not a tax cut. We may have reached the point of reducing personnel if spending cannot be cut. He questioned why this Board

continues to ask homeowners to make cuts in their budgets in order to pay higher taxes. In closing, he said is not going to vote for this budget.

Chair Stone gave a recap of the increases in the proposed budget with the largest increase being for the regional jail due to underfunding of this program in the past fiscal year. She said another significant increase is in debt service due to a refinance of the debt issued for the new courthouse several years ago. She noted a topic of discussion during the budget process was land use and indicated some changes are being looked at for this program. She said the requirements of certification and participation in this program are proposed to be more stringent.

Continuing, she stated the next item on the agenda tonight is the consideration of the tax rate which is proposed to increase by twelve cents. She explained the proposed rate is an equalized tax rate, proposed by staff, due to the recent reassessment. She said with a budget of this size and if you want to look at making significant cuts you have to look at the schools; approximately 50% of the budget is designated to schools. Constituents in her district feel this service is valued the most; law enforcement quickly follows and is the next largest piece of the budget. In her opinion, a lot of time has been spent on this budget and protecting the services provided to the citizens of this county has been the main focus.

Mr. Redd noted the large increase, approximately \$100,000, in the budget for comprehensive services. These services are state mandated, we do not have control over them, and cannot cut them.

Chair Stone called for a motion.

T. J. Moskalski moved for approval of Resolution 15-11 as presented; motion was seconded by O. O. Williams.

There being no other discussions the following Resolution 15-11 was adopted by the following roll call vote:

C. T. Redd III	Aye
T. J. Moskalski	Aye
S. K. Greenwood	Nay
O. O. Williams	Aye
T. S. Stone	Aye

RESOLUTION 15-11  
A RESOLUTION APPROVING THE FISCAL YEAR BUDGET  
BEGINNING JULY 1, 2015 AND ENDING JUNE 30, 2016  
FOR KING WILLIAM COUNTY, VIRGINIA



WHEREAS, Section 15.2-2503 of the 1950 Code of Virginia, as amended, provides that the governing body of the County shall prepare and approve an annual budget; and

WHEREAS, the County Administrator has submitted to the King William County Board of Supervisors a proposed annual budget for the County for the fiscal year beginning July 1, 2015 and ending June 30, 2016, as required by 15.2-1541; and

WHEREAS, a brief synopsis of the budget was published and a public hearing was held on April 13, 2015, all as required by the provisions of Section 15.2-2506 of the State Code; and

WHEREAS, the recommendation of the County Administrator regarding the educational budget submitted by the King William County School Board for FY 2016 contains estimated availability of funding from the Federal government in the amount of \$892,470; from the state government in the amount of \$12,579,792; from current local appropriations in the amount of \$10,654,640; from school fund balance in the amount of \$458,000; and from other local revenue in the amount of \$161,278; and

WHEREAS, the Board has reviewed citizen comments, analyzed, deliberated, and made necessary revisions to create a budget;

NOW, THEREFORE, BE IT RESOLVED by the King William County Board of Supervisors this 27<sup>th</sup> day of April, 2015, that there is hereby approved for informative and fiscal planning purposes only, the annual budget for FY 2016 as submitted and as amended by the Board and briefly summarized below:

General Fund:

Administration	\$	633,957
Financial Administration		879,775
Court Services		574,278
Public Safety		4,903,971
Public Works		1,772,447
Health & Welfare		904,799
Parks, Recreation & Cultural		730,382
Community Development		549,219
Education		10,787,511
Miscellaneous		595,572
Capital/Debt Service		1,043,786

Total General Fund: \$ 23,375,697

School Reserve Fund: \$ 458,000

Special Revenue Funds: \$ 2,147,742

Capital Project Funds: \$ 275,000

Debt Service Funds: \$ 3,286,998

Proprietary Funds: \$ 1,097,696

BE IT FURTHER RESOLVED that the FY 2016 annual budget of the King William County School Board for school operations in the amount of \$22,015,579, for school capital projects in the amount of \$458,000, and for school debt in the amount of \$2,272,601 be, and it is hereby approved, subject to and contingent upon the availability of funds in the amounts and from the sources indicated in the preamble hereto.

c. Consideration of Proposed Ordinance 15-03(R) – An Ordinance to Impose Property Tax Levies upon Real Estate, Mobile Homes, Tangible Personal Property, Public Service Corporation Property, Machinery and Tools, and Aircraft for the Calendar Year 2015 –

Mr. Stuck gave a brief breakdown of the proposed increase in the tax rate of twelve cents.

Chair Stone called for any discussion.

T. J. Moskalski moved for approval of Ordinance 15-03(R) as presented; motion was seconded by C. T. Redd III.

There being no other discussions the following Ordinance 15-03(R) was adopted by the following roll call vote:

T. J. Moskalski	Aye
S. K. Greenwood	Nay
O. O. Williams	Aye
C. T. Redd III	Aye
T. S. Stone	Aye

ORDINANCE 15-03(R)  
AN ORDINANCE TO IMPOSE PROPERTY TAX LEVIES UPON REAL ESTATE,  
MOBILE HOMES, TANGIBLE PERSONAL PROPERTY, PUBLIC SERVICE  
CORPORATION PROPERTY, MACHINERY AND TOOLS, AND AIRCRAFT  
FOR THE CALENDAR YEAR 2015

WHEREAS, it is necessary for the Board of Supervisors to establish real estate and personal property tax levies for King William County for calendar year 2015, beginning January 1, 2015, and ending December 31, 2015; and

WHEREAS, the Board has duly advertised and held a public hearing on April 13, 2015 on the subject tax levies,

NOW, THEREFORE, BE IT ORDAINED, by the King William County Board of Supervisors this the 27<sup>th</sup> day of April, 2015, that the following general County property tax levies be, and they hereby are, imposed on all property not exempted by law located within King William County for the calendar year 2015:

General Fund Levy

TAX RATES PER \$100 OF ASSESSED VALUES FOR ALL DISTRICTS		
		General Fund
Real Estate	\$	0.43
Mobile Home	\$	0.43
Mines and Minerals	\$	0.43
Public Service Real Estate	\$	0.43
Public Service Personal Property	\$	1.65
Personal Property	\$	1.65
Machinery & Tools	\$	1.00
Aircraft	\$	N/A

School Fund Levy – (Applies only to geographic areas of the County within the King William County School Division – does not include the Town of West Point)

TAX RATES PER \$100 OF ASSESSED VALUES	
	School Fund
Real Estate	\$ 0.51
Mobile Home	\$ 0.51
Mines and Minerals	\$ 0.51
Public Service Real Estate	\$ 0.51
Public Service Personal Property	\$ 2.00
Personal Property	\$ 2.00
Machinery & Tools	\$ 1.25
Aircraft	\$ 1.30

d. Consideration of Proposed Resolution 15-13 – A Resolution to establish the health insurance plans to be offered to King William County Employees beginning July 1, 2015 and to provide for the County’s contribution thereto and implementation by the County Administrator –

Mr. Stuck stated as part of the budget deliberations changes to the county employee health insurance plans are recommended because of the projected increase of 11.5% in the rates offered to the county for FY 2016. Recommendation is for the county to pay 90% of the rate for employees; basing the cost on the lowest cost plan offered. He noted the out of pocket cost to the employee, whether for the single or the family plan, is more comparable to other localities. He said the net effect is a savings in the overall budget.

Chair Stone called for any discussion.

Mr. Greenwood asked for clarification on what the stated percentage paid by the county is currently.

Mr. Stuck explained the percentage paid by the county on behalf of the employee listed in the policy that was adopted in 1986 is outdated and over time that percentage has been adjusted; currently the county pays 100% of employee premiums. He noted the resolution before the Board for consideration is for clear documentation going forward.

C. T. Redd III moved for approval of Resolution 15-13 as presented; motion was seconded by T. J. Moskalski.

Chair Stone called for any further discussions.

Mr. Williams asked for clarification that by making this change to the health insurance employees essentially will be taking a cut in pay.

Mr. Stuck explained that a cost to the employee is universal for those who choose the individual coverage option. However, the scenario is different for those employees that choose family coverage; additional premium costs may not occur in every case.

Chair Stone stated this change establishes a defined formula that will be used for all employees in calculating deduction amounts. She also noted this proposal shows some cost sharing with all employees, which is typical, and has been experienced in other localities and industries for some time now.

There being no other discussions the following Resolution 15-13 was approved by the following roll call vote:

S. K. Greenwood	Aye
O. O. Williams	Nay
C. T. Redd III	Aye
T. J. Moskalski	Aye
T. S. Stone	Aye

RESOLUTION 15-13  
A RESOLUTION TO ESTABLISH THE  
HEALTH INSURANCE PLANS TO BE OFFERED TO  
KING WILLIAM COUNTY EMPLOYEES  
BEGINNING JULY 1, 2015 AND  
TO PROVIDE FOR THE COUNTY'S CONTRIBUTION THERETO  
AND IMPLEMENTATION BY THE COUNTY ADMINISTRATOR

WHEREAS, the County currently offers a health insurance plan to its employees as a benefit through the Local Choice Health Benefits Program offered through the State of Virginia; and

WHEREAS, the Board finds it necessary to make adjustments to the plans available beginning in FY 2016; and

WHEREAS, by adoption of the budget for FY 2016 the Board has approved funds for such purposes.

NOW, THEREFORE, BE IT RESOLVED by the King William County Board of Supervisors this 27<sup>th</sup> day of April, 2015 that the health insurance plans and contributions offered by the County to its employees beginning July 1, 2015 will be as follows:

1. The County will offer two health insurance plans to its employees: i) Key Advantage Expanded with comprehensive dental coverage and ii) Key Advantage 500 with comprehensive dental coverage.
2. Employees may choose between the two plans.
3. The County's employer contribution shall be calculated as follows:
  - a. The County will pay 90% of the premium charged to an individual employee for the Key Advantage 500 with comprehensive dental plan;

- b. For employee +1 coverage, the County will pay an amount equal to 90% of the cost of the individual premium plus 35% of the difference between the full premium cost of employee +1 coverage and the full premium cost of individual coverage for the Key Advantage 500 with comprehensive dental plan;
- c. For family coverage, the County will pay an amount equal to 90% of the cost of the individual premium plus 50% of the difference between the full premium cost of family coverage and the full premium cost of individual coverage for the Key Advantage 500 with comprehensive dental plan.
- 4. An employee who chooses the Key Advantage Expanded with comprehensive dental coverage plan will receive the same dollar amount (not percentage) toward premiums for the coverages under that plan as determined by the calculations specified in number 3. The employee shall be responsible for any additional cost of the total premium for Key Advantage Expanded coverage.
- 5. These two plans and the contribution calculations will remain in effect until further action of this Board.

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes the County Administrator to take all necessary steps to properly administer this program.

**RE: NEW BUSINESS**

- a. Public Hearing Proposed Resolution 15-12 – A resolution approving amendments to Conditional Use Permit 03-08 – Cooke Brothers, LLC –
  - i. Staff Presentation – Bret Schardein, Community Development Director, summarized the request for Conditional Use Permit 03-08. He said the applicant has requested to add an additional 81 acres of mining area to CUP 03-08 and extend the approval period to 2025. Due to the length of time it takes to mine and reclaim a site, staff believes a ten-year approval is likely necessary to complete the already approved, as well as the proposed, mining activities. However, understanding that much can change in ten years, the proposed conditions include an initial 5-year approval, with the possibility of an additional 5-year administrative extension. Assuming continued compliance and no issues, this would simplify the renewal process. Although there were concerns from the public about the possibility of issues that may arise from a new mine when approved in 1999, the subsequent renewals and approvals have no records of negative public comment and staff is not aware of any violations or issues. DMME, has stated the mine has a good compliance history and expressed no concerns with this proposal. The total amount of truck traffic which may leave the site is capped by the CUP conditions, this is not proposed to

change, therefore the expansion of mining area would not result in increased traffic; however the approval would extend the life of the mine.

He stated to date staff has received no comment from the public. Staff finds the mine has a good compliance history and the proposed conditions will continue to adequately address the potential for impacts to the community. Staff recommends approval as proposed. He noted the Planning Commission conducted a public hearing on this matter April 7, 2015 and voted unanimously (with one member absent) to recommend the Board of Supervisors approve amendments to the CUP as proposed.

ii. Public Comments (3 minutes per individual; 5 minutes if representing an organization or group) – Chair Stone declared the public hearing open to receive comments on proposed Resolution 15-12.

There being no persons to appear for or against this matter Chair Stone closed the public comment period.

iii. Consideration – Proposed Resolution 15-12 – Chair Stone called for any discussion.

Mr. Redd stated this company has been an excellent corporate citizen in King William County.

C. T. Redd III moved for approval of Resolution 15-12(A) as presented; motion was seconded by T. J. Moskalski.

There being no other discussions Resolution 15-12(A), approving amendments to CUP 03-08, was approved by the following roll call vote:

O. O. Williams	Aye
C. T. Redd III	Aye
T. J. Moskalski	Aye
S. K. Greenwood	Aye
T. S. Stone	Aye

RESOLUTION 15-12(A)  
A RESOLUTION APPROVING AMENDMENTS TO CUP-03-08  
COOKE BROTHERS, LLC.

WHEREAS, Section 86-171 of the King William County Code provides for the development of excavations or filling, including borrow pits, processing removal of sand, gravel or stone, stripping of top-soil (except farm pond construction or field leveling) and other major extractions associated with properties of the A-C, Agricultural-Conservation zoning district following review and approval of a Conditional Use Permit; and

WHEREAS, on October 27, 2008, the King William County Board of Supervisors, after a duly advertised public hearing, approved CUP-03-08, permitting the excavation of

sand and gravel on approximately 195 acres, on property known as Tax Map Parcel 7-33; and

WHEREAS, Essex Concrete Corp. submitted on behalf of property owner Cooke Brothers, LLC, an application proposing amendments to CUP-03-08, to add approximately 81 additional acres of mining area, extend the approval until 2025 and revise the condition of regular community meetings; and

WHEREAS, staff in the King William County Department of Community Development have proposed other revisions to the conditions of CUP-03-08 to improve mitigation of potential impacts of the use on the public; and

WHEREAS, the Planning Commission conducted a public hearing on April 7, 2015, to consider the amendments to CUP-03-08, and following such public hearing voted unanimously, with one member absent, to recommend the Board of Supervisors approve such application as proposed; and

WHEREAS, the Board of Supervisors conducted a public hearing on April 27, 2015, to consider the amendments to CUP-03-08,

NOW, THEREFORE, BE IT RESOLVED, the King William County Board of Supervisors this 27<sup>th</sup> day of April, 2015, hereby approves amendments to the conditions of CUP-03-08, with the original conditions to be replaced with the following twenty-eight (28) conditions:

1. This Conditional Use Permit (“CUP”) is subject to all requirements of the Code of the County of King William, as well as other local, state and federal regulations.
2. The boundaries for the excavation of sand and gravel and location of the processing plant shall be confined to areas as shown on the sketch plan entitled “Sketch of Proposed Permitting Area “Vermont Farm” for Essex Concrete Corp.” drawn by D&M Surveyors, P.C. dated November 25, 2013 and revised on March 17, 2015.
3. All drainage, stormwater and erosion and sediment control measures shall conform to the standards and specifications of the most current copy of the Mineral Mining Operator’s Manual produced by the Virginia Department of Mines, Minerals and Energy (“DMME”).
4. All means of access to the property shall be from the established entrance onto West River Road (“Route 600”).
5. The operation of excavation of sand and gravel, including truck traffic, shall be confined to a maximum period between 7:00 am – 5:00 pm Monday through Friday and 8:00 am – 12:00 pm on Saturday. No operations of any kind are to be conducted at the site on Sundays, or national holidays.
6. Gates shall be erected and maintained at all entrances to the property. These gates shall be locked at all times, except when authorized representatives of the applicant are on the property.
7. There shall be posted and maintained a sign at the entrance to the mining site stating the name of the operator, the CUP number, the DMME permit number, and the telephone number of the operator. The sign shall be a minimum of 12 square feet in area and the letters shall be three inches high.
8. There shall be posted and maintained “No Trespassing” signs every 250 feet along the perimeter of the property. The letters shall be three inches high. The owner shall furnish the Sheriff a letter authorizing the Sheriff to enforce the “No Trespassing” regulations, and agreeing to send a representative to testify in court as requested by the Sheriff.
9. “Trucks Entering Highway” signs shall be erected on Route 600 on each side of the entrance to the property. A stop sign shall be posted at the entrance to

Route 600. Signs shall be of a specification approved by the Virginia Department of Transportation.

10. All roads internal to the site used in connection with this use permit shall be effectively treated with wetting agents to prevent any dust nuisance.
11. Trucks shall be loaded in a way to prevent overloading or spilling of materials of any kind on any public road.
12. If the CUP shall have expired or whenever the operation shall have ceased for any period exceeding twelve (12) consecutive months, all the plants for processing sand and gravel, buildings, structures (excluding fences), stockpiles and equipment shall be entirely removed from the premises and the site shall be restored pursuant to any permits granted by the DMME.
13. Aboveground storage tanks for the storage of fuel shall be limited to 10,000 gallons. Such tanks shall be a minimum of 600 feet from adjoining property lines.
14. Open and vertical excavations having a depth of 10 feet or more, for a period of more than 30 days, shall be effectively sloped to a 3:1 slope or flatter to protect the public safety.
15. The U.S. Army Corps of Engineers must approve the wetlands delineation on the plat.
16. No hauling of gravel, sand, or other material will take place from the site onto Route 628.
17. All trucks must adhere to the posted speed limit.
18. All trucks must clearly display a truck identification number at least 4" in height.
19. The owner or operator will hold meetings with the public to address concerns at the request of a citizen or County staff. Meetings will be held within King William County, within 30 days of a request. The applicant will notify the County of the meeting date at least two weeks in advance.
20. Topsoil shall not be removed from any part of the property outside of the area in which mining is authorized. Sufficient top soil shall be stockpiled on the property for re-spreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled within the authorized mining area and provided with adequate erosion control. If the site does not yield sufficient topsoil, additional topsoil shall be brought to the site to provide the required five-inch layer of cover. No other material shall be brought to this site for processing or rehabilitation of the site.
21. If water wells located on surrounding properties are adversely affected, and the extraction operations on this site are suspected as the cause, the effected property owners may present to the Board evidence that the extraction operation is a contributing factor. After a hearing by the Board, this use permit may be revoked or suspended, and the operator may be required to correct the problem.
22. If evidence of cultural or historical resources, an endangered species, or a significant habitat, is discovered, the appropriate authorities shall be notified within two weeks and provided with an opportunity to investigate the site. The results of any such investigation shall be reported to the Planning Department within 30 days of receiving such a report.
23. A superintendent, who shall be personally familiar with all the terms and conditions of the CUP, shall be present at the beginning and conclusion of operations each work day to see that all conditions are complied with.
24. This CUP is in effect for an initial period of up to five (5) years, until April 27, 2020. If the mining and reclamation work is not to be completed by the end of the initial five (5) year period; the applicant may seek an extension of the CUP from the Zoning Administrator until April 27, 2025. A request for an extension shall be submitted in writing to the Zoning Administrator, no earlier than April



27, 2019 but later than December 31, 2019. The Zoning Administrator shall consider the compliance history and any new issues or changes to the area in the decision to grant the request. If the Zoning Administrator determines to not grant the extension, the request shall be forwarded to the Board of Supervisors for consideration and action, following a public hearing, advertised as required by State Code § 15.2-2204. The number of truckloads taken from the site will not exceed 110 loads a day.

25. The number of truckloads taken from the site will not exceed 110 loads a day.
26. Failure to comply with any of the foregoing conditions shall void this permit.
27. Amendment to these conditions, extension beyond April 27, 2025 and/or additional mining area shall require amendment to this CUP or issuance of new CUP.
28. These conditions are in addition to the supplemental requirements of Section 86-209 of the Zoning Ordinance.

b. Public Hearing Proposed Ordinance 15-04 – An ordinance to repeal Chapter 38 “Floods” and replace with Article XX Floods in Chapter 86 “Zoning” of the Code of the County of King William –

i. Staff Presentation – Director of Community Development, Bret Schardein, summarized the notable changes from the current ordinance. Combining floodplain management into the Zoning Ordinance. Currently the flood ordinance is a standalone ordinance in the code, being contained within Chapter 38. Staff proposes to consolidate the flood ordinance into Chapter 86 Zoning. This will allow the BZA to be the appealing body to flood regulations. Currently the ordinance refers to an unspecific “Board of Appeals.” If this refers to the BZA, they may not actually be enabled to hear appeals to the current ordinance, as it is not within the zoning ordinance. If it refers to a separate flood appeals board, none was ever created to staff’s knowledge and none currently exists. Appeals to the flood regulations are rare, however this will consolidate the regulations into other development ordinances, which staff believes is logical as the flood zones are essentially overlay zones just like those found in the zoning ordinance currently. Utilizing the BZA will also provide for a standing body for appeals were one to be heard, rather than having to create, appoint and maintain a separate appeals body in addition to the many others which exist such as the PC, BoS, BZA, HPARB, Wetlands, Building Code Appeals.

Definitions have been added to the proposed ordinance for many key terms. Staff has worked with FEMA and DCR staff to simplify and streamline it as much as possible. Wherever possible, terms, definitions and requirements have been changed to match those used in the County’s other ordinances. While there is much flexibility

for the Board to adopt additional or more stringent standards, there is very little ability left in the draft ordinance to reduce or remove requirements, which are at this point the minimum FEMA will accept.

He stated an open house was held jointly with King William County and the Town of West Point on the proposed changes on July 10, 2014. Staff has received a number of questions from property owners, generally about the location of existing or proposed flood zones on their properties, but no specific feedback on the proposed changes has been received. Staff recommends approval of the ordinance as proposed. He explained that the ordinance must be reviewed by the DCR, the regional FEMA office and the national FEMA office prior to its September 2, 2015, effective date. Therefore, staff recommends that Board adopt revisions no later than June 2015, to allow time for review by those agencies. He noted the Planning Commission at their March 3, 2015, meeting voted unanimously (with one member absent) to recommend the Board of Supervisors adopt the ordinance.

ii. Public Comments (3 minutes per individual; 5 minutes if representing an organization or group) – Chair Stone declared the public hearing open to receive comments on proposed Ordinance 15-04.

There being no persons to appear for or against this matter Chair Stone closed the public comment period.

iii. Consideration – Proposed Ordinance 15-04 – Chair Stone called for any discussion.

Mr. Moskalski asked for clarification of what insurance rating we would get in the Community Rating System (CRS) by going with free-board.

Mr. Schardein explained obtaining the full CRS accreditation allows for a 45% discount. He speculated that obtaining partial accreditation discounts will be in the single digits.

S. K. Greenwood moved for approval of Ordinance 15-04 as presented; motion was seconded by T. J. Moskalski.

There being no other discussions proposed Ordinance 15-04 was adopted by the following roll call vote:

C. T. Redd III	Aye
T. J. Moskalski	Aye

S. K. Greenwood    Aye  
O. O. Williams     Aye  
T. S. Stone         Aye

ORDINANCE 15-04  
ZONING TEXT AMENDMENT ORD 14-02  
An Ordinance to Repeal Chapter 38 “Floods” and  
Amend Chapter 86 – “Zoning” of the King William County Code  
to Enact Article XX “Floods” to Include Updated Floodplain Management Standards  
and to Adopt an Updated Flood Insurance Rate Maps

WHEREAS, King William County is permitted to regulate orderly development through its zoning ordinance by the authority granted in the State Code of Virginia Section § 15.2-2280; and

WHEREAS, on May 18<sup>th</sup> 2009 King William County adopted its current floodplain management requirements and flood insurance rate maps as Chapter 38 “Floods” in the Code of King William County; and

WHEREAS, the Federal Emergency Management Agency has mandated King William County adopt updated floodplain management ordinances and flood insurance rate maps, no later than September 2<sup>nd</sup>, 2015; and

WHEREAS, the King William County Planning Commission conducted a public hearing on November 18<sup>th</sup>, 2014 on the proposed amendments, and voted unanimously, to recommend the Board of Supervisors approve the amendments; and

WHEREAS, the King William County Board of Supervisors conducted a public hearing on April 27<sup>th</sup>, 2015 on the amendments; and

WHEREAS, the Board believes it appropriate to amend the King William County Code Chapters 38 and 86, as recommended by the Planning Commission,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, that the Board of Supervisors of King William County, Virginia, does this 27<sup>th</sup> day of April, 2015, repeal and enact the following sections of Chapters 38 and 86, of the King William County Code as follows:

~~Chapter 38 – FLOODS  
ARTICLE I. – IN GENERAL  
Secs. 38-1 – 38-30. – Reserved.~~

~~ARTICLE II. – FLOOD DAMAGE PREVENTION  
DIVISION 1. – GENERALLY  
Sec. 38-31. – Purpose of article.~~

~~The purpose of the provisions of this article 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:~~

- ~~(1) 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.~~
- ~~(2) Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.~~
- ~~(3) Requiring all those uses, activities, and developments that do occur in flood prone areas to be protected and/or flood proofed against flooding and flood damage.~~
- ~~(4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.~~

~~Sec. 38-32. – Applicability of article provisions.~~

~~The provisions of this article shall apply to all lands within the jurisdiction of King William County and identified as being in the 100-year floodplain by the Federal Insurance Administration.~~

~~Sec. 38-33. – 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 article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this article.~~

- ~~(b) The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodplain area or that land uses permitted within such area will be free from flooding or flood damages.~~
- ~~(c) This article 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 article or any administrative decision lawfully made under this article.~~
- ~~(d) Records of actions associated with administering this ordinance shall be kept on file and maintained by the administrator.~~

~~Sec. 38-34. Abrogation and greater restrictions.~~

~~This article supersedes any ordinance currently in effect in floodprone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this article.~~

~~Sec. 38-35. Penalties.~~

- ~~(a) Any person who fails to comply with any of the requirements or provisions of this article or directions of the permit officer or any other authorized employee of the county shall be guilty of a misdemeanor of the first class and subject to the penalties therefor.~~
- ~~(b) In addition to the penalties in subsection (a) of this section, 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 to permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this article may be declared by the board of supervisors to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.~~

~~Sec. 38-36. Definitions.~~

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

~~Administrator means the person appointed and charged by the board of supervisors to administer and to enforce the this article.~~

~~Base flood elevation means the Federal Emergency Management Agency (FEMA) designated 100-year water surface elevation.~~

~~Base flood/100-year flood means a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).~~

~~Basement means any area of the building having its floor subgrade below ground level on all sides.~~

~~Board of appeals means the board appointed by the board of supervisors to review and to act on appeals made by individuals with regard to decisions of the administrator in the interpretation of the this article.~~

~~Board of supervisors means the governing body of the County of King William, Virginia.~~

~~Development means any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or storage of equipment or materials.~~

~~Encroachment means 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.~~

~~Flood or flooding means:~~

- ~~(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.~~
- ~~(2) The collapse or subsistence 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.~~
- ~~(3) 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.~~

~~Floodplain means:~~

- ~~(1) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation;~~
- ~~(2) An area subject to the unusual and rapid accumulation or runoff of surface water from any source.~~

~~Floodprone area means any land area susceptible to being inundated by water from any source.~~

~~Floodway means the designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this article, the floodway shall be capable of accommodating a flood of the 100-year magnitude.~~

~~Freeboard means a factor of safety usually expressed in inches or 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. For purposes of the administration and enforcement of this ordinance and related provisions of King William County building code, the minimum freeboard shall be 12 inches.~~

~~Historic structure means any structure that is:~~

- ~~(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. 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.~~~~

~~Lowest floor means 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 nonelevation design requirements of Federal Code 44CFR § 60.3.~~

~~Manufactured home means 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 attached to the required utilities. The term manufactured home does not include recreational vehicle.~~

~~Manufactured home park/subdivision means a parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.~~

~~New construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, 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.~~

~~Recreational vehicle means a vehicle which is:~~

- ~~(1) Built on a single chassis;~~
- ~~(2) Four hundred square feet or less when measured at the largest horizontal projection;~~
- ~~(3) Designed to be self-propelled or permanently tow-able 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.~~

~~Shallow flooding area means 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.~~

~~Special flood hazard area means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in division 2, of this article.~~

~~Start of construction means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, 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 construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.~~

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

~~Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:~~

- ~~(1) Any project for improvement of a structure to correct existing violations of state or local, health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or~~
- ~~(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.~~

~~Watercourse means 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.~~

~~Secs. 38-37—38-60.—Reserved.~~

## ~~DIVISION 2.—ESTABLISHMENT OF FLOODPLAIN AREAS~~

~~Sec. 38-61.—Description of areas.~~

- ~~(a) The floodplain area shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of the area shall be the 100-year flood elevations or profiles contained in the flood insurance study for King William County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated July 20, 2009, as amended. The approximated floodplain area shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as Zone A on the flood insurance rate maps accompanying the flood insurance study. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 100-year 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 Floodprone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. 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 planning department.~~
- ~~(b) The special floodplain district shall be those areas identified as either an AE Zone or A1-30 Zone on the maps accompanying the flood insurance study for which 100-year flood elevations have been provided but for which no floodway has been delineated.~~
- ~~(c) The shallow flooding district shall be those areas identified as Zone AO or AH on the maps accompanying the flood insurance study.~~

~~Sec. 38-62.—Official floodplain map.~~

~~The boundaries of the floodplain areas are established as shown on the flood insurance rate map (FIRM) which is declared to be a part of this article and which shall be kept on file at the county planning department office.~~

~~Sec. 38-63.—Boundary changes.~~

~~The delineation of the floodplain areas may be revised by the board of supervisors where natural or manmade 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 Insurance Administration.~~

~~Sec. 38-64.—Interpretation of area boundaries.~~

~~Initial interpretations of the boundaries of the floodplain areas shall be made by the permit officer. Should a dispute arise concerning the boundaries, the board of 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.~~

~~Secs. 38-65—38-90.—Reserved.~~

## ~~DIVISION 3.—AREA PROVISIONS~~

~~Sec. 38-91.—General provisions.~~

- ~~(a) Permit requirement. All uses, activities, and development occurring within the floodplain area shall be undertaken only upon the issuance of all applicable building and other development-related permits. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances of King William County, including but not necessarily limited to the Virginia Uniform Statewide Building Code, which includes provisions governing the construction, reconstruction or other modification of structures situated in the flood-prone areas delineated on the maps accompanying the flood insurance study. Prior to the issuance of any such permit, the permit officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.~~
- ~~(b) Alteration or relocation of watercourse. 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. Army Corps of Engineers, the Virginia Marine Resources Commission, and the Virginia Department of Environmental Quality (a joint permit application is available from anyone of these organizations). Further notification of the proposal shall be given to all adjacent jurisdictions, the Virginia Department of Conservation and Recreation—Dam Safety and Floodplain Management and the Federal Emergency Management Agency.~~

- ~~(c) Site plans and permit applications. All applications for development in the floodplain areas and all building permits issued for the floodplain shall incorporate the following information:
 
  - ~~(1) For structures to be elevated, the elevation of the lowest floor including the basement.~~
  - ~~(2) For structures to be flood proofed (nonresidential only), the elevation to which the structure will be floodproofed.~~
  - ~~(3) The elevation of the 100-year flood.~~
  - ~~(4) Topographic information showing existing and proposed ground elevations.~~~~
- ~~(d) Encroachment provisions:
 
  - ~~(1) No new construction or development shall be permitted within the floodplain area 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 elevation of the 100-year flood more than one foot at any point.~~
  - ~~(2) 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 analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the 100-year flood elevation.~~~~
- ~~(e) Manufactured homes.
 
  - ~~(1) Manufactured homes shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to or above the base flood elevation plus the minimum freeboard and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.~~
  - ~~(2) Recreational vehicles shall either:
 
    - ~~a. Be on the site for fewer than 180 consecutive days; and~~
    - ~~b. Be fully licensed and ready for highway use; or~~
    - ~~c. If on the site for 180 or more consecutive days, meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes as delineated in paragraph (e)(1) above.~~

~~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.~~~~~~
- ~~(f) 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 water, wastewater (sanitary 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 provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five acres, whichever is the lesser.~~~~

~~Sec. 38-92. Design criteria for utilities and facilities.~~

- ~~(a) Wastewater (sanitary sewer) facilities. All new or replacement wastewater (sanitary sewer) facilities and private package wastewater (sewage) treatment plants, including all pumping stations and collector systems, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.~~
- ~~(b) Water facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.~~
- ~~(c) Drainage facilities. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The board of supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.~~
- ~~(d) Utilities. All utilities, such as gas lines, electrical and telephone systems being placed in flood prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.~~
- ~~(e) Streets and sidewalks. Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.~~

~~Secs. 38-93—38-110. Reserved.~~

~~DIVISION 4. VARIANCES; CONTINUING USES~~

~~Sec. 38-111. Variances; factors to be considered.~~

- ~~(a) Whenever a person is aggrieved by a decision of the permit officer with respect to the provisions of this article, it is the right of that person to appeal to the board of appeals for a variance. Such appeal must be filed, in writing, within 30 days after the determination by the permit officer. Upon receipt of such an appeal, the board of appeals shall set a time and place for the purpose of hearing the appeal, which shall be not less than ten nor more than 30 days from the date of the receipt of the appeal. Notice of the time and place of the hearing of the appeal shall be given to all~~

- parties at which time they may appear and be heard. The determination by the board of appeals shall be final in all cases.
- (b) ~~In passing upon applications for variances, the board of appeals shall satisfy all relevant factors and procedures specified in other sections of this article and consider the following additional factors:~~
- ~~(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway area that will cause any increase in the 100-year flood elevation.~~
  - ~~(2) The danger that materials may be swept on to other lands or downstream to the injury of others.~~
  - ~~(3) The proposed water supply and wastewater (sanitary sewer) systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.~~
  - ~~(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.~~
  - ~~(5) The importance of the services provided by the proposed facility to the community.~~
  - ~~(6) The requirements of the facility for a waterfront location.~~
  - ~~(7) The availability of alternative locations not subject to flooding for the proposed use.~~
  - ~~(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.~~
  - ~~(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.~~
  - ~~(10) The safety of access by ordinary and emergency vehicles to the property in time of flood.~~
  - ~~(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.~~
  - ~~(12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.~~
  - ~~(13) Such other factors which are relevant to the purposes of this article.~~
- (c) ~~The board of 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.~~
- (d) ~~Variances shall be issued only after the board of appeals has determined that the granting of such will not result in:~~
- ~~(1) Unacceptable or prohibited increases in flood heights;~~
  - ~~(2) Additional threats to public safety;~~
  - ~~(3) Extraordinary public expense;~~
  - ~~(4) Creating nuisances;~~
  - ~~(5) Causing fraud or victimization of the public; or~~
  - ~~(6) Conflict with local laws or ordinances.~~
- (e) ~~Variances shall be issued only after the board of appeals has determined that the variance will be the minimum required to provide relief from any hardship to the applicant.~~
- (f) ~~The board of appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.~~
- (g) ~~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 which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.~~

~~Sec. 38-112. Existing structures in floodplain areas.~~

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

- ~~(1) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than 50 percent of its market value, shall conform to the Virginia Uniform Statewide Building Code.~~
- ~~(2) 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 50 percent or more of its market value shall be undertaken only in full compliance with this article and shall require the entire structure to conform with the Virginia Uniform Statewide Building Code.~~

Article XX. Floods.

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#### DIVISION I. GENERAL PROVISIONS

Section 86-900. Purpose of Article.

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 86-901. Applicability of Provisions.

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of King William County and identified as areas of special flood hazard according to the FIRM that is provided to King William County by FEMA.

Section 86-902. 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 King William 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 86-903. Records.

Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator, in compliance with Federal and State retention laws and regulations.

#### Section 86-904. Abrogation and Greater Restrictions.

This ordinance supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

#### Section 86-905. 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 86-906. Penalties for Violations.

Any person who fails to comply with any of the requirements or provisions of this article, directions of the Floodplain Administrator or any authorized employee of King William County shall be guilty of a misdemeanor of the first class and subject to the penalties therefor.

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 King William County to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

#### Section 86-907. Definitions.

Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation - The Federal Emergency Management Agency designated one percent annual chance water surface elevation and the elevation determined per Section 4.6. 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 one hundred (100) year flood or 1% annual chance flood.

Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.

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.

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.

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).

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.

Existing construction - structures for which the "start of construction" commenced before the effective date of the FIRM. "Existing construction" may also be referred to as "existing structures."

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.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which FEMA 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).

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.

Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.

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.

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.

Freeboard - A factor of safety usually expressed in inches or 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.

Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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.

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 (DCR) and FEMA, used to determine the *base flood*, other frequency floods, *flood* elevations, *floodway* information and boundaries, and *flood* profiles.

Letters of Map Change (LOMC) - A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective FIRM or FIS. 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 FIRM 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 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 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 FIRM or FIS.

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.

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.

Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after February 6, 1991, 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.

Post-FIRM structures - A structure for which construction or substantial improvement occurred on or after February 6, 1991.

Pre-FIRM structures - A structure for which construction or substantial improvement occurred on or before February 6, 1991.

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.

Repetitive Loss Structure – A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each flood event.

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 86-917 Overlay Concept of this ordinance.

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.

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.

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

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 *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.

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 this ordinance is presumed to be in violation until such time as that documentation is provided.

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.

## DIVISION II – ADMINISTRATION

Section 86-908. Designation of the Floodplain Administrator.

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

- A. Do the work themselves.
- B. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- C. 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 community 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.

Section 86-909. Duties and Responsibilities of the Floodplain Administrator.

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

- D. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- E. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- F. 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.
- G. 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.
- H. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, DCR, and other appropriate agencies (Virginia Department of Environmental Quality, U.S. Army Corps of Engineers) and have submitted copies of such notifications to FEMA.
- I. 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.
- J. 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.
- K. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- L. 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 King William County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- M. Maintain records that are necessary for the administration of these regulations, including:
  - 1. FISs, FIRMs (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 flood-proofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- N. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

- O. 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.
  
- P. 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.
  
- Q. 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.
  
- R. Notify FEMA when the corporate boundaries of King William 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 DCR and FEMA.
  
- S. 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.
  
- T. 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 County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

Section 86-910. 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:

- 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 FIRM and/or a Preliminary FIS 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 86-904 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 86-912. Jurisdictional Boundary Changes.

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 Insurance Administration and optionally the State Coordinating Office 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 FIRMs 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 86-913. District Boundary Changes.

The delineation of any of the Floodplain Districts may be revised by King William County 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 FEMA.

Section 86-914. 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/her case to the Board and to submit his/her own technical evidence if he/she so desires.

Section 86-915. Submitting Technical Data.

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 FEMA 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 86-916. Letters of Map Revision.

When development in the floodplain causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a CLOMR or a LOMR.

Examples:

1. Any development that causes a rise in the base flood elevations within the floodway.
2. Any development occurring in Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
3. 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)*

DIVISION III - ESTABLISHMENT OF ZONING DISTRICTS

Section 86-917. 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 King William County prepared by the FEMA, Federal Insurance Administration, dated September 2, 2014, and any subsequent revisions or amendments thereto. According to the FIRM provided by FEMA, King William County has the following special Flood Hazard Areas: AE Zone and A Zone ONLY.

King William 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 King William County offices.

1. The floodway 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 floodway are specifically defined in Table 1-Summary of Discharges of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the floodway 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.
  - b. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with King William County’s endorsement – for a CLOMR, and receives the approval of the FEMA.
  - c. If Section 86-908 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Division IV.
  - d. 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 zones 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 Zone 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 King William County

Development activities in Zone AE on King William County’s 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 King William County’s endorsement – for a CLOMR, and receives the approval of the FEMA.

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 at least 18" above the base flood level.

During the permitting process, the Floodplain Administrator shall obtain:

- a. The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- b. 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) that exceed fifty lots or five acres, whichever is the lesser.

#### Section 86-918. 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.

#### DIVISION IV - DISTRICT PROVISIONS

#### Section 86-919. 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 King William County's 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. Site Plans and 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 86-920. General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to 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. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the DCR, other required agencies, and the FEMA.

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

#### Section 86-921. 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 86-916. A.3, the following provisions shall apply:

- A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zone AE and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above 18 inches 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 or above 18 inches above the base flood level. Buildings located in all AE 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 flood-proofed, 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 Division IV, Sections 86-919 and 86-920.
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 Division IV, Section 86-920 (D)(1).

Section 86-922. 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 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.

DIVISION V - VARIANCES; CONTINUING USES

Section 86-923. 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.
- 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.

Section 86-924. 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 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.

#### DIVISION VI - ENACTMENT

ENACTED AND ORDAINED THIS 27<sup>th</sup> DAY OF April, 2015. This ordinance shall become effective upon passage.

Sections 86-924 – 949. Reserved

#### **RE: ADMINISTRATIVE MATTERS – K. CHARLES GRIFFIN, COUNTY**

#### **ADMINISTRATOR**

Mr. Stuck said he looks forward to going back to performing the County Attorney role for the County. He announced the transition of Mr. Griffin, the new County Administrator, will be complete in the next few days.

Chair Stone thanked Mr. Stuck, on behalf of the Board, for his assistance during this transition period. She commended him on the excellent job he performed during the budget process. She said the Board was very fortunate to have him step into the role as Interim County Administrator.

#### **RE: BOARD OF SUPERVISORS COMMENTS**

Chair Stone opened the Board of Supervisors comment period.

All Board members thanked citizens for attending and participating in the monthly meetings. They also thanked Mr. Stuck for serving as the Interim County Administrator.

Mr. Moskalski thanked all citizens who gave input during the budget process. He feels staff and the Board worked very hard on this budget. He said there were a number of unpleasant items to deal with such as the drastically falling assessment and increased costs on mandated items we have no control over. He feels this budget is the fairest budget they could have come up with given the short amount of allotted time for preparation. In his opinion, this budget process went more smoothly than any other year he has been involved.

Mr. Greenwood said he bases his votes on what is important to his constituents and their feedback.

Mr. Redd said he appreciates everyone's patience during the budget process. The process is never easy but he feels staff did a great job in putting everything together. He commended Mr. Stuck on a job well done and feels his experience was very helpful.

Mr. Williams said he is disappointed employees did not have the choice of a health care plan that did cost them in their take home pay. He also thanked Mr. Stuck for his help with the budget process. He added the budget was a struggle as always.

Chair Stone asked everyone to remember the city of Baltimore in their thoughts during the difficult times they are facing with the recent riots. She noted the next work session of the Board will be held on May 4<sup>th</sup>.

**RE: APPOINTMENTS**

No appointments were made

**RE: ADJOURNMENT**

There being no other business to come before this board Chair Stone adjourned the meeting at 8:30 p.m.

COPY TESTE:

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Terry S. Stone, Chair  
Board of Supervisors

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Bobbi L. Langston  
Deputy Clerk to the Board