

ORDINANCE NO. 2021 -

AN ORDINANCE AMENDING THE ORANGE COUNTY
CODE OF ORDINANCES RELATING TO FLOODPLAIN
MANAGEMENT; AMENDING CHAPTER 19
("FLOODPLAIN MANAGEMENT") TO ADOPT FLOOD
HAZARD MAPS, TO DESIGNATE A FLOODPLAIN
ADMINISTRATOR, TO ADOPT PROCEDURES AND
CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD
AREAS, AND FOR OTHER PURPOSES; AND AMENDING
CHAPTER 34 ("SUBDIVISION REGULATIONS") TO
GOVERN DEVELOPMENT WITHIN SPECIAL FLOOD
HAZARD AREAS; AND PROVIDING FOR AN EFFECTIVE
DATE.

WHEREAS, Chapter 125, Florida Statutes, confers upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Orange County, and these areas may be subject to periodic inundation, which may result in loss of life and property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, Orange County has participated in the National Flood Insurance Program (the "NFIP") since December 1, 1981; and

WHEREAS, the Board of County Commissioners desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for participation in the NFIP; and

WHEREAS, the Florida Legislature enacted Chapter 553, Florida Statutes, to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

WHEREAS, the Board of County Commissioners has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *Florida Building Code* regulations.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF

ORANGE COUNTY, FLORIDA:

Section 1. Repeal of Section 3 of Ordinance No. 2009-24, Chapter 19, Floodplain

Management of the Orange County Code, and replacement of Chapter 19, Floodplain

Management of the Orange County Code. This ordinance specifically repeals Section 3 of

Ordinance Number 2009-24 and replaces Orange County Code Chapter 19, Floodplain

Management in its entirety, as follows:

ARTICLE I

ADMINISTRATION

DIVISION 1. GENERAL

Sec. 19-1. Title.

These regulations established in this chapter are to be known as the *Floodplain Management Ordinance* of Orange County.

Sec. 19-2. Scope.

The provisions of this chapter apply to all development within the unincorporated areas of Orange County that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

Sec. 19-3. Intent.

The purposes of this chapter and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare, and to minimize public and private losses due to flooding through regulation of development in flood

hazard areas to:

- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development that may increase flood damage or erosion potential;
- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program ("NFIP") for community participation as set forth in Section 59.22 of Title 44 of the Code of Federal Regulations.

Sec. 19-4. Coordination with the *Florida Building Code*.

This chapter is intended to be administered and enforced in conjunction with the *Florida Building Code*.

Sec. 19-5. Definitions.

Unless otherwise expressly stated, the following words and terms, for the purposes of this chapter, have the meanings set forth in this section. Where terms are not defined in this chapter and are defined in the *Florida Building Code*, such terms have the meanings ascribed to them in that code. Where terms are not defined in this chapter or the *Florida Building Code* nor Section 1-2 of the Code, such terms shall have ordinarily accepted meanings such as the context implies.

Accessory structure or use means a subordinate structure situated on the same lot or parcel as the principal structure, or a subordinate use of land, and which the structure or use is customarily incidental to and typically found in association with the

principal structure or use. Factors to be considered in determining whether a structure or use is "subordinate" and "customarily incidental" include the size of the lot or parcel, the uses of adjacent lots or parcels, and the size, shape, height, and roof type (if any) of the building or structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and must be designed to have minimal flood damage potential. Examples of accessory structures are carports, storage sheds, pole barns, and hay sheds.

Adversely affected means likely damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas. Without limiting the foregoing, a development is presumed to adversely affect the flood-carrying and flood-storage capacities of the floodplain if it proposes or requires the filling of land in an area of special flood hazard without simultaneously providing additional flood-carrying and flood-storage capacities to compensate for that capacity which is lost because of such filling.

Agricultural structures means a walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification, which may alter, impede, retard or change the direction or velocity of the riverine flow of water during conditions of the base flood.

Appeal means a request for an administrative review of the Floodplain Administrator's interpretation of any provision of this chapter, or a request for subsequent review of the decision of the DRC relating to the review of an interpretation of the Floodplain Administrator, or the request for judicial review of the decision of the Board of County Commissioners relating to the interpretation of the Floodplain Administrator.

ASCE 24 means the standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of

Civil Engineers, Reston, VA. Where cited, ASCE 24 refers to the edition of the standard referenced by the *Florida Building Code*.

Base flood means a flood having a 1-percent chance of being equaled or exceeded in any given year. [This term is also defined in *FBC*, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [This term is also defined in *FBC*, B, Section 202.]

Basement means the portion of a building having its floor subgrade (below ground level) on all sides. [This term is also defined in *FBC*, B, Section 202; see "Basement (for flood loads)".]

Compensating storage means the equivalent physical replacement of natural floodwater storage volumes that would be displaced in areas of special flood hazard due to development.

Critical facility means all or any portion of an integral and readily identifiable facility such as a school, nursing home, hospital, police, fire, or emergency response installation, penal institution, installation that produces, uses or stores hazardous materials or hazardous waste, or any other facility that would potentially create a danger to the public health, safety, or welfare if the facility was compromised by flooding.

Design flood means the flood associated with the greater of the following two areas:

(1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or

(2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation means the elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal

220 to 2 feet. [This term is also defined in *FBC*, B, Section 202.]

222 *Development* means any man-made change to improved or
224 unimproved real estate, including but not limited to, buildings or
226 other structures, tanks, temporary structures, temporary or
other permanent storage of equipment or materials, mining, dredging,
filling, grading, paving, excavations, drilling operations, or any
other land disturbing activities.

228 *DRC* means the Development Review Committee as defined
230 in Section 34-5.

232 *Encroachment* means the placement of fill, excavation,
234 buildings, permanent structures or other development into a flood
hazard area that may impede or alter the flow capacity of riverine
flood hazard areas.

236 *Existing building* and *existing structure* means any buildings
238 and structures for which the “start of construction” commenced
before December 1, 1981. [These terms are also defined in *FBC*, B,
240 Section 202.]

242 *Federal Emergency Management Agency (FEMA)* means
244 the federal agency that, in addition to carrying out other functions,
administers the National Flood Insurance Program.

246 *Flood* or *flooding* means a general and temporary condition
248 of partial or complete inundation of normally dry land from:

- (1) The overflow of inland or tidal waters; or
- 250 (2) The unusual and rapid accumulation or runoff of
surface waters from any source.

252 *Flood damage-resistant materials* means any construction
254 material capable of withstanding direct and prolonged contact with
floodwaters without sustaining any damage that requires more than
cosmetic repair. [This term is also defined in *FBC*, B, Section 202.]

256 *Flood hazard area* means the greater of the following two
258 areas:

- 260 (1) The area within a floodplain subject to a 1-percent or
greater chance of flooding in any year; or
- 262 (2) The area designated as a flood hazard area on the
community’s flood hazard map, or otherwise legally designated.

264 *Flood Insurance Rate Map (FIRM)* means the official map
266 of the County on which FEMA has delineated both special flood
hazard areas and the risk premium zones applicable to the
community. [This term is also defined in *FBC*, B, Section 202.]

268 *Flood Insurance Study (FIS)* means the official report
270 provided by FEMA that contains the FIRM, the Flood Boundary and
Floodway Map (if applicable), the water surface elevations of the
272 base flood, and supporting technical data. [This term is also defined
in *FBC*, B, Section 202.]

274 *Floodplain Administrator* means the office or position
276 designated under Section 19-21 and charged with the administration
and enforcement of this chapter (may also be referred to as the
278 Floodplain Manager).

280 *Floodplain development permit or approval* means an
official document or certificate issued by the County, or other
282 evidence of approval or concurrence, which authorizes performance
of specific development activities that are located in flood hazard
284 areas and that are determined to be compliant with this chapter.

286 *Floodway* means the channel of a river or other riverine
watercourse and the adjacent land areas that must be reserved in
288 order to discharge the base flood without cumulatively increasing
the water surface elevation more than one (1) foot. [This term is also
290 defined in *FBC*, B, Section 202.]

292 *Floodway encroachment analysis* means an engineering
analysis of the impact that a proposed encroachment into a floodway
294 is expected to have on the floodway boundaries and base flood
elevations; the evaluation must be prepared by a qualified Florida
296 licensed engineer using standard engineering methods and models.

298 *Florida Building Code (FBC)* means the family of codes
adopted by the Florida Building Commission, including: *Florida*
300 *Building Code, Building*; *Florida Building Code, Residential*;
Florida Building Code, Existing Building; *Florida Building Code,*
302 *Mechanical*; *Florida Building Code, Plumbing*; *Florida Building*
Code, Fuel Gas.

304 *Functionally dependent use* means a use which cannot
306 perform its intended purpose unless it is located or carried out in
close proximity to water, including only docking facilities, port
308 facilities that are necessary for the loading and unloading of cargo
or passengers, and ship building and ship repair facilities; the term

does not include long-term storage or related manufacturing facilities.

Hardship (as related to variances of this chapter) means the exceptional difficulty associated with the land that would result from a failure to grant the requested variance. A hardship must be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional, unusual or peculiar. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as a hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

Historic structure means any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic Buildings.

Letter of Map Change (LOMC) means an official determination issued by FEMA that amends or revises an effective FIRM or Flood Insurance Study. Letters of Map Change include:

(1) *Letter of Map Amendment (LOMA)* that means 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 specific property, portion of a property, or structure is not located in a special flood hazard area.

(2) *Letter of Map Revision (LOMR)* that means a revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(3) *Letter of Map Revision Based on Fill (LOMR-F)* that means a determination that a structure or parcel of land has been elevated by fill above the base flood elevation, and is, therefore, no longer located within the special

356 flood hazard area. In order to qualify for this
358 determination, the fill must have been permitted and
placed in accordance with the County's floodplain
management regulations.

360 (4) *Conditional Letter of Map Revision (CLOMR)* that
means a formal review and comment as to whether a
362 proposed flood protection project or other project
complies with the minimum NFIP requirements for such
364 projects with respect to delineation of special flood
hazard areas. A CLOMR does not revise the effective
366 FIRM or Flood Insurance Study; upon submission and
approval of certified as-built documentation, a Letter of
368 Map Revision may be issued by FEMA to revise the
effective FIRM.

370 *Light-duty truck* means, as defined in 40 C.F.R. 86.082-2,
any motor vehicle rated at 8,500 pounds Gross Vehicular Weight
372 Rating or less which has a vehicular curb weight of 6,000 pounds or
less and which has a basic vehicle frontal area of 45 square feet or
less, which is:

374 (1) Designed primarily for purposes of transportation of
376 property or is a derivation of such a vehicle; or

378 (2) Designed primarily for transportation of persons and
has a capacity of more than 12 persons; or

380 (3) Available with special features enabling off-street or
382 off-highway operation and use.

384 *Lowest floor* means the lowest floor of the lowest enclosed
area of a building or structure, including basement, but excluding
386 any unfinished or flood-resistant enclosure, other than a basement,
usable solely for vehicle parking, building access or limited storage
388 provided that such enclosure is not built so as to render the structure
in violation of the non-elevation requirements of the *Florida*
Building Code or ASCE 24. [This term is also defined in *FBC*, B,
390 Section 202.]

392 *Manufactured home* means a structure, transportable in one
or more sections, which is eight (8) feet or more in width and greater
394 than four hundred (400) square feet, and which is built on a
permanent, integral chassis and is designed for use with or without
396 a permanent foundation when attached to the required utilities. The
term "manufactured home" does not include a "recreational vehicle"
398 or "park trailer." [This term is also defined in rule 15C-1.0101,

F.A.C.]

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

Market value means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this chapter, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser (other than limited or curbside appraisal or one based on income approach), Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Orange County Property Appraiser.

New construction means, for the purposes of administration of this chapter and the flood resistant construction requirements of the *Florida Building Code*, structures for which the “start of construction” commenced on or after December 1, 1981, and includes any subsequent improvements to such structures.

Park trailer means a transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]

Recreational vehicle [see section 320.01, F.S.] means a vehicle, including a park trailer, which is:

- (1) Built on a single chassis;
- (2) Four hundred (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.

Special flood hazard area means an area in the floodplain

subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [This term is also defined in *FBC*, B Section 202.]

Start of construction means the date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, or the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of 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. [This term is also defined in *FBC*, B Section 202.]

Substantial damage means damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. [This term is also defined in *FBC*, B Section 202.]

Substantial improvement means any combination of repair, reconstruction, rehabilitation, alteration, addition, or other improvement of a building or structure taking place during the life of the building or structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building or structure is permitted subsequent to September 22, 2009. If the structure has incurred "substantial damage," any repairs are

488 considered substantial improvement regardless of the actual repair
490 work performed. The term does not, however, include either:

492 (1) Any project for improvement of a building required
494 to correct existing health, sanitary, or safety code violations
identified by the building official and that are the minimum
necessary to assure safe living conditions; or

496 (2) Any alteration of a historic structure provided the
alteration will not preclude the structure's continued designation as
498 a historic structure.

500 *Variance* means a grant of relief from the requirements of
this chapter, or the flood resistant construction requirements of the
502 *Florida Building Code*, which permits construction in a manner that
would not otherwise be permitted by this chapter or the *Florida*
504 *Building Code*.

506 *Watercourse* means a river, creek, stream, channel or other
topographic feature in, on, through, or over which water flows at
508 least periodically.

510 **Sec. 19-6. Warning.**

512 The degree of flood protection required by this chapter and the
Florida Building Code, as may be amended from time to time by the
Board of County Commissioners, is considered the minimum
514 reasonable for regulatory purposes and is based on scientific and
engineering considerations. **Larger floods can and will occur.** Flood
516 heights may be increased by man-made or natural causes. This chapter
does not imply that land outside of mapped special flood hazard areas,
518 or that uses permitted within such flood hazard areas, will be free from
flooding or flood damage. The flood hazard areas and base flood
520 elevations contained in the Flood Insurance Study and shown on
FIRMs and the requirements of Sections 59 and 60 of Title 44 of the
522 Code of Federal Regulations may be revised by FEMA requiring the
County to revise these regulations to remain eligible for
524 participation in the NFIP. No guaranty of vested use, existing use,
or future use is implied or expressed by compliance with this
526 chapter.

528 **Sec. 19-7. Disclaimer of liability.**

530 This chapter shall not create liability on the part of the
County, its Board of County Commissioners, or any officer or
532 employee of the County for any flood damage that results from
reliance on this chapter or any administrative decision lawfully

made pursuant to this chapter.

Secs. 19-8—19-10. Reserved.

DIVISION 2. APPLICABILITY

Sec. 19-11. General.

Where there is a conflict between a general requirement and a specific requirement of this chapter, the specific requirement is applicable.

Sec. 19-12. Areas to which this chapter applies.

This chapter applies to all flood hazard areas, as established in Section 19-13, within the unincorporated areas of Orange County.

Sec. 19-13. Basis for establishing flood hazard areas.

The Flood Insurance Study for Orange County, Florida and Incorporated Areas dated September 24, 2021, and all subsequent amendments and revisions, and the accompanying FIRMs, and all subsequent amendments and revisions to FIRMs, are adopted by reference as a part of this chapter and serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Orange County Public Works Department.

Sec. 19-14. Submission of additional data to establish flood hazard areas.

To establish flood hazard areas and base flood elevations, pursuant to Article I, Division 5 of this chapter, the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

(1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area will be considered as flood hazard area and subject to the requirements of this chapter and, as applicable, the requirements of the *Florida Building Code*.

(2) Are above the closest applicable base flood elevation, the area will be regulated as special flood hazard area

580 unless the applicant obtains a Letter of Map Change that removes
582 the area from the special flood hazard area.

584 **Sec. 19-15. Other laws.**

586 The provisions of this chapter do not nullify any provisions
588 of local, state or federal law, except as set forth in Section 19-16.
Specifically:

590 (1) This chapter is cumulative and supplemental to other
592 existing county regulations. Where this chapter and the regulations
594 contained herein conflict, overlap, or are inconsistent with any other
county ordinance or regulation, whichever ordinance or regulation
imposes the more stringent restriction shall prevail.

596 (2) Receipt of a floodplain development permit or
598 approval from the Floodplain Administrator does not relieve the
600 permittee from compliance with any other applicable Code
provisions including, but not limited to, article VI, pumping and
dredging control, and article X, conservation ordinance, of chapter
15 of the Code, or from obtaining all other applicable local permits.

602 **Sec. 19-16. Abrogation and greater restrictions.**

604 This chapter supersedes any ordinance in effect for
606 management of development in flood hazard areas. However, this
chapter is not intended to repeal or abrogate any existing ordinances
608 or regulations including but not limited to land development
regulations, zoning ordinances, stormwater management
610 regulations, or the *Florida Building Code*. In the event of a conflict
between this chapter and any other ordinance, the more restrictive
612 provision will govern. This chapter will not impair any deed
restriction, covenant, or easement, but any land that is subject to
such interests will also be governed by this chapter.

614 **Sec. 19-17. Interpretation.**

616 In the interpretation and application of this chapter, all
618 provisions will be:

- 620 (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body;
and
- 622 (3) Deemed neither to limit nor repeal any other powers
granted to the County under state statutes.

624 **Secs. 19-18—19-20. Reserved.**

626

628 **DIVISION 3. DUTIES AND POWERS OF THE**
630 **FLOODPLAIN ADMINISTRATOR**

632 **Sec. 19-21. Designation.**

634 The Director of Public Works is designated as the Floodplain
636 Administrator. The Floodplain Administrator may delegate
638 performance of certain duties to other employees.

640 **Sec. 19-22. General.**

642 The Floodplain Administrator is authorized and directed to
644 administer and enforce the provisions of this chapter. The
646 Floodplain Administrator has the authority to render interpretations
648 of this chapter consistent with the intent and purpose of this chapter
650 and may establish policies and procedures in order to clarify the
652 application of its provisions. Interpretations, policies, and
654 procedures will not have the effect of waiving requirements
656 specifically provided in this chapter without the granting of a
658 variance pursuant to Article I, Division 7 of this chapter.

660 **Sec. 19-23. Applications and permits.**

662 The Floodplain Administrator, in coordination with other
664 pertinent offices of the County, shall:

- 666 (1) Review applications and plans to determine whether
668 proposed new development will be located in flood hazard areas;
- 670 (2) Review applications for modification of any existing
672 development in flood hazard areas for compliance with the
674 requirements of this chapter;
- 676 (3) Interpret flood hazard area boundaries where such
678 interpretation is necessary to determine the exact location of
680 boundaries; a person contesting the determination will have the
682 opportunity to appeal the interpretation;
- 684 (4) Provide available flood elevation and flood hazard
686 information;
- 688 (5) Determine whether additional flood hazard data will
690 be obtained from other sources or will be developed by an applicant;
- 692 (6) Review applications to determine whether proposed
694 development will be reasonably safe from flooding;

668 (7) Coordinate requests for changes to the FIS or FIRM
with the requester and FEMA;

670 (8) Participate and provide recommendations in public
672 hearings for variances to this chapter and the flood provisions of the
Florida Building Code;

674 (9) Issue floodplain development permits or approvals
for development other than buildings and structures that are subject
676 to the *Florida Building Code*, including buildings, structures and
facilities exempt from the *Florida Building Code*, when compliance
678 with this chapter is demonstrated, or disapprove the same in the
event of noncompliance; and

680 (10) Coordinate with and provide comments to the
Building Official to assure that applications, plan reviews, and
682 inspections for buildings and structures in flood hazard areas
comply with the applicable provisions of this chapter.

684 **Sec. 19-24. Substantial improvement and substantial damage
686 determinations.**

For applications for building permits to improve buildings
688 and structures, including alterations, movement, enlargement,
replacement, repair, change of occupancy, additions, rehabilitations,
690 renovations, substantial improvements, repairs of substantial
damage, and any other improvement of or work on such buildings
692 and structures, the Floodplain Administrator, in coordination with
the Building Official, shall:

694 (1) Estimate the market value, or require the applicant to
696 obtain an appraisal of the market value prepared by a qualified
independent appraiser, of the building or structure before the start of
698 construction of the proposed work; in the case of repair, the market
value of the building or structure must be the market value before
700 the damage occurred and before any repairs are made;

702 (2) Compare the cost to perform the improvement, the
cost to repair a damaged building to its pre-damaged condition, or
704 the combined costs of improvements and repairs, if applicable, to
the market value of the building or structure;

706 (3) Determine and document whether the proposed work
708 constitutes substantial improvement or repair of substantial damage;
the determination requires evaluation of previous permits issued for
710 improvements and repairs as specified in the definition of
“substantial improvement,” and for proposed work to repair damage

caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of “substantial damage;” and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this chapter is required.

Sec. 19-25. Modifications of the strict application of the requirements of the *Florida Building Code*.

The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Article I, Division 7 of this chapter.

Sec. 19-26. Notices and orders.

The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this chapter.

Sec. 19-27. Inspections.

The Floodplain Administrator shall make the required inspections as specified in Article I, Division 6 of this chapter for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

Sec. 19-28. Other duties of the Floodplain Administrator.

Other duties of the Floodplain Administrator include, but are not limited to:

(1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 19-24;

758 (2) Require that applicants proposing alteration of a
760 watercourse notify adjacent communities and the Florida Division
762 of Emergency Management, State Floodplain Management Office,
or other State office to which the duties of the State Floodplain
Management Office may be transferred, and submit copies of such
notifications to FEMA;

764
766 (3) Require applicants who submit hydrologic and
768 hydraulic engineering analyses to support permit applications to
submit to FEMA the data and information necessary to maintain the
FIRMs if the analyses propose to change base flood elevations,
770 flood hazard area boundaries, or floodway designations; such
submissions must be made within six months of such data becoming
available;

772 (4) Review required design certifications and
documentation of elevations specified by this chapter and the
774 *Florida Building Code* to determine that such certifications and
documentations are complete; and

776 (5) Notify FEMA when the boundaries of Orange
778 County are modified.

780 **Sec. 19-29. Floodplain management records.**

782 Regardless of any limitation on the period required for
784 retention of public records under State law, the Floodplain
Administrator will maintain and permanently keep and make
786 available for public inspection all records that are necessary for the
administration of this chapter and the flood resistant construction
788 requirements of the *Florida Building Code*, including FIRMs;
Letters of Map Change; records of issuance of permits and denial of
790 permits; determinations of whether proposed work constitutes
substantial improvement or repair of substantial damage; required
792 design certifications and documentation of elevations specified by
the *Florida Building Code* and this chapter; notifications to adjacent
794 communities, FEMA, and the state related to alterations of
watercourses; assurances that the flood carrying capacity of altered
796 watercourses will be maintained; documentation related to appeals
and variances, including justification for issuance or denial; and
798 records of enforcement actions taken pursuant to this chapter and
the flood resistant construction requirements of the *Florida Building
Code*. These records will be available for public inspection at the
Orange County Public Works Department.
800

802 **Sec. 19-30. Reserved.**

804 **DIVISION 4. PERMITS**

806 **Sec. 19-31. Permits required; fee.**

808 (1) Any owner or owner's authorized agent (hereinafter
810 "applicant") who intends to undertake any development activity
812 within the scope of this chapter, including buildings, structures and
814 facilities exempt from the *Florida Building Code*, which is wholly
816 within or partially within any flood hazard area must first make
 application to the Floodplain Administrator, and the Building
 Official if applicable, and must obtain the required permit(s) and
 approval(s). No such permit or approval will be issued until
 compliance with the requirements of this chapter and all other
 applicable codes and regulations has been satisfied.

818 (2) Whenever a floodplain development permit or
820 approval is required by this chapter, a fee must be paid at the time of
822 filing the application for such permit or approval, as determined by
 resolution of the Board of County Commissioners from time to time.

824 **Sec. 19-32. Floodplain development permits or approvals.**

826 Floodplain development permits or approvals will be issued
828 pursuant to this chapter for any development activities not subject to
830 the requirements of the *Florida Building Code*, including buildings,
832 structures and facilities exempt from the *Florida Building Code*.
834 Depending on the nature and extent of proposed development that
836 includes a building or structure, the Floodplain Administrator may
838 determine that a floodplain development permit or approval is required
 in addition to a building permit. The conditions and plans attached to
 the floodplain development permit will become part of the building
 permit. The Floodplain Administrator must issue or deny an
 application for floodplain development permits or approvals within
 fourteen (14) days from receipt of completed applications unless a
 technical justification or additional information is required.

840 **Sec. 19-33. Buildings, structures and facilities exempt from
 the *Florida Building Code*.**

842 Pursuant to the requirements of federal regulation for
844 participation in the NFIP (44 C.F.R. Sections 59 and 60), floodplain
 development permits or approvals are required for the following
 buildings, structures and facilities that are exempt from the *Florida*

846 *Building Code* and any further exemptions provided by law, which
848 are subject to the requirements of this chapter:

850 (1) Railroads and ancillary facilities associated with the
railroad.

852 (2) Nonresidential farm buildings on farms, as provided in
section 604.50, F.S.

854 (3) Temporary buildings or sheds used exclusively for
construction purposes.

856 (4) Mobile or modular structures used as temporary
offices.

858 (5) Those structures or facilities of electric utilities, as
defined in section 366.02, F.S., which are directly involved in the
generation, transmission, or distribution of electricity.

860 (6) Chickees constructed by the Miccosukee Tribe of
862 Indians of Florida or the Seminole Tribe of Florida. As used in this
paragraph, the term “chickee” means an open-sided wooden hut that
864 has a thatched roof of palm or palmetto or other traditional materials,
and that does not incorporate any electrical, plumbing, or other non-
wood features.

866 (7) Family mausoleums not exceeding 250 square feet in
868 area which are prefabricated and assembled on site or preassembled
and delivered on site and have walls, roofs, and a floor constructed
of granite, marble, or reinforced concrete.

870 (8) Temporary housing provided by the Department of
Corrections to any prisoner in the state correctional system.

872 (9) Structures identified in section 553.73(10)(k), F.S., are
874 not exempt from the *Florida Building Code* if such structures are
located in flood hazard areas established on Flood Insurance Rate
Maps.

876 **Sec. 19-34. Application for a permit or approval.**

878 To obtain a floodplain development permit or approval the
880 applicant must first file an application in writing on a form furnished
by the County. The information provided must:

882 (1) Identify and describe the development to be covered
by the permit or approval;

884 (2) Describe the land on which the proposed
development is to be conducted by legal description, street address
886 or similar description that will readily identify and definitively
locate the site;

888 (3) Indicate the use and occupancy for which the
proposed development is intended;

890 (4) Be accompanied by a site plan or construction
documents as specified in Article I, Division 5 of this chapter;

892 (5) State the valuation of the proposed work;

894 (6) Be signed by the applicant and the applicant's
authorized agent (if the applicant is represented by an agent); and

896 (7) Give such other data and information as required by
the Floodplain Administrator.

Sec. 19-35. Validity of permit or approval.

898 The issuance of a floodplain development permit or approval
900 pursuant to this chapter must not be construed to be a permit for, or
approval of, any violation of this chapter, the *Florida Building*
902 *Codes*, or any other ordinance of this community. The issuance of
permits based on submitted applications, construction documents,
904 and information will not prevent the Floodplain Administrator from
requiring the correction of errors and omissions.

Sec. 19-36. Expiration.

908 A floodplain development permit or approval will become
910 invalid unless the work authorized by such permit is commenced
within 180 days after its issuance, or if the work authorized is
912 suspended or abandoned for a period of 180 days after the work
commences. Extensions for periods of not more than 180 days each
914 may be requested. Requests for extensions must be in writing, and
may be issued only if justifiable cause is demonstrated.

Sec. 19-37. Suspension or revocation.

918 The Floodplain Administrator is authorized to suspend or
920 revoke a floodplain development permit or approval if the permit
was issued in error, on the basis of incorrect, inaccurate or
922 incomplete information, or in violation of this chapter or any other
ordinance, regulation or requirement of the County related to the
924 development.

926 **Sec. 19-38. Other permits required.**

928 Floodplain development permits and building permits must
930 include a condition that all other applicable local, state or federal
 permits be obtained before commencement of the permitted
 development, including but not limited to the following:

932 (1) The St. Johns River Water Management District or
 South Florida Water Management District; section 373.036, F.S.;

934 (2) Florida Department of Health for onsite sewage
936 treatment and disposal systems; section 381.0065, F.S., and Chapter
 64E-6, F.A.C.;

938 (3) Florida Department of Environmental Protection for
 activities that affect wetlands and alter surface water flows, in
940 conjunction with the U.S. Army Corps of Engineers; Section 404 of
 the Clean Water Act, or under its jurisdiction pursuant to part IV of
 Chapter 373, F.S.; and

942 (4) Federal permits and approvals.

944 **Secs. 19-39—19-40. Reserved.**

946 **DIVISION 5. SITE PLANS AND CONSTRUCTION**
948 **DOCUMENTS**

950 **Sec. 19-41. Information for development in flood hazard**
952 **areas.**

954 The site plan or construction documents for any
956 development subject to the requirements of this chapter must be
958 drawn to scale and must include, as applicable to the proposed
 development:

960 (1) Delineation of flood hazard areas, floodway
962 boundaries and flood zone(s), base flood elevation(s), and ground
 elevations if necessary for review of the proposed development.

 (2) Where base flood elevations or floodway data are not
 included on the FIRM or in the FIS, they must be established in
 accordance with Section 19-42(2).

 (3) Where the parcel on which the proposed
 development will take place will have more than 50 lots or is larger

964 than 5 acres and the base flood elevations are not included on the
966 FIRM or in the FIS, such elevations must be established in
accordance with Section 19-42(1).

968 (4) Location of the proposed activity and proposed
structures, and locations of existing buildings and structures.

970 (5) Location, extent, amount, and proposed final grades
of any filling, grading, or excavation.

972 (6) Where the placement of fill is proposed, the amount,
type, and source of fill material; compaction specifications; a
974 description of the intended purpose of the fill areas; and evidence
that the proposed fill areas are the minimum necessary to achieve
the intended purpose.

976 (7) Existing and proposed alignment of any proposed
alteration of a watercourse.

978 The Floodplain Administrator is authorized to waive the
980 submission of site plans, construction documents, and other data that
are required by this chapter, but that are not required to be prepared
982 by a registered design professional if the Floodplain Administrator
determines that the nature of the proposed development is such that
984 the review of such submissions is not necessary to ascertain
compliance with this chapter.

986 **Sec. 19-42. Information in flood hazard areas without base**
988 **flood elevations (approximate Zone A).**

990 Where flood hazard areas are delineated on the FIRM and
base flood elevation data have not been provided, the Floodplain
Administrator shall:

992 (1) Require the applicant to include base flood elevation
data prepared in accordance with currently accepted engineering
994 practices;

996 (2) Obtain, review, and provide to applicants base flood
elevation and floodway data available from a federal or state agency
or other source or require applicant to obtain and use base flood
998 elevation and floodway data available from a federal or state agency
or other source; and

1000 (3) Where the base flood elevation data are to be used to
support a Letter of Map Change from FEMA, advise the applicant
1002 that the analyses must be prepared by a Florida licensed engineer in
a format required by FEMA, and that it must be the responsibility of

the applicant to satisfy the submittal requirements and pay the processing fees.

Sec. 19-43. Additional analyses and certifications.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant must have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

(1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant must submit such analysis to FEMA as specified in Section 19-44 and must submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

(2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the FIS or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the County. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

(3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased or adversely affected, and certification that the altered watercourse must be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant must submit the analysis to FEMA as specified in Section 19-44.

Sec. 19-44. Submission of additional data.

When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map

Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses must be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees are the responsibility of the applicant.

Secs. 19-45—19-50. Reserved.

DIVISION 6. INSPECTIONS

Sec. 19-51. General.

Development for which a floodplain development permit or approval is required will be subject to inspection.

Sec. 19-52. Development other than buildings and structures.

The Floodplain Administrator will inspect all development to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

Sec. 19-53. Buildings, structures and facilities exempt from the *Florida Building Code*.

The Floodplain Administrator will inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

Sec. 19-54. Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, must submit to the Floodplain Administrator:

(1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or

(2) If the elevation used to determine the required

elevation of the lowest floor was determined in accordance with Section 19-42, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

Sec. 19-55. Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection.

As part of the final inspection, the owner or owner's authorized agent must submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations must be prepared as specified in Section 19-54.

Sec. 19-56. Manufactured homes.

The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this chapter and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor must be submitted to the Floodplain Administrator.

Secs. 19-57—19-60. Reserved.

DIVISION 7. VARIANCES AND APPEALS

Sec. 19-61. General.

The DRC will hear and decide on requests for appeals and applications for variances from the strict application of this chapter. Pursuant to section 553.73(5), F.S., the DRC will hear and decide on requests for appeals and applications for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*. All decisions of the DRC must be in writing.

Sec. 19-62. Conduct of public hearings on variance requests; appeals to DRC.

(1) On an application for a variance or an appeal from a decision of the Floodplain Administrator, the DRC will hold a public hearing. The hearing must be held within thirty (30) days

1140 from receipt of the appeal or application unless additional
1142 information is requested, in which case the DRC will hold a hearing
1144 on the appeal or application within thirty (30) days from the receipt
of the information. At the hearing any party may appear in person
or by agent or attorney and present written or oral evidence.

1146 (2) The DRC must decide an appeal from a decision of
the Floodplain Administrator or a variance application within thirty
1148 (30) days after the hearing. In passing upon an appeal, the DRC may,
in conformity with the terms of this chapter, reverse or affirm,
1150 wholly or in part, or modify the order, requirement, decision or
determination appealed from.

Sec. 19-63. Appeals to board of county commissioners.

1152 Any appeal of a final decision of the DRC must be made to
1154 the Board of County Commissioners within thirty (30) days of the
mailing of notice of the action of the DRC. Hand delivery of notice
1156 may be substituted for mail delivery. All appeals must be in writing
and filed with the clerk to the Board of County Commissioners with
1158 a copy of the appeal delivered to the Floodplain Administrator
within the same time frame. All written appeals must state with
1160 particularity all the grounds of appeal. The Board of County
Commissioners will conduct a de novo hearing upon the appeal
1162 taken from the ruling of the DRC and hear the testimony of
witnesses and other evidence offered by the aggrieved person and
1164 interested parties to the appeal and may in conformity with this
chapter and the rules and regulations adopted thereunder, reverse, or
1166 affirm, wholly or partly, or may modify the order, requirement,
decision or determination of the DRC. Any person aggrieved by the
1168 decision of the Board of County Commissioners may file a petition
for writ of certiorari as authorized in the manner prescribed by the
1170 state appellate rules with a court of competent jurisdiction, to review
the decision of the Board of County Commissioners.

Sec. 19-64. Limitations on authority to grant variances.

1174 The DRC will base its decisions on variances on technical
1176 justifications submitted by applicants, the considerations for
issuance in Section 19-68, the conditions of issuance set forth in
1178 Section 19-69, and the comments and recommendations of the
Floodplain Administrator and the Building Official. The DRC has
1180 the right to attach such conditions as it deems necessary to further
the purposes and objectives of this chapter.

Sec. 19-65. Restrictions in floodways.

A variance will not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 19-43.

Sec. 19-66. Historic buildings.

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance will not be granted and the building and any repair, improvement, and rehabilitation will be subject to the requirements of the *Florida Building Code*.

Sec. 19-67. Functionally dependent uses.

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this chapter, provided the variance meets the requirements of Section 19-65, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

Sec. 19-68. Considerations for issuance of variances.

In reviewing requests for variances, the DRC will consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this chapter, and the following:

(1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;

1230 (4) The importance of the services provided by the
proposed development to the community;

1232 (5) The availability of alternate locations for the
proposed development that are subject to lower risk of flooding or
1234 erosion;

 (6) The compatibility of the proposed development with
1236 existing and anticipated development;

 (7) The relationship of the proposed development to the
1238 comprehensive plan and floodplain management program for the
area;

1240 (8) The safety of access to the property in times of
flooding for ordinary and emergency vehicles;

1242 (9) The expected heights, velocity, duration, rate of rise
and debris and sediment transport of the floodwaters and the effects
1244 of wave action, if applicable, expected at the site; and

 (10) The costs of providing governmental services during
1246 and after flood conditions including maintenance and repair of
public utilities and facilities such as sewer, gas, electrical and water
1248 systems, streets and bridges.

1250 **Sec. 19-69. Conditions for issuance of variances.**

1252 Variances may be issued only upon:

1254 (1) Submission by the applicant, of a showing of good
and sufficient cause that the unique characteristics of the size,
1256 configuration, or topography of the site limit compliance with any
provision of this chapter or the required elevation standards;

1258 (2) Determination by the DRC that:

 (a) Failure to grant the variance would result in
1260 exceptional hardship due to the physical characteristics of the land
that render the lot undevelopable; increased costs to satisfy the
1262 requirements or inconvenience do not constitute hardship;

 (b) The granting of a variance will not result in
1264 increased flood heights, additional threats to public safety,
extraordinary public expense, nor create nuisances, cause fraud on
1266 or victimization of the public or conflict with existing local laws and
ordinances; and

1268 (c) The variance is the minimum necessary,
considering the flood hazard, to afford relief;

1270 (3) Receipt of a signed statement by the applicant that
1272 the variance, if granted, must be recorded by the Floodplain
Administrator in the official records of Orange County at the sole
1274 cost of the applicant in such a manner that it appears in the chain of
title of the affected parcel of land; and

1276 (4) If the request is for a variance to allow construction
of the lowest floor of a new building, or substantial improvement of
1278 a building, below the required elevation, a copy in the record of a
written notice from the Floodplain Administrator to the applicant for
the variance, specifying the difference between the base flood
1280 elevation and the proposed elevation of the lowest floor, stating that
the cost of federal flood insurance will be commensurate with the
1282 increased risk resulting from the reduced floor elevation (up to
amounts as high as \$25 for \$100 of insurance coverage), and stating
1284 that construction below the base flood elevation increases risks to
life and property.

1286 **Secs. 19-70. Agricultural structures.**

1288 A variance is authorized to be issued for the construction or
1290 substantial improvement of agricultural structures provided the
requirements of this section are satisfied and:

1292 (1) A determination has been made that the proposed
1294 agricultural structure:

1296 (a) Is used exclusively in connection with the
production, harvesting, storage, raising, or drying of
1298 agricultural commodities and livestock, or storage of
tools or equipment used in connection with these
1300 purposes or uses, and will be restricted to such
exclusive uses.

1302 (b) Has low damage potential (amount of physical
damage, contents damage, and loss of function).

1304 (c) Does not increase risks and pose a danger to public
health, safety, and welfare if flooded and contents
1306 are released, including but not limited to the effects
of flooding on manure storage, livestock
1308 confinement operations, liquified natural gas

terminals, and production and storage of highly volatile, toxic, or water-reactive materials.

(d) Complies with the wet floodproofing construction requirements of paragraph (2), below.

(2) Wet floodproofing construction requirements.

(a) Anchored to resist flotation, collapse, and lateral movement.

(b) When enclosed by walls, walls have flood openings that comply with the flood opening requirements of ASCE 24, Chapter 2.

(c) Flood damage-resistant materials are used below the base flood elevation plus one (1) foot.

(d) Mechanical, electrical, and utility equipment, including plumbing fixtures, are elevated above the base flood elevation plus one (1) foot.

DIVISION 8. VIOLATIONS; PENALTIES AND REMEDIES

Sec. 19-71. Violations.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of any resolutions adopted hereunder, or of any conditions and safeguards established in connection with the grant of a variance, may be punished as provided in section 1-9. Any person who violates any provision of this chapter, or any provision of any resolution enacted pursuant to the authority of this chapter, or allows a violation to continue, may be prosecuted before the code enforcement board or special master in accordance with chapter 11. Each day such violation continues will be considered a separate offense.

Sec. 19-72. Authority.

For development that is not within the scope of the *Florida Building Code*, but that is regulated by this chapter and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

Sec. 19-73. Remedies, costs, and fees.

No provision of this chapter will prevent the county from taking any other legal or equitable remedy available to it, including, without limitation, injunctive relief or revocation of any permit involved, as is necessary to prevent or remedy any violation. Any person violating this chapter will be liable for all costs incurred by the county in connection with the enforcement hereof, including without limitation, attorneys' fees. Fees, established by resolution of the Board of County Commissioners, will be charged for reinspections necessary to verify correction of a violation.

Secs. 19-74—19-90. Reserved.

ARTICLE II

FLOOD RESISTANT DEVELOPMENT

DIVISION 1. BUILDINGS AND STRUCTURES

Sec. 19-91. Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*.

Pursuant to Section 19-33, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings must comply with the requirements of Article II, Division 8 of this chapter.

Secs. 19-92. Accessory structures.

Accessory structures are permitted below the base flood elevation provided the accessory structures are used only for parking or storage and:

- (1) Are one-story and not larger than 600 sq. ft.;
- (2) Have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential;

- 1396 (3) Are anchored to resist flotation, collapse or lateral
movement resulting from flood loads;
- 1398 (4) Have flood damage-resistant materials used below the base
flood elevation plus one (1) foot; and
- 1400 (5) Have mechanical, plumbing and electrical systems,
including plumbing fixtures, elevated to or above the base
1402 flood elevation plus one (1) foot.

Secs. 19-93—19-95. Reserved.

1404

1406

DIVISION 2. SUBDIVISIONS

1408

Sec. 19-96. Minimum requirements.

1410

Subdivision proposals, including proposals for
manufactured home parks and subdivisions, will be reviewed to
1412 determine that:

1414

(1) Such proposals are consistent with the need to
minimize flood damage and will be reasonably safe from flooding;

1416

(2) All public utilities and facilities such as sewer, gas,
electric, communications, and water systems are located and
1418 constructed to minimize or eliminate flood damage; and

1420

(3) Adequate drainage is provided to reduce exposure to
flood hazards; in Zones AH and AO, adequate drainage paths must
be provided to guide floodwaters around and away from proposed
1422 structures.

Sec. 19-97. Subdivision plats.

1424

Where any portion of proposed subdivisions, including
manufactured home parks and subdivisions, lies within a flood
1426 hazard area, the following will be required:

1428

(1) Delineation of flood hazard areas, floodway
boundaries and flood zones, and design flood elevations, as
appropriate, must be shown on preliminary plats;

1430

(2) Where base flood elevations are not included on the
FIRM, base flood elevations must be established by the applicant in
1432 accordance with currently accepted engineering practices and
approved by the Floodplain Administrator; and

1434 (3) Compliance with the site improvement and utilities
1436 requirements of Article II, Division 3 of this chapter.

1438 **Secs. 19-98—19-100. Reserved.**

1438 **DIVISION 3. SITE IMPROVEMENTS, UTILITIES AND**
1440 **LIMITATIONS**

1442 **Sec. 19-101. Minimum requirements.**

1444 All proposed new development will be reviewed to
1446 determine that:

1448 (1) Such proposals are consistent with the need to
minimize flood damage and will be reasonably safe from flooding;

1450 (2) All public utilities and facilities such as sewer, gas,
electric, communications, and water systems are located and
1452 constructed to minimize or eliminate flood damage; and

1454 (3) Adequate drainage is provided to reduce exposure to
flood hazards; in Zones AH and AO, adequate drainage paths must
1456 be provided to guide floodwaters around and away from proposed
structures.

1458 **Sec. 19-102. Sanitary sewage facilities.**

1460 All new and replacement sanitary sewage facilities, private
sewage treatment plants (including all pumping stations and
1462 collector systems), and on-site waste disposal systems must be
designed in accordance with the standards for onsite sewage
1464 treatment and disposal systems in Chapter 64E-6, F.A.C., and ASCE
24 Chapter 7 to minimize or eliminate infiltration of floodwaters
1466 into the facilities and discharge from the facilities into flood waters,
and impairment of the facilities and systems.

1468 **Sec. 19-103. Water supply facilities.**

1470 All new and replacement water supply facilities must be
1472 designed in accordance with the water well construction standards
in Chapter 62-532.500, F.A.C., and ASCE 24 Chapter 7 to minimize
1474 or eliminate infiltration of floodwaters into the systems.

1476 **Sec. 19-104. Limitations on sites in regulatory floodways.**

1478 No development, including but not limited to site

improvements, and land disturbing activity involving fill or regrading, will be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 19-43(1) demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

Sec. 19-105. Limitations on encroachments in flood hazard areas without base flood elevations.

No encroachments, including fill materials and structures, may be located within a distance of the stream bank equal to five (5) times the width of the stream at the top of bank or twenty (20) feet on each side from the top of bank, whichever is greater, unless an analysis equivalent to the analysis specified in Section 19-43(2) demonstrates that such encroachment does not increase flood levels during the occurrence of the base flood discharge.

Sec. 19-106. Limitations on placement of fill.

Subject to the limitations of this chapter, fill must be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill must comply with the requirements of the *Florida Building Code*.

Sec. 19-107. Compensatory storage.

Compensatory storage for all encroachments in special flood hazard areas must be provided in accordance with the following requirements:

(1) Compliance will be based upon a volume for volume ("cup for cup") methodology, with the volume of compensation equal to the volume of encroachment at each and every elevation (one-foot contour interval). Providing compensating storage equal to the volume of encroachment at each elevation will provide equivalent management for all storm events of magnitude less than the 100-year storm event, and is intended to prevent cumulative water quantity impacts.

(2) Compensatory storage creation must occur below the existing base flood elevation and above the predicted normal high water elevation.

(3) Compensatory storage must occur within dedicated

1524 storage areas excavated contiguous to the existing special flood
1525 hazard area.

1526 (4) The County may approve the creation of off-site
1527 compensatory storage areas located outside the property boundary
1528 on a case-by-case basis.

1530 (5) The County reserves the right to enforce additional
1531 criteria upon any project that is located within what the County
1532 considers a special flood hazard area. At the County's discretion,
1533 additional flood control measures may be required to adequately
1534 protect upstream systems, downstream systems, or off-site
properties.

1536 (6) Floodplain encroachment must be computed for all
1537 fill placed within the special flood hazard area, or for any other
1538 volume displacing activities, below the base flood elevation and
above the predicted normal high water elevation.

1540 **Secs. 19-108—19-110. Reserved.**

1542 **DIVISION 4. MANUFACTURED HOMES**

1544 **Sec. 19-111. General.**

1546 All manufactured homes installed in flood hazard areas must
1547 be installed by an installer that is licensed pursuant to section
1548 320.8249, F.S., and must comply with the requirements of Chapter
1549 15C-1, F.A.C., and the requirements of this chapter. Manufactured
1550 homes will not be permitted in regulatory floodways except in
existing manufactured home parks or subdivisions.

1552 **Sec. 19-112. Foundations.**

1554 All new manufactured homes and replacement
1555 manufactured homes installed in flood hazard areas must be
1556 installed on permanent, reinforced foundations that are designed in
1557 accordance with the foundation requirements of the *Florida*
1558 *Building Code Residential*, Section R322.2 and this chapter.

1560 **Sec. 19-113. Anchoring.**

1562 All new manufactured homes and replacement
1563 manufactured homes must be installed using methods and practices
1564 which minimize flood damage and must be securely anchored to an
1565 adequately anchored foundation system to resist flotation, collapse
1566

or lateral movement. Anchoring for wind resistance must be in accordance with the manufacturer's installation instructions and state anchoring requirements. Methods of anchoring must meet or exceed the following:

(1) Over-the-top ties at each corner of the manufactured home, with two (2) additional ties per side at intermediate locations; if longer than fifty (50) feet, one (1) additional tie per side; and

(2) Frame ties at each corner of the manufactured home, with five (5) additional ties per side at intermediate points; if longer than fifty (5) feet, four (4) additional frame ties per side.

Sec. 19-114. Elevation.

Manufactured homes that are placed, replaced, or substantially improved shall be elevated such that the bottom of the frame is at or above 48 inches above grade or base flood elevation plus one (1) foot, whichever is greater.

Sec. 19-115. Enclosures.

Enclosed areas below elevated manufactured homes must comply with the requirements of the *Florida Building Code, Residential*, Section R322.2 for such enclosed areas.

Sec. 19-116. Utility equipment.

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, must comply with the requirements of the *Florida Building Code, Residential* Section R322.

Secs. 19-117—19-120. Reserved.

DIVISION 5. RECREATIONAL VEHICLES AND PARK TRAILERS

Sec. 19-121. Temporary placement.

Recreational vehicles and park trailers placed temporarily in flood hazard areas must:

(1) Be on the site for fewer than 180 consecutive days;

or

(2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

Sec. 19-122. Permanent placement.

Recreational vehicles and park trailers that do not meet the limitations in Section 19-121 for temporary placement must meet the requirements of Article II, Division 4 of this chapter for manufactured homes.

Secs. 19-123—19-130. Reserved.

DIVISION 6. TANKS

Sec. 19-131. Underground tanks.

Underground tanks in flood hazard areas must be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

Sec. 19-132. Above-ground tanks, not elevated.

Above-ground tanks that do not meet the elevation requirements of Section 19-133 must be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

Sec. 19-133. Above-ground tanks, elevated.

Above-ground tanks in flood hazard areas must be elevated to or above the design flood elevation and attached to a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures must meet the foundation requirements of the applicable flood hazard area.

Sec. 19-134. Tank inlets and vents.

Tank inlets, fill openings, outlets and vents must be:

(1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

Secs. 19-135—19-140. Reserved.

DIVISION 7. CRITICAL FACILITIES

Sec. 19-141. Critical facilities.

Critical facilities must have at least one (1) access road connected to land outside the 0.2 percent annual chance (500-year) floodplain that is capable of supporting a 4,000-pound vehicle. The top of the road must be no lower than six (6) inches below the elevation of the 0.2 percent annual chance flood. Construction of new critical facilities may be permissible within special flood hazard areas if no feasible alternative sites are available. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation must be provided to all critical facilities to the extent possible.

Secs. 19-142—19-150. Reserved.

DIVISION 8. OTHER DEVELOPMENT

Sec. 19-151. General requirements for other development.

All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this chapter or the *Florida Building Code*, must:

(1) Be located and constructed to minimize flood damage;

(2) Meet the limitations of Section 19-104 if located in a regulated floodway;

(3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of

buoyancy, during conditions of the design flood;

(4) Be constructed of flood damage-resistant materials;
and

(5) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

Sec. 19-152. Fences in regulated floodways.

Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, must meet the limitations of Section 19-104.

Sec. 19-153. Retaining walls, sidewalks and driveways in regulated floodways.

Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways must meet the limitations of Section 19-104.

Sec. 19-154. Roads and watercourse crossings in regulated floodways.

Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways must meet the limitations of Section 19-104. Alteration of a watercourse that is part of a road or watercourse crossing must meet the requirements of Section 19-43(3).

Section 2. Amendment to Chapter 34, Subdivision Regulations of the Orange

County Code. This ordinance amends Chapter 34, Subdivision Regulations, with additions shown with underlining and deletions shown with strike-through, as follows:

Sec. 34-228. Development within areas of special flood hazard.

(a) All development within ~~areas of~~ special flood hazard ~~areas established in Section 19-13 as delineated on the official Federal Emergency Management Agency (FEMA) flood~~

insurance rate maps (FIRM) or as determined by the county engineer shall comply with the following requirements:

(1) Establish, to the satisfaction of the county engineer, the elevation of the base flood (one-hundred-year flood). The elevation as approved by the county engineer ~~shall~~ must be clearly identified on the subdivision lot grading plans. Supporting calculations to determine the normal high water elevation (NHWE) and ~~base one-hundred-year~~ flood elevation must be submitted for review and approval by the county engineer.

(2) Set the minimum lowest finished floor elevation at least one (1) foot above the elevation of the base flood.

(3) For commercial or industrial developments, dry floodproofing in accordance with the Florida Building Code is permitted ~~may be substituted in lieu of elevating the finished floor.~~

(4) Provide compensatory ~~compensating~~ storage in accordance with Section 19-107 ~~for all floodwater displaced by development below the elevation of the one-hundred-year flood,~~ unless waived by the county engineer.

(b) Compensating storage is to be accomplished between the normal high water of the special flood hazard area and the estimated one-hundred-year flood elevation.

~~(c) All developments within riverine flood hazard areas shall be designed to maintain the flood carrying capacity of the floodway such that the base flood elevations are not increased, either upstream or downstream. However, the county engineer may approve an increase of up to one (1) foot in the base flood profile if the project engineer can satisfactorily demonstrate that such increase in the flood profile will not adversely affect upstream or downstream property.~~

Section 3. Effective Date. This ordinance shall become effective on September 24, 2021.

ADOPTED THIS ____ DAY OF _____, 2021.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

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By: _____

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Jerry L. Demings
Orange County Mayor

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ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

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By: _____
Deputy Clerk

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