

AN ORDINANCE

TO AMEND THE YORK COUNTY CODE OF ORDINANCE, CHAPTER 151, FLOODPLAIN MANAGEMENT, TO ADD A DEFINITION FOR "NON-ENCROACHMENT AREA (NEA)"; TO AMEND USE OF THE TERM "FLOODWAY" TO INCLUDE "NON-ENCROACHMENT AREA"; TO ADD A DEFINITION FOR "SPECIAL FLOOD HAZARD AREA (SFHA)"; TO CLARIFY SPECIFIC STANDARDS WHERE LOWEST ADJACENT GRADE (LAG) APPLIES TO ELEVATED BUILDINGS; TO AMEND SPECIFIC STANDARDS FOR ACCESSORY STRUCTURES; TO AMEND THE ESTABLISHMENT OF AN APPEAL BOARD; TO AMEND VARIANCE REQUIREMENTS FOR ACCESSORY AND AGRICULTURAL STRUCTURES; TO AMEND THE YORK COUNTY CODE OF ORDINANCES, CHAPTER 152, STORMWATER MANAGEMENT AND SEDIMENT CONTROL, TO AMEND THE DUTIES OF THE STORMWATER APPEALS BOARD; TO PROVIDE FOR A PUBLIC HEARING; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNTY COUNCIL OF YORK COUNTY, SOUTH CAROLINA:

SECTION 1. Legislative findings.

As an incident to the adoption of this ordinance, the York County Council, as the governing body of York County, South Carolina, has made the following legislative findings:

1.1 The special flood hazard areas of York County, as established by the Federal Emergency Management Agency (FEMA), are subject to periodic inundation. Flood events in these areas may result in health and safety hazards, including loss of life or property, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

1.2 Furthermore, these flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities. Uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages in flood hazard areas also contribute to losses.

1.3 In order for owners of property subject to periodic inundation to obtain flood damage insurance through the National Flood Insurance Program (NFIP), York County is

required, as a statutory requirement enforced through FEMA regulatory requirements, to enact floodplain regulations designed to reduce the amount of potential flood losses.

1.4 Based on the findings set forth above, York County Council finds:

- (A) It is in the public interest and a benefit to the general health, safety and welfare of the residents of York County to adopt an ordinance revising and amending the County's Floodplain Management regulations; and
- (B) It is in the best interests of the citizens of York County to have an updated ordinance for the management of the flood hazard areas in the County, protecting eligibility for federally subsidized flood insurance through the National Flood Insurance Program, and to receive discounts thereto as a result of participation by York County in the Community Rating System.

SECTION 2. Code of York County Amended.

Chapter 151, FLOODPLAIN MANAGEMENT, is hereby amended in the particulars established in Exhibit A, attached and incorporated herewith by reference.

Chapter 152, STORMWATER MANAGEMENT AND SEDIMENT CONTROL ORDINANCE, is hereby amended in the particulars in Exhibit B, attached and incorporated herewith by reference.

SECTION 3. Public Hearing Required.

The York County Council shall conduct a public hearing after publishing a notice of the date, time and place of such hearing at least fifteen (15) days in advance of such hearing before final legislative action is taken for the adoption of this ordinance.

SECTION 4. Severability.

The provisions of this ordinance are hereby declared to be severable, and if any provision or section of this ordinance is declared to be unconstitutional or unenforceable by the final order

of a court of competent jurisdiction, such declaration shall not affect the constitutionality, legality or enforceability of any other section or provision of this ordinance, which shall be deemed severable, valid, enforceable and effective.

SECTION 5. Repeal of inconsistent sections and ordinances.


All sections of the York County Code of Ordinances and all York County ordinances in conflict with this ordinance are hereby amended to the extent of such conflict.


SECTION 6. Effective date.

This ordinance shall take effect immediately upon adoption.

Adopted this 17 day of May, 2021.

YORK COUNTY COUNCIL

By: 
Christi P. Cox, Chairwoman
York County Council

Attest: 
David E. Hudspeth
County Manager

First Reading: April 19, 2021
Second Reading: May 3, 2021
Public Hearing: May 3, 2021
Third Reading: May 17, 2021

EXHIBIT A

York County Code of Ordinances, Chapter 151, is hereby amended by editing the Title to read as follows:

Chapter 151: Flood Damage Prevention

York County Code of Ordinances, Chapter 151, Section 151.05, DEFINITIONS, is hereby amended by editing the definition of "Flood Insurance Study":

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway maps, non-encroachment area maps and the water surface elevation of the base flood.

York County Code of Ordinances, Chapter 151, Section 151.05, DEFINITIONS, is hereby amended to add the following definitions:

NON-ENCROACHMENT AREA (NEA). The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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 (1) foot as designated in the Flood Insurance Study report.

SPECIAL FLOOD HAZARD AREA (SFHA). Is defined by the Federal Emergency Management Agency (FEMA) as an area having special flood, mudflow or flood-related erosion hazards and shown on a Flood Hazard Boundary Map (FHBM) or a Flood Insurance Rate Map (FIRM) Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE or V. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. For the purpose of determining Community Rating System (CRS) premium discounts, all AR and A99 zones are treated as non-SFHAs.

York County Code of Ordinances, Chapter 151, Section 151.10, WARNING AND DISCLAIMER OF LIABILITY, is hereby amended as follows:

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the special flood hazard area or uses permitted within such areas will be free from flooding or flood damages. This chapter does not create liability on the part of York County or by any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

York County Code of Ordinances, Chapter 151, Section 151.23, DEVELOPMENT PERMIT; CERTIFICATION REQUIREMENTS, Subsection (A)(1), is hereby amended as follows:

- (1) A plan that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either the duties and responsibilities of the local administrators of § 151.24 or the standards for subdivision proposals of § 151.36(N) and the standards for streams without estimated base flood elevations and/or floodways of § 151.37. The plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. The plan must show the floodway or non-encroachment area, if any, as identified by the Federal Emergency Management Agency or the floodway or non-encroachment area identified pursuant to either the duties and responsibilities of the local administrators of § 151.24 or the standards for subdivision proposals of § 151.36(N) and the standards for streams without estimated base flood elevations and/or floodways of § 151.37.

York County Code of Ordinances, Chapter 151, Section 151.23, DEVELOPMENT PERMIT; CERTIFICATION REQUIREMENTS, Subsection (B)(1), is hereby amended as follows:

- (1) *Floodproofing certification.* When a structure is floodproofed, the applicant shall provide certification from a registered, professional engineer or architect that the non-residential, floodproofed structure meets the floodproofing criteria in the non-residential construction requirements of § 151.36(B) and § 151.39(B)(2).

York County Code of Ordinances, Chapter 151, Section 151.23, DEVELOPMENT PERMIT; CERTIFICATION REQUIREMENTS, Subsection (B)(3), is hereby amended as follows:

- (3) *As-built certification.* Upon completion of the development a registered professional engineer, land surveyor or architect, in accordance with South Carolina law, shall certify according to the requirements of § 151.23(A)(1), § 151.23(A)(2), and §151.23(A)(3) that the development is built in accordance with the submitted plans and previous pre-development certifications.

York County Code of Ordinances, Chapter 151, Section 151.24, DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR, Subsection (C)(1), is hereby amended as follows:

- (1) Notify adjacent communities and the South Carolina Department of Natural Resources, Land, Water , and Conservation Division, State Coordinator for the National Flood Insurance Program, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

York County Code of Ordinances, Chapter 151, Section 151.24, DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR, Subsection (C)(2), is hereby amended as follows:

- (2) In addition to the notifications required watercourse alterations per § 151.24(C)(1), written reports of maintenance records must be maintained to show that maintenance has been provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall consist of a description of maintenance activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection.

York County Code of Ordinances, Chapter 151, Section 151.24, DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR, Subsection (C)(3), is hereby amended as follows:

- (3) If the proposed project will impact the configuration of the watercourse, floodway, non-encroachment area, or base flood elevation for which a detailed flood insurance study has been developed, the applicant shall apply for and must receive approval for a conditional letter of map revision with the Federal Emergency Management Agency prior to the start of actual construction.

York County Code of Ordinances, Chapter 151, Section 151.24, DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR, Subsection (D), is hereby amended as follows:

- (D) *Floodway encroachments.* Prevent encroachments within floodways or non-encroachment areas unless the certification and flood hazard reduction provisions of § 151.36(G) are met.

York County Code of Ordinances, Chapter 151, Section 151.24, DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR, Subsection (L), is hereby amended as follows:

- (L) *Special flood hazard area/topographic boundaries conflict.* When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site, specific site information shall take precedence when the lowest adjacent grade (LAG) is at or above the BFE. The property owner may then apply and be approved for a letter of map amendment (LOMA) by FEMA. The local administrator in the permit file will maintain a copy of the letter of map amendment issued from FEMA.

York County Code of Ordinances, Chapter 151, Section 151.24, DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR, Subsection (P), is hereby amended as follows:

- (P) *Annexations and detachments.* Notify the South Carolina Department of Natural Resources, Land, Water and Conservation Division, State Coordinator for the National Flood Insurance Program, within six months, of any annexations or detachments that include special flood hazard areas. The community must incorporate applicable maps from surrounding jurisdictions into this chapter within 90 days of date of the annexation.

York County Code of Ordinances, Chapter 151, Section 151.25, ADMINISTRATIVE PROCEDURES, Subsection (B), is hereby amended as follows:

(B) *Stop-work orders.* Whenever land surface elevations or contours are altered, including incidentally through placement of fill material or stockpiles, and/or, a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order, including the unauthorized removing or mutilating of a posted stop work order sign, constitutes a misdemeanor with possible fines up to \$500 per day with each day representing a separate offense.

York County Code of Ordinances, Chapter 151, Section 151.25, ADMINISTRATIVE PROCEDURES, Subsection (H), is hereby amended as follows:

(H) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the York County Stormwater Appeals Board by giving notice of appeal in writing to the administrator within ten days following issuance of the final order. In the absence of an appeal, the order of the administrator shall be final. The Stormwater Appeals Board shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

York County Code of Ordinances, Chapter 151, Section 151.25, ADMINISTRATIVE PROCEDURES, Subsection (I), is hereby amended as follows:

(H) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Stormwater Appeals Board following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

York County Code of Ordinances, Chapter 151, Section 151.25, ADMINISTRATIVE PROCEDURES, Subsection (J), is hereby amended as follows:

(J) *Denial of flood insurance under the NFIP.* If a structure is declared in violation of this chapter and after all other penalties are exhausted to achieve compliance with this chapter, then the local administrator shall notify the Federal Emergency Management Agency to initiate a Section 1316 of the National Flood Insurance Act of 1968 action against the structure upon the finding that the violator refuses to bring the violation into compliance with this chapter. Once a violation has been remedied the local administrator shall notify FEMA of the remedy and ask that the Section 1316 be rescinded.

York County Code of Ordinances, Chapter 151, Section 151.35, GENERAL STANDARDS, is hereby amended as follows:

Development may not occur in the Special Flood Hazard Area (SFHA) where alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued,

the applicant shall demonstrate that new structures cannot be located out of the SFHA and that encroachments onto the SFHA are minimized. In all areas of special flood hazard the following provisions are required:

York County Code of Ordinances, Chapter 151, Section 151.35, GENERAL STANDARDS, Subsection (C), is hereby amended as follows:

(C) *Flood resistant materials and equipment.* All new construction and substantial improvements shall be constructed with flood resistant materials and utility equipment resistant to flood damage, in accordance with Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, dated August 2008, as may be amended and made available by FEMA.

York County Code of Ordinances, Chapter 151, Section 151.35, GENERAL STANDARDS, Subsection (K), is hereby amended as follows:

(K) *Non-conforming buildings or uses.* Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this chapter. Provided, however, nothing in this chapter shall prevent the repair, reconstruction, or replacement of an existing building or structure located totally or partially within the floodway or non-encroachment area, provided that the bulk of the building or structure below base flood elevation in the floodway or non-encroachment area is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (A), is hereby amended as follows:

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor elevated no lower than two feet above the base flood elevation. No basements are permitted below BFE. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to automatically equalize hydrostatic flood forces shall be provided in accordance with the elevated buildings requirements in § 151.36(D) below.

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (B), is hereby amended as follows:

(B) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes) shall have the lowest floor elevated no lower than two feet above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the elevated buildings requirements in § 151.36(D) below. No basements are permitted below BFE. Structures located in A-zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to

the passage of water, using 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 § 151.36(B) are satisfied. Such certifications shall be provided to the official as set forth in the floodproofing certification requirements in § 151.23(B)(1). A variance may be considered for wet floodproofing agricultural structures in accordance with the criteria outlined in § 151.53. Agricultural structures not meeting the criteria of § 151.53 must meet the non-residential construction standards and all other applicable provisions of this chapter. Structures that are floodproofed are required to have an approved maintenance plan with an annual exercise. The local administrator must approve the maintenance plan and notification of the annual exercise shall be provided to it.

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (C)(3), is hereby amended as follows:

- (3) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with Section 19-425.39 of the South Carolina Manufactured Housing Board Regulations, effective date May 25, 1990, as amended. Additionally, when the elevation requirement would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (D), is hereby amended as follows:

(D) Elevated buildings.

- (1) New construction and substantial improvements of elevated buildings that include fully enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
- (2) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (a) Provide a minimum of two openings on different walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (b) The bottom of each opening shall be no higher than one foot above the higher of the interior or exterior grade immediately under the opening;
 - (c) Only the portions of openings that are below the base flood elevation (BFE) can be counted towards the required net open area;

- (d) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
- (e) Fill placed around foundation walls must be graded so that the grade inside the enclosed area is equal to or higher than the adjacent grade outside the building on at least one side of the building; and
- (f) Openings are still required when the Lowest Adjacent Grade (LAG) is located between the Base Flood Elevation (BFE) and the freeboard, and a LOMA has not yet been approved by FEMA

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (F)(2), is hereby amended as follows:

- (2) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms and must be void of utilities except for essential lighting as required for safety, and cannot be temperature controlled.

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (G), is hereby amended as follows:

(G) *Floodways or Non-Encroachment Areas.* Located within areas of special flood hazard established in § 151.04 are areas designated as floodways or non-encroachment areas. The floodway or non-encroachment area is an extremely hazardous area due to the velocity of floodwaters that may carry debris or potential projectiles and has erosion potential. The following provisions shall apply within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements, additions, and other developments shall be permitted unless:
 - (a) 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 flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the local floodplain administrator, or,
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision must be obtained upon completion of the proposed development.
- (2) If § 151.36(G)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions.
- (3) No manufactured homes shall be permitted, except in an existing manufactured 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 and the elevation standards of § 151.36(C) and the encroachment standards of § 151.36(G)(1) are met.
- (4) Permissible uses within floodways or non-encroachment areas may include: general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife

sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Also, lawns, gardens, play areas, picnic grounds, and hiking and horseback riding trails are acceptable uses, provided that they do not employ structures or fill. Substantial development of a permissible use may require a no-impact certification. The uses listed in this subsection are permissible only if and to the extent that they do not cause any increase in base flood elevations or changes to the floodway or non-encroachment area configuration or other unforeseen circumstances.

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (H)(2)(b), is hereby amended as follows:

- (b) Be fully licensed and ready for highway use, or meet the development permit and certification requirements of § 151.23, general standards outlined in § 151.35, and manufacture homes standards in § 151.36(C) and (D).

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (I)(1)(a), is hereby amended as follows:

- (a) For all development proposals that impact floodway or non-encroachment area delineations or base flood elevations, the community shall ensure that technical or scientific data reflecting such changes be submitted to FEMA as soon as practicable, but no later than six months of the date such information becomes available. These development proposals include, but are not limited to:
 1. Floodway or non-encroachment area encroachments that increase or decrease base flood elevations or alter floodway or non-encroachment area boundaries;
 2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with § 151.37(A).

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (I)(1)(c), is hereby amended as follows:

- (c) The floodplain administrator shall require a conditional letter of map revision prior to the issuance of a floodplain development permit for:
 1. Proposed floodway or non-encroachment area encroachments that increase the base flood elevation; and
 2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway or non-encroachment area.

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (J), is hereby amended in its entirety, as follows:

- (J) *Accessory Structures.*

- (1) Accessory structures used only for parking of vehicles and storage are permitted at grade so long as they are:
 - (a) In special flood hazard areas (Zones A, AE, AH, AO and A1-30), they are not larger than one-story and 600 square feet in area. Walls must have openings in compliance with § 151.36(D);
 - (b) Anchored to resist flotation, collapse, and lateral movement;
 - (c) Constructed of flood damage resistant materials used below the base elevation in accordance with FEMA's Technical Bulletin 2, Flood Damage Resistant Materials Requirement;
 - (d) Compliant with the requirements of § 151.35(F) for mechanical, electrical, and utility equipment;
 - (e) Designed to have low flood damage potential; and,
 - (f) Constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (K), is hereby amended as follows:

(K) *Swimming pool utility equipment rooms.*

- (1) If the building cannot be built at or above the BFE, because of functionality of the equipment then a structure to house the utilities for the pool may be built below the BFE with the following provisions:
 - (a) Meet the requirements for accessory structures in § 151.36(J).
 - (b) The utilities must be anchored to prevent flotation and shall be designed to prevent water from entering or accumulating within the components during conditions of the base flood.

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (M), is hereby amended as follows:

- (M) *Fill.* An applicant shall demonstrate that fill is the only alternative to raising the building to meet the residential and non-residential construction requirements of § 151.36(A) and (B), and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties. The following provisions shall apply to all fill placed in the SFHA:
 - (1) Fill may not be placed in the floodway unless it is in accordance with the requirements in § 151.36(G)(1);
 - (2) Fill may not be placed in tidal or non-tidal wetlands without the required state and federal permits;
 - (3) Fill must consist of soil and rock materials only. A registered professional geotechnical engineer may use dredged material as fill only upon certification of suitability. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the floodplain;

- (4) Fill used to support structures must comply with ASTM Standard D-698, and its suitability to support structures certified by a registered, professional engineer;
- (5) Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion;
- (6) The use of fill shall not increase flooding or cause drainage problems on neighboring properties; and
- (7) Will meet the requirements of FEMA Technical Bulletin 10-01, *Ensuring That Structures Built On Fill In Or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding*.

York County Code of Ordinances, Chapter 151, Section 151.36, SPECIFIC STANDARDS, Subsection (N), is hereby amended as follows:

(N) *Standards for proposals of new development.*

- (1) All proposals of new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- (2) All proposals of new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All proposals of new development shall have adequate drainage provided to reduce exposure to flood damage.
- (4) The applicant shall meet the requirement to submit technical data to FEMA in § 151.36(I) when a hydrologic and hydraulic analysis is completed that generates base flood elevations.

York County Code of Ordinances, Chapter 151, Section 151.37, STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS, is hereby amended as follows:

Located within the areas of special flood hazard (Zones A and V) established in § 151.04, are small streams where no base flood data has been provided or where no floodways or non-encroachment areas have been identified. The following provisions apply within such areas:

York County Code of Ordinances, Chapter 151, Section 151.37, STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS, Subsection (B), is hereby amended as follows:

- (B) If § 151.37(A) is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of § 151.35 and shall be elevated or floodproofed in accordance with elevations established in accordance with § 151.24(K).

York County Code of Ordinances, Chapter 151, Section 151.37, STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS, Subsection (D)(2), is hereby amended as follows:

- (2) *Data extrapolation.* A BFE can be determined if a site within 500 feet upstream of a reach of a stream reach for which a 100-year profile has been computed by detailed methods, and the floodplain and channel bottom slope characteristics are relatively similar to the downstream reaches. No hydraulic structures shall be present.

York County Code of Ordinances, Chapter 151, Section 151.39, STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES), is hereby amended as follows:

Located within the areas of special flood hazard established in § 151.04, are areas designated as shallow flooding. The following provisions shall apply within such areas:

- (A) All new construction and substantial improvements of residential structures shall have the lowest floor elevated to at least as high as the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three feet above the highest adjacent grade.
- (B) All new construction and substantial improvements of non-residential structures shall:
- (1) Have the lowest floor elevated to at least as high as the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three feet above the highest adjacent grade; or
 - (2) Be completely floodproofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required, as stated in § 151.24(H).
 - (3) All structures on slopes must have drainage paths around them to guide water away from the structures.

York County Code of Ordinances, Chapter 151, Section 151.50, ESTABLISHMENT OF APPEAL BOARD, is hereby amended as follows:

The York County Stormwater Appeals Board, as established by York County in accordance with § 152.082 of the York County Stormwater Management and Sediment Control Ordinance, shall hear and decide requests for variances from the requirements of this chapter.

York County Code of Ordinances, Chapter 151, Section 151.53, ACCESSORY STRUCTURES AND AGRICULTURAL STRUCTURES, is hereby amended in its entirety as follows:

A variance is authorized to be issued for the construction or substantial improvement of accessory structures and agricultural structures provided the respective requirements of each respective structure set out herein below are satisfied:

(A) *Accessory structures.* A determination that the proposed accessory structure:

- (1) Represents a minimal investment and has low damage potential (amount of physical damage, contents damage, and loss of function).
- (2) Is larger than the size limits specified in § 151.36(J).
- (3) Complies with the wet floodproofing construction requirement of § 151.53(C).

(B) *Agricultural structures.* A determination that the proposed agricultural structure:

- (1) Is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.
- (2) Has low damage potential (amount of physical damage, contents damage, and loss of function).
- (3) Does not pose a risk and likelihood of increased harm and danger to the public health, safety, and welfare in the event of flooding and the release of the structure's contents, including, but not limited to, the effects of flooding on manure storage, livestock confinement operations, liquefied natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.
- (4) Complies with the wet floodproofing construction requirements of § 151.53(C).

(C) *Wet floodproofing construction requirements.* Wet flood-proofed structures shall:

- (1) Be anchored to resist flotation, collapse, and lateral movement.
- (2) Have flood damage resistant materials below the base flood elevation built in accordance with Technical Bulletin 2, Flood Damage Resistant Materials Requirement.
- (3) Have mechanical, electrical, and utility equipment in compliance with the requirements of § 151.35(F).
- (4) In special flood hazards area, have flood openings in compliance with the requirements of § 151.36(D).

York County Code of Ordinances, Chapter 151, Section 151.57, FLOODWAYS AND NON-ENCROACHMENT AREAS, is hereby amended as follows:

Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to insure the project is built in compliance with the CLOMR for which the variance is granted the applicant must provide a bond for 100% of the cost to perform the development.

York County Code of Ordinances, Chapter 151, Section 151.99, PENALTY, is hereby amended as follows:

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500 or imprisoned for not more than 30 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent York County from taking such other lawful action as is necessary to prevent or remedy any violation.

EXHIBIT B

York County Code of Ordinances, Chapter 152, Section 152.082(B), STORMWATER APPEALS BOARD, is hereby amended as follows:

B. *Duties.* The Board shall have the following duties and responsibilities:

1. Hear appeals and provide recommendations from the Stormwater Administrator's administrative decisions and variances regarding interpretation and implementation of this Chapter.
2. Hear appeals and provide recommendations from the Floodplain Administrator's administrative decisions and variances regarding interpretation and implementation of Chapter 151 – Flood Damage Prevention Ordinance.

C. *Meetings.* The Board shall meet as necessary but no less than twice per calendar year, as determined by the Chairman and the Stormwater Administrator, for the purpose of hearing appeals as established in § 151.50 and § 152.081. All meetings shall be properly noticed, and an agenda shall be prepared and posted in compliance with South Carolina State Statutes and County Ordinances.