

ORANGE COUNTY, VIRGINIA
BOARD OF SUPERVISORS

R. MARK JOHNSON, DISTRICT ONE
JAMES K. WHITE, DISTRICT TWO
S. TEEL GOODWIN, DISTRICT THREE
JAMES P. CROZIER, DISTRICT FOUR
LEE H. FRAME, DISTRICT FIVE



THEODORE L. VOORHEES
COUNTY ADMINISTRATOR

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orangecountyva.gov

ORDINANCE OF APPROVAL

MOTION: FRAME

February 9, 2021

Regular Meeting

SECOND: WHITE

Ord. No. 210209 – 6A

RE: ORDINANCE APPROVING AMENDMENTS TO ARTICLE II (ADMINISTRATION), SECTION 54 (SUBDIVISIONS), OF THE ORANGE COUNTY CODE OF ORDINANCES CONCERNING MODIFICATIONS, WAIVER REQUESTS, AND APPEALS THERETO

WHEREAS, the Planning Commission previously initiated action on amendments to Article II (Administration), Section 54 (Subdivisions), of the Orange County Code of Ordinances concerning modifications, waiver requests, and appeals thereto, specifically related to provision of notice when a waiver is granted; and

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

WHEREAS, the Planning Commission advertised and held a remote Public Hearing on the proposed text amendments on November 5, 2020, and continued the matter and made its recommendation to the Board of Supervisors on December 3, 2020; and

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

WHEREAS, the Board of Supervisors advertised and opened a Public Hearing on the proposed text amendments on January 26, 2021, and closed said Public Hearing on February 9, 2021; and

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

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

NOW, THEREFORE, BE IT ORDAINED, on this 9th day of February, 2021, that the Orange County Board of Supervisors hereby **approves** the proposed amendments to Article II (Administration), Section 54 (Subdivisions), of the Orange County Code of Ordinances

concerning modifications, waiver requests, and appeals thereto, specifically related to provision of notice when a waiver is granted, as modified and attached.

Votes:

Johnson: Aye
White: Aye
Crozier: Aye
Frame: Aye

Attachment: Adopted Amendments to the Orange County Code of Ordinances

For Information: Thomas E. Lacheney, County Attorney
Eric M. Lansing, Assistant County Attorney
Sandra Thornton, Planning Services Manager



CERTIFIED COPY *[Signature]*
Clerk to the Board of Supervisors

Amendments to the Orange County Code of Ordinances

As adopted in Ord. No. 210209 – 6A
by the Orange County Board of Supervisors
on February 9, 2021

Chapter 54 - Subdivisions

Article II - Administration

Sec. 54-20 – Modifications, Waiver Requests, and Appeals Thereto.

- a. Where specifically authorized herein, one or more of the provisions of this Ordinance may be modified or waived by the Subdivision Agent upon demonstration by the subdivider that there exists an unusual situation or where strict adherence to said provisions would result in substantial injustice or hardship. However, when granting such a waiver or modification, the Subdivision Agent shall notify the Planning Commission contemporaneously with the applicant; and such notice shall be recorded in the agenda of the next meeting of the Planning Commission following the grant of the waiver or modification. Waivers shall not be issued or used to circumvent any requirement of this Ordinance or other regulation.
- b. The subdivider shall provide written notice of the waiver request to all adjoining property owners. Said notice shall be issued by the Subdivision Agent and the cost of providing the notice shall be paid by the subdivider.
- ~~b~~c. A waiver or modification request shall be submitted in writing to the Subdivision Agent with or prior to an application for plat/plan review. Such a request shall include a specific statement of relief requested, the nature of the injustice or hardship incurred, and the reasoning why the request should be granted. The Subdivision Agent may reasonably require additional materials related to the request in order to render a decision. Such a decision shall be rendered within thirty (30) days of receipt of the request. Failure to render a decision shall automatically cause for referral to the Board of Supervisors for a decision.
- ~~c~~d. Any person aggrieved by a waiver or modification decision made by the Subdivision Agent may appeal that decision to the Board of Supervisors. Such appeal shall be in writing and must be filed with the clerk of the Board within thirty (30) days of ~~the date of the aggrieved party's notice of~~ the Subdivision Agent's decision. The Board shall consider the appeal during a regular meeting within forty-five (45) days of the date of the appeal. The decision of the Board shall be final and unappealable.
- e. In the case of an appeal to the Board of Supervisors of the Subdivision Agent's waiver or modification decision, notice (as provided in subsection (b) above) shall be deemed to have taken place when:
 - i. The applicant was notified (in the case of appeal by an applicant);
 - ii. The Planning Commissioner was notified (in the case of appeal by an aggrieved Commissioner);
 - iii. When the notice was recorded in the agenda of a meeting of the Planning Commission (in the case of an appeal by any other aggrieved person); or
 - iv. When the aggrieved party received actual notice (including the full text of such decision), but only if the aggrieved person receives such actual notice prior to any of the deadlines described in paragraphs (i) through (iii).