

~~CHATHAM COUNTY~~ CHATHAM COUNTY

~~FLOOD DAMAGE~~ FLOOD PREVENTION ~~DAMAGE ORDINANCE~~ PREVENTION ORDINANCE

~~ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.~~

~~SECTION A. STATUTORY AUTHORIZATION.~~

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143, Parts 3 and 4 of Article 18 of Chapter 153A and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes delegated ~~the responsibility~~ to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of County Commissioners of Chatham County, North Carolina does ordain as follows:

~~SECTION B. FINDINGS OF FACT.~~

(1) The flood ~~hazard-prone~~ areas of Chatham County- are subject to periodic inundation which results in loss of life, property, health and safety hazards, 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.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood ~~hazard-prone~~ areas by uses vulnerable to floods or ~~hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages~~ other hazards.

~~SECTION C. STATEMENT OF PURPOSE.~~

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards; or ~~which that~~ result in damaging increases in erosion, ~~or in~~ flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities ~~which that~~ serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging, and all other development ~~which that~~ may increase erosion or flood damage; and
- (5) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

~~SECTION D. OBJECTIVES.~~

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business losses and interruptions;

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- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges that are located in ~~floodplains~~ flood prone areas;
- (6) to help maintain a stable tax base by providing for the sound use and development of flood prone areas ~~in such a manner as to minimize flood blight areas~~; and,
- (7) to insure that potential ~~home~~ buyers are ~~notified that property is in a flood area~~ aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Accessory Structure (Appurtenant Structure)" means a structures ~~which are~~ located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure. ~~Additions to existing buildings shall comply with the requirements for new construction, unless the addition, renovation or reconstruction to any building, that was constructed prior to the initial Flood Insurance Study for that area, and the addition, renovation or reconstruction does not equal 50% of the present market value of the structure. Where a fire wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.~~

"Appeal" means a request from a review of the local administrator's interpretation of any provision of this ordinance.

"Area of shallow flooding" means a designated A0 ~~or V0~~ Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" ~~is the land in the floodplain within a community subject to a one percent or greater chance of being flooded in any given year~~ see "Special Flood Hazard Area (SFHA)";

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

"Base flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

~~"Basement" means that lowest level or story which has its floor subgrade on all sides.~~

"Best available data" - This is information provided by the U.S. Army Corps of Engineers, other government agencies, or other competence sources such as a registered surveyor or engineer, which is prepared using standard accepted practices.

~~"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less~~

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than 10 and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires a professional engineer or architect's certificate.

"Building" means any structure built for support, shelter, or enclosure for any occupancy or storage see "Structure."

"Chemical Storage Facility" means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Disposal" means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Elevated building" means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns (a) built, in the case of a building in Zones A1-A30, AE, A, A99, A0, AH, B, C, or X to have the top of the elevated floor, above the ground by means of pilings, columns (posts and piers), shear walls parallel to the flow of water and, (b) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, A0, AH, B, C, and X, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

"Encroachment" means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

"Existing manufactured home park or manufactured home subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before February 17, 1997.

~~"Expansion to an existing manufactured home park or subdivision" means the preparation of the additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).~~

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the ~~areas of special flood hazard~~ Special Flood Hazard Areas have been defined as Zone A.

"Flood Insurance" means the insurance coverage provided under the National Flood Insurance Program.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, ~~on which~~ issued by the Federal Emergency Management Agency ~~has delineated both the areas of special flood hazard and the risk premium zones applicable to the community~~ on which both the Special Flood Hazard Area and the risk premium zones applicable to the community are delineated.

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~~"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.~~ means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

"Flood Prone Area" see "Floodplain"

"Floodplain" means any land area susceptible to being inundated by water from any source.

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain Development Permit" means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain Management Regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Flood Zone" means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

~~"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.~~

"Freeboard" means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

"Functionally dependent facility" means a facility which cannot be used for its intended purpose unless it is located ~~or~~ ~~carried out~~ in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ~~or~~ ship repair, ~~or~~ seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

"Hazardous Waste Facility" means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

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"Highest Adjacent Grade (HAG)" means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

"Historic Structure" means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) ~~individually listed on a State inventory of historic places;~~ (d) individually listed on a local inventory of historic ~~places-landmarks~~ in communities with a "Certified Local Government (CLG) Program," or ~~historic preservation programs that have been certified (1) by an approved state program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without approved programs.~~ (d) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

~~"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.~~

~~"Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.~~

"Lowest Adjacent Grade (LAG)" means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"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 building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

~~"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD);~~ means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

~~"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.~~

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"New construction" means structures for which the "start of construction" commenced on or after the effective date of ~~this~~ the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

~~"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after February 17, 1997.~~

~~"Nonconforming building or use" means any legally existing building or use which fails to comply with the provisions of the ordinance.~~

"Non-conforming Lot of Record" means a lot existing at the effective date of this ordinance or any amendment to it (and not created for the purpose of evading the restrictions of this ordinance) that cannot meet the minimum requirements as prescribed herein.

Comment [js1]: Definition for non-conforming lots of record similar to language in the Zoning Ordinance.

"Non-Encroachment Area" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

"Public Safety" and/or "Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and, (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

~~"Reference feature" is the receding edge of a bluff or eroding frontal dune or, if such a feature is not present, the normal high water line or the seaward line of permanent vegetation if high water line cannot be identified.~~

"Reference Level" is the bottom of the lowest horizontal structural member of the lowest floor, excluding the foundation system, for structures within all Special Flood Hazard Areas.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus three (3) feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least five (5) feet above the highest adjacent grade.

"Remedy a violation" means to bring the structure or other development into compliance with State or ~~local~~ community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

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"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means, as defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste.

"Solid Waste Disposal Site" means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

~~"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348),~~ includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure ~~(including a manufactured home)~~ on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

"Structure" means, for floodplain management purposes, a walled and roofed building, a manufactured home, including ~~or a gas, or liquid, or liquefied gas~~ storage tank, or other man-made facilities or infrastructures that are principally above ground.

"Substantial damage" means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement".

"Substantial improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost ~~of which~~ equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) any ~~project of improvement of a structure to correct~~ correction of existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or, (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

~~"Substantially improved existing manufactured home park or subdivision" means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.~~

~~"Variance" is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.~~

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all ~~areas of s~~Special ~~Flood h~~Hazard Areas within the jurisdiction of Chatham County ~~outside municipalities except areas where adopted memoranda of understanding give flood plain management authority to municipalities for their extraterritorial jurisdiction~~ and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

~~The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated July 16, 1991, with accompanying maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of this ordinance. Best available data may also be considered and accepted by the local administrator when making determinations. The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Chatham County dated February 2, 2007, which are adopted by reference and declared to be a part of this ordinance.~~

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within ~~100 feet of any floodable area as shown on the flood insurance rate map of Chatham County unincorporated areas effective July 16, 1991~~ Special Flood Hazard Areas determined in accordance with Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, ~~or structurally altered,~~ or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and, (3) deemed neither to limit nor repeal any other powers granted under ~~state~~ State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

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

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SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance 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 subject to civil penalties fined not more than \$50.00~~ or imprisoned for not more than 30 days, or both. Civil penalties shall be assessed in the amount of \$50.00 per day for the first offense, \$100.00 per day for the second occurrence of the same offense, \$200.00 per day for the third occurrence of the same offense, and \$500.00 per day for the fourth and each subsequent occurrence of the same offense. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Chatham County from taking such other lawful action as is necessary to prevent or remedy any violation.

Comment [js2]: This language reflects the Commissioners approval of graduated penalties approved as part of the budget.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF LOCAL FLOODPLAIN ADMINISTRATOR.

The Chatham County Manager or his designee is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

~~Application for a Development Permit shall be made to the local administrator on forms furnished by him or her prior to any development activities within 100 feet of any floodable area as shown on the flood insurance rate map of Chatham County unincorporated areas effective July 16, 1991. The Development Permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:~~

- ~~(1) A plot 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 Article 4, Section C(10) or Article 5 Sections C and D. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.~~
- ~~(2) The plot plan required by Article 4, Section B(1) must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant to either Article 4, Section C(10) or Article 5, Section C.~~
- ~~(3) Where base flood elevation data is provided as set forth in Article 3 Section B, or Article 4, Section C(10), the application for a Development Permit within the flood hazard area shall show:
 - ~~(a) the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures; and~~
 - ~~(b) if the structure has been floodproofed in accordance with Article 5, Section B(2), the elevation (in relation to mean sea level) to which the structure was floodproofed.~~~~
- ~~(4) Where the base flood elevation data is not provided, the application for a development permit must show construction is outside the 100-year flood plain. Substantially improved structures must show construction of the lowest floor at least five (5) feet above the highest adjacent grade or three (3) feet above the base flood elevation if established.~~

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- (5) ~~Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.~~
- (6) ~~When a structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the non-residential floodproofed structure meets the floodproofing criteria in Article 5, Section B(2).~~
- (7) ~~A floor elevation or floodproofing certification is required after the lowest floor is completed. Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop work order for the project.~~

(1) Application Requirements. Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
- (i) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 - (iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - (v) the Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C(11 & 12); or Article 5, Section D;
 - (vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - (vii) certification of the plot plan by a registered land surveyor or professional engineer.
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- (i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

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(ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and

(iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

(c) If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

(d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

(i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

(ii) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;

(e) Usage details of any enclosed areas below the regulatory flood protection elevation.

(f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(g) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)

(h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Article 5, Sections B(6 & 7) of this ordinance are met.

(i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

(a) A description of the development to be permitted under the floodplain development permit.

(b) The Special Flood Hazard Area determination for the proposed development per available data specified in Article 3, Section B.

(c) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(d) The regulatory flood protection elevation required for the protection of all public utilities.

(e) All certification submittal requirements with timelines.

(f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(g) The flood openings requirements, if in Zones A, AO, AE or A1-30.

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(3) Certification Requirements.

(a) Elevation Certificates

(i) An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

Comment [js3]: This requirement is optional.

(ii) A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Article 5, Section B(3).

(d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

(i) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);

(ii) Temporary Structures meeting requirements of Article 5, Section B(7); and

(iii) Accessory Structures less than 150 square feet meeting requirements of Article 5, Section B(8).

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SECTION C. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.

Duties of the local administrator shall include, but not be limited to:

- (1) ~~Review all development permits to assure that the requirements of this ordinance have been satisfied. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.~~
- (2) Advise permittee that additional Federal or State permits may be required (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.); and ~~if specific Federal or State permits are known,~~ require that copies of such permits be provided and maintained on file with the development permit.
- (3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, 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.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to mean sea level) of the ~~lowest floor~~ reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Article 4, Section B(~~3~~7).
- (7) Obtain the actual elevation (in relation to mean sea level) to which ~~the all new or~~ and substantially improved structures have been floodproofed, in accordance with Article 4, Section B(~~3~~7).
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Article 4, Section B(3).
- (~~9~~8) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Article 4, Section B(3) and Article 5, Section B(2).
- (~~10~~9) Where interpretation is needed as to the exact location of boundaries of the areas of Special Flood Hazard Areas ~~special flood hazard~~ (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (~~11~~40) When Base Flood Elevation (BFE) ~~base flood elevation~~ data ~~or floodway data~~ has not been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) ~~base flood elevation~~ data, ~~and~~ along with floodway data or non-encroachment area data available from a Federal, State, or other source, including ~~best available data and~~ data developed pursuant to Article 5, Section D(~~2~~(b)5), in order to administer the provisions of this ordinance.
- (12) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- (~~11~~13) ~~When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the local administrator in the permit file. When the lowest ground elevation of a parcel or~~

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structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

- ~~(12) — Make on-site inspections of projects in accordance with Article 4, Section D.~~
- ~~(13) — Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with Article 4, Section D.~~
- (14) Permanently maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.
- ~~(15) — Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.~~
- ~~(16) — Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain 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 reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.~~
- ~~(17) — Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.~~
- ~~(18) — Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.~~
- ~~(19) — Follow through with corrective procedures of Article 4, Section D.~~
- ~~(20) — Review, provide input, and make recommendations for variance requests.~~
- ~~(21) — Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.~~
- ~~(22) — Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).~~

SECTION D. ~~ADMINISTRATIVE CORRECTIVE PROCEDURES.~~

- ~~(1) — Inspections of Work in Progress: As the work pursuant to a permit progresses, the local administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.~~

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- (2) ~~Stop Work Orders: Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, 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 constitutes a misdemeanor.~~
- (3) ~~Revocation of Permits: The local administrator may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.~~
- (4) ~~Periodic Inspections: The local administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.~~
- (51) Violations to be Corrected: When the local administrator finds violations of applicable State and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law ~~in the property he owns~~cited in such notification.
- (62) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give ~~him the owner~~ written notice, by certified or registered mail to ~~his the owner's~~ last known address or by personal service, stating:
- (a) that the building or property is in violation of the Flood Damage Prevention Ordinance;
 - (b) that a hearing will be held before the local floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - (c) that following the hearing, the local administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- (73) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, ~~he they~~ shall make issue an order in writing to the owner, requiring the owner to remedy the violation within ~~such a specified time~~ period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days. ~~the administrator may prescribe; provided that w~~Where the administrator finds that there is imminent danger to life or other property, ~~he they~~ may order that corrective action be taken in such lesser period as may be feasible.
- (84) Appeal: Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (95) 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 made~~, or fails to comply with an order of the governing body following an appeal, ~~he the owner~~ shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

SECTION E. VARIANCE PROCEDURES.

- (1) The Chatham County Board of Adjustment as established by Chatham County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

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- (2) Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
 - (b) functionally dependant facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages.
 - (c) any other type of development, provided it meets the requirements stated in this section.
- (4) In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) the danger that materials may be swept onto other lands to the injury of others;
 - (b) the danger to life and property due to flooding or erosion damage;
 - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependant facility, where applicable;
 - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood-waters and the effects of wave action, if applicable, expected at the site; and,
 - (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance. ~~The findings listed above shall be submitted to the appeal board, in writing, and included in the application for a variance.~~
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a

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variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.~~Variations shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.~~

(8) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(89) Conditions for Variances:

(a) Variances ~~may~~shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

(b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

~~(cb)~~ Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued prior to development permit approval.

~~(ee)~~ Variances shall only be issued upon:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship; and,

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

~~(d) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.~~

~~(e) The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.~~

(10) A variance shall not be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

In all ~~areas of s~~Special ~~F~~lood ~~h~~azards Areas the following provisions are required:

(1) All new residential and non-residential construction and new structures shall be located outside the 100-year flood plainSpecial Flood Hazard Area., except as otherwise provided in this ordinance

(2) All new construction and Substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, ~~or~~and lateral movement of the structure;

(3) All new construction and Substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

Comment [js4]: Language expanded to include "structures", which includes any man-made facilities.

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- ~~(4) Substantial improvements shall be constructed by methods and practices that minimize flood damages; and shall have construction of the lowest floor at least three (3) feet above the base flood elevation or at least five (5) feet above the highest adjacent grade if the base flood elevation cannot be established.~~
- (54) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
- (65) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. New supply wells shall be located outside the 100 year flood plain, except for new residential construction on non-conforming lots of record as provided in Article 5, Section B(2).
- (76) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. ~~New surface sewage disposal systems and repair areas shall be located outside the 100 year flood plain.~~ except for new residential construction on non-conforming lots of record as provided in Article 5, Section B(2).
- (87) On-site ~~human or animal~~ waste disposal systems shall be located outside the 100 year flood plain and constructed to avoid impairment to them or contamination from them during flooding. ~~and;~~
- (98) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" contained in this ordinance ~~Article 5 Section A (2) - (5).~~
- ~~(10) 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 Article 5 Section A (2) - (5). Provided, however, nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the Floodway Zone, provided that the bulk of the building or structure below base flood elevation in the Floodway Zone is not increased and provided that such repair, reconstruction, or replacement meets Article 5 Section A (2) - (5).~~
- (9) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Article 4, Section B(3) of this ordinance.
- (11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

Comment [js5]: Items 5 & 6 include exemptions for non-conforming lots of record.

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(14) Public or private roads and bridges serving more than three (3) subdivision lots shall have a travel way a minimum height of three (3) feet above the base flood elevation.

(15) Pedestrian bridges, boardwalks, greenway trails, walkways, and canoe and boat access points are allowed within Special Flood Hazard Areas and shall comply with the applicable standards of Article 5, Section F. Pedestrian bridges and boardwalks shall be prohibited across the Haw River, Rocky River, and Deep River.

Comment [js6]: This item was added to accommodate recreational facilities that would normally be located within a Special Flood Hazard Area.

(16) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(17) Fill material shall only be allowed in Special Flood Hazard Areas when reasonably necessary for the elevation of structures in compliance with the standards of this ordinance or remediation of contaminated sites. The amount of fill material shall be the minimum necessary to meet the standards of this ordinance.

Comment [js7]: This is an additional standard that is not required by FEMA or the NC Floodplain Management Branch.

SECTION B. SPECIFIC STANDARDS.

In all ~~areas of s~~Special ~~f~~Flood ~~h~~Hazard Areas where ~~b~~Base ~~f~~Flood ~~e~~Elevation data has been provided, as set forth in Article 3, Section B, or Article 4, Section C(~~11 & 12~~), the following provisions, in addition to Article 5, Section A, are required:

(1) (a) Residential Construction. New residential construction shall be located outside the 100 year flood plain, except as provided in Article 5, Section B(1)(b). Substantial improvement of any residential structure (including manufactured homes) shall have the ~~lowest floor~~reference level, including basement, elevated no lower than ~~three (3) feet above the base flood elevation~~regulatory flood protection elevation, as defined in Article 2 of this ordinance. ~~Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.~~

(b) Residential Construction on Non-conforming Lots of Record. Where the owner of a non-conforming lot of record does not own sufficient land to enable the owner to conform to the provisions of Article 5, Section B(1)(a), such lot may be used as a building site. Any new residential construction on a non-conforming lot of record shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.

Comment [js8]: This is an exemption for non-conforming lots of record.

(2) Non-Residential Construction. New non-residential construction shall be located outside the 100 year flood plain. Substantial improvement of any commercial, industrial, or non-residential structure ~~(including manufactured homes)~~ shall have the ~~lowest floor~~reference level, including basement, elevated no lower than ~~three (3) feet above the level of the base flood elevation~~the regulatory flood protection elevation, as defined in Article 2 of this ordinance. Substantial improvements to Sstructures located in A, AE and A1-A30 zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the ~~required~~regulatory flood protection 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. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section H(3). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the ~~official~~Floodplain Administrator as set forth in Article 4, Section B(~~73~~), along with the operational and maintenance plans.

(3) Manufactured Homes.

(a) New Mmanufactured homes shall be placed outside the 100 year flood plain. Replacement manufactured homes for manufactured homes located within Special Flood Hazard Areas shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance ~~Manufactured homes that are substantially improved on sites (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or, (iv) in an existing~~

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~~manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than three (3) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~

- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.~~Manufactured homes that are substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of Article 5, Section B(3a) of this ordinance must be elevated so that the lowest floor of the manufactured home is elevated no lower than three (3) feet above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.~~
- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4)(a), (b), and (c).~~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 the *Regulations for Mobile Homes and Modular Housing* adopted by the Commissioner of Insurance pursuant to NCGS 143.143.15. Additionally, when the elevation 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 of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.~~
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the ~~local~~ floodplain administrator and the local Emergency Management coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

- (a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (b) shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- (c) shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

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- (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
- (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

~~Recreational Vehicles. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreation vehicles placed on sites shall be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use.~~

(5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction, as defined in Article 2 of this ordinance.
- (b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction, as defined in Article 2 of this ordinance.
 - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction, as defined in Article 2 of this ordinance.
- (d) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction, as defined in Article 2 of this ordinance.

Comment [js9]: The "new construction" language does not mean that the project has to be moved outside of the 100-year floodplain, but that it has to meet the standards for elevation that are discussed in Art. 5, Sec. B(1) (a) & B(2).

Comment [js10]: The "new construction" language does not mean that the project has to be moved outside of the 100-year floodplain, but that it has to meet the standards for elevation that are discussed in Art. 5, Sec. B(1) (a) & B(2).

~~Elevated Buildings. Substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to preclude finished living space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.~~

- ~~(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - ~~(i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;~~~~

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- ~~(ii) The bottom of all openings shall be no higher than one foot above grade; and;~~
 - ~~(iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.~~
 - ~~(b) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).~~
 - ~~(c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.~~
- (6) Recreational Vehicles. Recreational vehicles shall either:
- (a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
 - (b) meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a development permit, for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;~~the following requirements must be met:~~
- ~~(a) All applicants must submit to the local administrator prior to the issuance of the development permit a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:~~
 - (a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
 - (ii) the name, address and phone number of the individual responsible for the removal of the temporary structure;
 - (iii) the time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (iv) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and a trucking company to insure the availability of removal equipment when needed; and
 - (v) designation, accompanied by documentation, of a location outside the floodplain-Special Flood Hazard Area, to which the temporary structure will be moved.
 - ~~(b) The above information shall be submitted in writing to the local administrator for review and written approval.~~
- (8) Accessory Structure. When accessory structures (sheds, detached garages, etc.) ~~with a value of \$3,000 or less,~~ are to be placed within the floodplain-Special Flood Hazard Area, the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - (b) Accessory structures shall not be temperature controlled;
 - ~~(c) Accessory structures shall be designed to have low flood damage potential;~~

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- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with Article 5, Section A(2);
- (f) ~~All~~ Service facilities such as electrical ~~and heating equipment~~ shall be installed in accordance with Article 5 Section A(5); and
- (g) ~~Flood~~ Openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Article 5, Section B(4)(c). ~~relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with Article 5 Section B(5).~~

An accessory structure shall be limited to a footprint of 150 square feet or less, shall satisfy the criteria outlined above, and not require an elevation or floodproofing certificate.

~~(8) Floodways. Located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:~~

- ~~(a) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted.~~

SECTION C. RESERVED

SECTION ~~DC~~. STANDARDS FOR ~~STREAMS FLOODPLAINS~~ WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS ~~AND/OR FLOODWAYS~~.

~~Located within the areas of special flood hazard Areas established in Article 3, Section B, are small streams where no base flood data has been provided or where no floodways have been identified designated as Approximate Zone A and established in Article 3, Section B, where no Base Flood Elevations (BFE) data has been provided by FEMA, the following provisions, in addition to Article 5, Sections A and B, shall apply. The following provisions apply within such areas:~~

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of ~~the stream bank equal to the setback established by the Coastal Area Management Act (CAMA) regulations~~ twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater. ~~Where no setback is established by CAMA regulations, the area of no encroachment shall be twenty feet each side from top of bank,~~ unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
 - (a) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 4, Section C(11 & 12).
 - (b) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Article 3, Section B to be utilized in implementing this ordinance.

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- (c) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in Article 2.

~~If Article 5, Section C(1) 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 Article 5 and shall be elevated or floodproofed in accordance with elevations established in accordance with Article 4, Section C(10). When base flood elevation data is not available from a Federal, State, or other source, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade.~~

SECTION ED. STANDARDS FOR SUBDIVISION PROPOSALS~~STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.~~

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards outlined in Article 5, Sections A and B; and
 - (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- ~~(1) All subdivision proposals shall be consistent with the need to minimize flood damage;~~
- ~~(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;~~
- ~~(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and,~~
- ~~(4) Public or private roads serving more than three (3) subdivision lots shall have a travelway a minimum height of three (3) feet above the base flood elevation.~~
- ~~(5) Base flood elevation data shall be provided from FEMA maps, or best available data for subdivision proposals and other proposed development which is greater than the lesser of fifty lots or five acres.~~

SECTION EF. STANDARDS FOR AREAS OF SHALLOW FLOODING (A0 ZONES)~~Reserved for future use~~**FLOODWAYS AND NON-ENCROACHMENT AREAS.**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:
 - (a) the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or

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(b) a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

(a) the anchoring and the elevation standards of Article 5, Section B(3); and

(b) the no encroachment standard of Article 5, Section F(1).

G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Section A, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of three (3) feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of three (3) feet if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section H(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be 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 per Article 4, Section B(3) and Article 5, Section B(2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

ARTICLE 6. LEGAL STATUS PROVISIONS

SECTION A. ~~-Reserved for future use-~~ EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted February 17, 1997 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Chatham County enacted on February 17, 1997, as amended, which are not reenacted herein are repealed.

SECTION B. EFFECT UPON OUTSTANDING BUILDING PERMITS.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Chief Building Inspector or his authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of sixty (60) days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.

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SECTION C. EFFECTIVE DATE

This ordinance shall become effective upon adoption.

SECTION D. ADOPTION CERTIFICATION

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted on the 17th day of February, 1997.

Revised: October 7, 2002
????????, 2006

CHATHAM COUNTY BOARD OF COMMISSIONERS

Chairman, Chatham County Board
of Commissioners

ATTEST:

Sandra B. Lee, Clerk to the Board

Date

Amendments Effective October 7, 2002

Below is attached text with revisions underlined.

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Page 3, Article 2. Definitions. Best available data- This is information provided by the U.S. Army Corps of Engineers, other government agencies, or other competence sources such as a registered surveyor or engineer, which is prepared using standard accepted practices.

Page 7; Article 3 Section B. Basis For Establishing The Areas Of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated July 16, 1991, with accompanying maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of this ordinance. Best available data may also be considered and accepted by the local administrator when making determinations.

Page 10 Article 4 Section C. (10). When base flood elevation data or floodway data has not been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any base flood elevation data and floodway data available from Federal, State, or other source, including best available data and data developed pursuant to Article 5, Section D (5), in order to administer the provisions of this ordinance.

Page 18 Article 5 Section D. Standards for Subdivision Proposals. (5) Base flood elevation data shall be provided from FEMA maps, or best available data for subdivision proposals and other proposed development, which is greater than the lesser of fifty lots or five acres.